



Remote Meeting Instructions for the May 19, 2021, Water & Sewer Board Meeting:

In order to comply with all health orders and State guidelines to stop the spread of the COVID-19 Coronavirus, **no physical location, including the City Council Chambers, will be set up for viewing or participating in this Water & Sewer Board meeting.**

You can view this Meeting by following the instructions below to watch the YouTube live stream. By utilizing this option to view the meeting, you will not be able to provide live input during the meeting. To provide live input, see the "In real time" instructions near the bottom of this page.

- From your laptop or computer, click the following link or enter it manually into your Web Browser: (<https://www.youtube.com/user/CityofGreeley>)
- Clicking the link above will take you to the City of Greeley's YouTube Channel.
- Once there, you will be able to view the meeting!

Citizen input and public comment for items appearing on this agenda as public hearings/quasi-judicial are valuable and welcome!

Anyone interested in participating and sharing public comments have a few of options:

Via email? – Submit to Ettie.arnold@greeleygov.com

All comments submitted this way will be read into the record at the appropriate points during this meeting in real time. Comments can be submitted up to and throughout this meeting.

Via traditional Mail? - Address to the Water & Sewer Department's Office, 1001 11th Avenue, Attn: Shannon Metcalf, Greeley, CO 80631

All written comments must be received no later than the day of the meeting. Again, written comments received by mail will also be read into the record in real time.

In real time? – <https://greeleygov.zoom.us/j/88667559266>

Clicking the link above will give you access to the live meeting where you will become a virtual audience member and be able to speak under Citizen Input on items not already on the agenda or during a scheduled public hearing.

Please visit the City's website at <http://greeleygov.com/government/b-c/boards-and-commissions/water-and-sewer> to view and download the contents of the May 19th Water & Sewer Board Meeting. You are also welcome to call the Water & Sewer Department at 970-350-9801 with any special needs or questions that you may have.



WATER & SEWER BOARD AGENDA

Wednesday May 19, 2021

2:00 p.m.

MEETING WILL BE LIVE STREAMED ON YOUTUBE.COM DUE TO CITY CLOSURES

RELATED TO COVID-19 Public Comments, please use:

<https://greeleygov.zoom.us/j/88667559266>

1. Roll Call: _____ Chairman Harold Evans _____ Vice Chairman Mick Todd
 _____ Mr. Bob Ruyle _____ Mr. Fred Otis
 _____ Mr. Joe Murphy _____ Mr. Tony Miller
 _____ Mr. Manuel Sisneros _____ Mayor John Gates
 _____ Mr. Roy Otto _____ Mr. John Karner
2. Approval of Minutes
3. Approval of and/or Additions to Agenda
4. Welcome New Employees and Promotions
5. Approve and Recommend to Council Industrial Pretreatment Code Modifications
6. Recommend to Council an Ordinance Establishing Local Improvement District for the Ashcroft Regional Lift Station
7. Executive Session
8. Approve Purchase and Sale Agreement with Longs Peak Dairy and Recommend City Council Approve the Divestment of City Owned Property Identified Therein
9. Non-Potable Development Policy Update
10. Utility Rate Affordability Program Update
11. Legal Report
12. Director's Report
 - Windy Gap Firing Project Activity Update
 - Wildfire Mitigation Update
13. 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 Shannon Metcalf at 970-350-9818.



**City of Greeley
Water and Sewer Board
Minutes of April 21, 2021
Regular Board Meeting**

Chairman Harold Evans called the Water and Sewer Board meeting to order at 2:00 p.m. on Wednesday, April 21, 2021. Due to City remote operations status related to COVID-19, this meeting was held remotely and was aired via live stream for public viewing at <https://www.youtube.com/user/CityofGreeley>.

1. Roll Call

The Clerk called the roll and those present included:

Board Members:

Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Bob Ruyle, Tony Miller, Joe Murphy, Manuel Sisneros and Mayor Gates

Water and Sewer Department Staff:

Director Sean Chambers, Deputy Director Water Resources Adam Jokerst, Deputy Director of Operations Nina Cudahy, Utility Finance Manager Erik Dial, Water Resources Manager Jen Petrzelka, Water Resources Asset Coordinator Cole Gustafson, Technical Services Manager Joe Kunovic, Rates and Budget Analyst Kalen Myers and Office Manager Shannon Metcalf

Legal Counsel:

City Attorney Doug Marek, Counsel to Water & Sewer Board Attorney Carolyn Burr, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer, Environmental and Water Resources Attorney Aaron Goldman

Other Guests:

2. Approval of Minutes

Mr. Miller made motion, seconded by Mr. Sisneros, to approve the March 17, 2021 Water and Sewer Board meeting minutes. The motion carried 7-0.

3. Approval of and/or Additions to Agenda

There were no changes to the agenda.

******Consent Agenda******

- 4. Approve Glover Grazing Lease**
- 5. Approve Lower Latham Bypass Agreement**
- 6. Adopt Joint Resolution Terminating the Industrial Water Bank**
- 7. Approve and Recommend to Council the Balmer Farm Easement Divestment**

******End of Consent Agenda******

Vice-chairman Todd moved, seconded by Mr. Murphy to approve the items and recommend actions on the Consent Agenda. The motion carried 7-0.

8. Welcome New Employees

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

9. Water Supply Update and Adequacy Determination

Ms. Petrzelka noted that staff reports to the Water and Sewer Board in April, July, and November of each year on Greeley's water supply status. In April, the Board makes a declaration concerning the adequacy of the Water Year. Projected storage is presently at 26,778 acre-feet exceeding the target storage volume of 21,300 acre-feet.

Based on projected storage, staff recommended that the Board declare an Adequate Water Year, with the normal three days a week watering schedule and authorize staff to rent out available excess water supply, so long as the target storage volume of 21,300 acre-feet is maintained.

Vice-Chairman Todd moved, seconded by Mr. Miller that the board declare the City's water supply adequate for this water year, and authorize staff to rent out available excess supplies so long as the City's target storage volume is maintained in accordance with the Drought Emergency Plan. The motion carried 7-0.

10. 1st Quarter Water Court Update

Ms. Petrzelka updated the Board on the current status of Greeley's Water Court cases, including statements of opposition and cases where Greeley is the applicant or will soon be filing an application for change of water rights, and provided a summary of the Water Resources Division's legal costs.

11. Approve and Recommend to Council the Evans Sewer Service Intergovernmental Agreement

Mr. Prior explained that the 1st Amendment to the Intergovernmental Agreement for Sewage Treatment Services is Modification of an Existing Agreement with the City of Evans to Address Sewer Service Associated with the Ashcroft Draw Lift Station Project. The Agreement Addresses Temporary Treatment by Evans for New Taps within the Service Area Prior to Completion of the Ashcroft Draw Lift Station. Once the Lift Station is Completed the Agreement Provides Greeley Emergency Overflow Conveyance and Treatment to Evans for the Lift Station.

Vice-Chairman Todd moved, seconded by Mr. Miller that the Board approve the First Amendment to IGA for Sewage Treatment Services with the City of Evans and recommend that City Council approve the same. The motion carried 7-0.

12. Approve and Recommend to Council an Intergovernmental Agreement Regarding Rehabilitation Work for the Cameron Peak Fire

Ms. Petrzelka explained that the Cameron Peak Fire was the largest wildfire in CO history burning over 208,000 acres. 90% was on US Forest Service land. The estimated costs to mitigate impacts of erosion, sedimentation, flooding and infrastructure protection is over \$38 million. An intergovernmental agreement to coordinate recovery efforts and costs is needed to effectively undertake watershed mitigation efforts. This IGA between Greeley, Fort Collins, and Larimer County is intended to meet that need.

There was a discussion on the limitations of state and federal funding.

Vice-Chairman Todd moved, seconded by Mr. Murphy that the Board approve the IGA regarding Rehabilitation Work for the Cameron Peak Fire with Fort Collins and Larimer County, and delegate authority to City staff and legal counsel to make modifications to the IGA, including amendments to and extensions of the IGA as appropriate to facilitate additional funding and partners, provided that the material substance of the IGA remains unchanged. The motion carried 7-0.

13. Approve Non-Agricultural Water Rental Policy

Mr. Jokerst explained that pursuant to the City of Greeley Agricultural Rental Policy and Procedures approved by the Water & Sewer Board in December 2019, up to 15% of the

city's total annual excess rental supplies may be used for non-agricultural purposes. Non-agricultural rentals can be made to supply augmentation, industrial water needs, home owner association irrigation, or other uses unrelated to agricultural use. This new policy proposes a process for requesting and approving non-agricultural water rentals from Greeley; it defines sources of rental water for non-agricultural uses; it specifies terms of delivery; and it sets prices based on various types of non-agricultural use.

Vice-Chairman Todd moved, seconded by Mr. Sisneros that the Board adopt the Non-Agricultural Water Rental Policy as presented, and authorize City staff as necessary to carry out the terms on the policy. The motion carried 7-0.

14. Presentation and Overview of Pretreatment Program Modifications

Mr. Kunovic provided a summary of proposed modifications to the Industrial Pretreatment Program. He explained that these are amendments to the Enforced Response Plan.

15. Legal Report

Carolyn Burr of Welborn, Sullivan, Meck & Tooley stated Greeley's counsel and Water and Sewer Department staff had reviewed the resume of water court applications filed in February of 2021, and that they do not recommend for Greeley to file any statements of opposition in water court cases that would be due this month.

16. Director's Report

Mr. Chambers reported on the following items:

- Tier 3 Violation Report in Bill Stuffer
- Wildfire Recovery Update
- Terry Ranch Celebration

17. 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 3:42 p.m.

Harold Evans, Chairman

Shannon Metcalf, Office Manager



WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 5

TITLE: APPROVE AND RECOMMEND TO COUNCIL
INDUSTRIAL PRETREATMENT PROGRAM
CODE MODIFICATIONS

RECOMMENDATION: APPROVE AND RECOMMEND TO COUNCIL
INDUSTRIAL PRETREATMENT PROGRAM
CODE MODIFICATIONS

ADDITIONAL INFORMATION:

Following a routine audit of the City's Industrial Pretreatment Program, the United States EPA (Environmental Protection Agency) made a list of recommended ordinance modifications and best practices for Greeley to implement. Staff worked with the EPA Pretreatment Program advisors and the Greeley City Attorney's Office to develop the program modifications that meet the expectations of the EPA. Those modifications to the Industrial Pretreatment Program must be codified amendments to the City Code (Industrial Pretreatment Article VI).

In summary, the code changes amend the definitions to better align with Federal definitions, align the ordinance with current program processes such as permitting, enforcement and corrects minor clerical errors. The amendments will provide more clarity for enforcement actions.



Chapter 14.11 - Industrial Pretreatment

14.11.010 - Short title.

This Chapter shall also be known as the Greeley Pretreatment Chapter.

(Ord. 35, 2008 §1)

14.11.020 - Abbreviations.

The following abbreviations, when used in this Chapter, shall have the designated meanings:

BOD	Biochemical Oxygen Demand
BMP	Best Management Practices
Fº	Fahrenheit
Cº	Celsius
CDPS	Colorado Discharge Permit System
CIU	Categorical Industrial User
CFR	Code of Federal Regulations
EPA	United States Environmental Protection Agency
gpd	gallons per day
mg/L	milligrams per liter
O & M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIU	Significant Industrial User
TSS	Total Suspended Solids

U.S.C	United States Code
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(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.030 - Purpose and policy.

This Chapter establishes uniform requirements for ~~Dischargers~~ **USERS OF** to the **CITY'S PUBLICLY OWNED TREATMENT WORKS (POTW)**, and enables the City to comply with relevant state and federal laws, including the Federal Water Pollution Control Act (33 U.S.C. §§ 1251—1387) **(ACT)** and the General Pretreatment Regulations (40 C.F.R. Part 403). The objectives of this Chapter are:

- (1) To prevent the introduction of Pollutants into the City's POTW that will interfere with the POTW's operation;
- (2) To prevent the introduction of Pollutants into the City's POTW that will Pass Through the POTW, inadequately treated, into receiving waters, or that will otherwise be incompatible with the POTW;
- (3) To protect both City personnel who may be affected by ~~Ww~~wastewater and biosolids in the course of their employment, and the general public;
- (4) To promote reuse and recycling of ~~Ww~~wastewater and biosolids from the City's POTW;
- (5) To establish and distribute equitably fees for the cost of operating, maintaining and improving the City's POTW; and
- (6) To enable the City to comply with its **COLORADO DISCHARGE PERMIT SYSTEM (CDPS)** permit conditions, biosolids use and disposal requirements, and other relevant federal and state laws.

(Ord. 35, 2008 §1)

14.11.040 - Applicability.

This Chapter applies to all connections to the POTW, whether within or outside the City, and to all persons, whether within or outside the City, who are, by permit or otherwise, Users of the POTW.

(Ord. 35, 2008 §1)

14.11.050 – **RESERVED. Citation to federal regulations.**

~~All citations in this Chapter to the Code of Federal Regulations are to those federal regulations in effect on the date this Chapter becomes law. This Chapter does not incorporate later amendments or editions of the cited material.~~

(Ord. 35, 2008 §1)

14.11.060 - Definitions.

Unless a provision in this Chapter explicitly states otherwise, the following definitions shall apply:

Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251-1387.

ADMINISTRATIVE APPEAL. A PETITION TO RECONSIDER AN ORDER ISSUED OR A PENALTY OR FINE IMPOSED BY THE DIRECTOR PURSUANT TO THIS CHAPTER IN ACCORDANCE WITH SECTION 14.11.710.

Approval Authority. The EPA Regional Administrator for Region VIII; or the State of Colorado if and when the State obtains primacy to administer its own pretreatment program under the Act.

Authorized Representative of the User.

- a. If the User is a corporation: the president, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- b. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively; or
- c. If the User is a federal, state or local governmental entity: a director or highest level official appointed or designated to oversee the operation and performance of the activities of the government entity.

The individuals described in Paragraphs a. through c. above may designate another Authorized Representative **OF THE USER** if the authorization is in writing and is submitted to the **City DIRECTOR**. The authorization shall specify either an individual or a position having responsibility for the overall operation of the facility from which the Discharge originates, such as the position of plant manager or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company.

Best Management Practices or BMPs. Schedules of activities, maintenance policies and other management procedures that prevent or reduce the discharge of pollutants into the POTW, and that implement the prohibitions listed in Section 14.11.070. **Best Management Practices BMPS** include Pretreatment **STANDARDS AND** Requirements, operating procedures and practices to control plant site runoff, spills, leaks, waste disposal and drainage from raw material storage.

Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty (20) degrees C, usually expressed as a concentration (e.g., mg/L).

BYPASS. THE INTENTIONAL DIVERSION OF WASTESTREAMS FROM ANY PORTION OF A USER'S TREATMENT FACILITY INTO THE POTW.

CATEGORICAL INDUSTRIAL USER OR CIU. A USER SUBJECT TO A CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD.

Categorical Pretreatment Standard or Categorical Standard. Any regulation containing Discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317(b) and (c)), which applies to a specific category of Users, and which appears in 40 C.F.R. Parts 405—471. **This term includes Prohibited Discharge Standards.**

CHAIN OF CUSTODY. AN ACCURATE WRITTEN RECORD THAT, AT A MINIMUM, LISTS THE OUTFALL LOCATION, SAMPLE DATE, SAMPLE TIME, SAMPLE TYPE, TYPE OF SAMPLE PRESERVATION, AND NAME OF SAMPLE COLLECTOR AND CAN BE USED TO TRACE THE POSSESSION AND HANDLING OF THE SAMPLE FROM THE MOMENT OF ITS COLLECTION THROUGH ITS ANALYSIS.

CHAPTER OR GREELEY PRETREATMENT CHAPTER. CHAPTER 14.11 OF THIS CODE.

City. The City of Greeley.

Composite Sample. A sampling procedure defined in 40 C.F.R. Part 403, Appendix E - Sampling Procedures, I. Composite Method.

Control Authority. The POTW.

DAILY OR DAY. A CALENDAR DAY UNLESS OTHERWISE SPECIFIED. ANY TIME PERIOD SET FORTH IN THIS CHAPTER THAT COMMENCES, EXPIRES OR IS DETERMINED FROM A DATE WHICH FALLS ON A SATURDAY, SUNDAY OR LEGAL HOLIDAY OF THE STATE OF COLORADO, THE DATE OF SUCH COMMENCEMENT, PERFORMANCE, EXPIRATION OR DETERMINATION SHALL AUTOMATICALLY BE EXTENDED TO THE NEXT BUSINESS DAY WHICH IS NOT A SATURDAY, SUNDAY OR LEGAL HOLIDAY OF THE STATE OF COLORADO.

DAILY MAXIMUM. THE ARITHMETIC AVERAGE OF ALL EFFLUENT SAMPLES FOR A POLLUTANT COLLECTED DURING A DAY.

DAILY MAXIMUM LIMIT. THE MAXIMUM ALLOWABLE DISCHARGE OF A POLLUTANT DURING A DAY. WHERE DAILY MAXIMUM LIMITATIONS ARE EXPRESSED IN UNITS OF MASS, THE DAILY DISCHARGE IS THE TOTAL MASS DISCHARGED OVER THE COURSE OF THE DAY. WHERE DAILY MAXIMUM LIMITS ARE EXPRESSED IN TERMS OF A CONCENTRATION, THE DAILY DISCHARGE IS THE ARITHMETIC AVERAGE MEASUREMENT OF THE POLLUTANT CONCENTRATION DERIVED FROM ALL MEASUREMENTS TAKEN THAT DAY.

Department. The City Water and Sewer Department.

Director. The Director of the City Water and Sewer Department or his or her authorized designee.

DISCHARGE OR INDIRECT DISCHARGE. THE INTRODUCTION OF POLLUTANTS INTO THE POTW FROM ANY NONDOMESTIC SOURCE REGULATED UNDER SECTION 307(B), (C) OR (D) OF THE ACT.

Commented [JS1]: Is this adequate? Majority of reference are to "Discharge" only. Or, are you asking that we include "indirect" to all "discharge" references?

Domestic Wastewater. A combination of liquid wastes (sewage) which may include household chemicals, household wastes, human excreta, animal or vegetable matter in suspension or solution or other solids in suspension or solution which are discharged from a dwelling, building or other structure. *Domestic Wastewater* does not include commercial or Industrial Wastewater, or grease removed from a restaurant grease trap.

Environmental Protection Agency or EPA. The United States Environmental Protection Agency.

Existing Source. Any source of **INDIRECT** Discharge that is not a New Source.

General Permit. An authorization to ~~discharge pollutants to the POTW~~ **DISCHARGE**, which covers multiple ~~Users~~ within a specific sector in accordance with the requirements of the Act and this Chapter.

Grab Sample. A sampling procedure defined in 40 C.F.R. Part 403, Appendix E - Sampling Procedures, II. Grab Method.

Hauled Portable Toilet Wastewater. The liquid or solid material removed from a portable toilet that holds only Domestic Wastewater (not the portable toilet chemicals or matrix itself).

Indirect Discharge or Discharge . The introduction of Pollutants into the POTW from any nondomestic source.

Industrial Wastewater or Nondomestic Wastewater. Water carrying wastes from any process or activity of industry, manufacturing, trade or business, from development of any natural resource, or from animal operations, or contaminated stormwater or leachate from solid waste facilities.

Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of any Grab or Composite Sample, independent of the industrial flow rate and the duration of the sampling event.

Interference. A Discharge that, alone or in conjunction with a Discharge or Discharges from other sources, both:

- a. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

- b. Contributes to a violation of any requirement of the City's CDPS permit (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act (**SWDA**), including Title II, commonly referred to as RCRA **OR THE RESOURCE CONSERVATION AND RECOVERY ACT**; any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the **Solid Waste Disposal Act SWDA**; the Clean Air Act; and the Toxic Substances Control Act.

MAXIMUM ALLOWABLE HEADWORKS LOADING OR MAHL. THE ESTIMATED MAXIMUM LOADING OF A POLLUTANT THAT CAN BE RECEIVED AT A POTW'S HEADWORKS WITHOUT CAUSING PASS THROUGH OR INTERFERENCE.

MAXIMUM ALLOWABLE INDUSTRIAL LOADING OR MAIL. THE ESTIMATED MAXIMUM LOADING OF A POLLUTANT THAT CAN BE RECEIVED AT A POTW'S HEADWORKS FROM ALL PERMITTED USERS AND OTHER CONTROLLED SOURCES WITHOUT CAUSING PASS THROUGH OR INTERFERENCE. THE MAIL IS USUALLY CALCULATED BY APPLYING A SAFETY FACTOR TO THE MAHL AND DISCOUNTING FOR UNCONTROLLED SOURCES, HAULED WASTE AND GROWTH ALLOWANCE.

MEDICAL WASTE. ISOLATION WASTES, INFECTIOUS AGENTS, PATHOLOGICAL WASTES, SHARPS, BODY PARTS, CONTAMINATED BEDDING, SURGICAL WASTES, POTENTIALLY CONTAMINATED LABORATORY WASTES, AND DIALYSIS WASTES.

MONTHLY OR MONTH. A CALENDAR MONTH UNLESS OTHERWISE SPECIFIED.

MONTHLY AVERAGE LIMIT. THE HIGHEST ALLOWABLE AVERAGE OF DAILY DISCHARGES OVER A MONTH, CALCULATED AS THE SUM OF ALL DAILY DISCHARGES MEASURED DURING A MONTH DIVIDED BY THE NUMBER OF DAILY DISCHARGES MEASURED DURING THAT MONTH.

New Source.

- a. Any building, structure, facility or installation from which there is (or may be) a Discharge, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act that will apply to such source if such standards are thereafter promulgated in accordance with that section, provided that:
1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
 2. The building, structure, facility or installation totally replaces the process or production equipment that causes the Discharge at an Existing Source; or
 3. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, the **City DIRECTOR** will consider such factors as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source.
- b. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subparagraph a.2 or a.3 above, but otherwise alters, replaces, or adds to existing process or production equipment.
- c. Construction of a New Source as defined under this Subsection has commenced if the owner or operator has:
1. Begun, or caused to begin, as part of a continuous onsite construction program:
 - a) Any placement, assembly or installation of facilities or equipment; or

- b) Significant site preparation work including clearing, excavating or removing existing buildings, structures or facilities that is necessary to place, assemble or install New Source facilities or equipment; or
2. Entered into a binding contract for the purchase of facilities or equipment intended for use in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a binding contract for the purpose of this Subsection.

NOTICE OF VIOLATION OR NOV. AN ORDER ISSUED PURSUANT TO SECTION 14.11.570, BASED ON A FINDING THAT A USER HAS VIOLATED OR CONTINUES TO VIOLATE A PROVISION OF THIS CHAPTER, A WASTEWATER DISCHARGE PERMIT, ANY ORDER ISSUED PURSUANT TO THIS CHAPTER, OR ANY OTHER PRETREATMENT STANDARD OR REQUIREMENT.

NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER.

- a. THE DIRECTOR MAY DETERMINE THAT A CIU IS A NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER RATHER THAN A SIGNIFICANT INDUSTRIAL USER ON A FINDING THAT THE CIU NEVER DISCHARGES MORE THAN ONE HUNDRED (100) GPD OF TOTAL CATEGORICAL WASTEWATER (EXCLUDING SANITARY, NONCONTACT COOLING AND BOILER BLOWDOWN WASTEWATER, UNLESS SPECIFICALLY INCLUDED IN THE PRETREATMENT STANDARD) AND THE FOLLOWING CONDITIONS ARE MET:
 1. THE CIU, PRIOR TO THE DIRECTOR'S FINDING, HAS CONSISTENTLY COMPLIED WITH ALL APPLICABLE CATEGORICAL PRETREATMENT STANDARDS AND REQUIREMENTS;
 2. THE CIU ANNUALLY SUBMITS THE CERTIFICATION STATEMENT REQUIRED IN SUBSECTION 14.11.779525(B), TOGETHER WITH ADDITIONAL INFORMATION NECESSARY TO SUPPORT THE CERTIFICATION STATEMENT; AND
 3. THE CIU NEVER DISCHARGES ANY UNTREATED CONCENTRATED WASTEWATER.

Noncontact Cooling Water. Water used for cooling that does not directly contact any raw material, intermediate product, waste product or finished product.

Pass Through. A Discharge from the POTW into state waters in quantities or concentrations that, alone or in conjunction with a Discharge or Discharges from other sources, causes or contributes to a violation of any requirement of the City's CDPS permit, including an increase in the magnitude or duration of a violation.

Person. An individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state and local government entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Waste, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial waste and certain characteristics of wastewater (such as pH, temperature, TSS, turbidity, color, BOD, toxicity or odor).

Pretreatment. The reduction in the amount of Pollutants, the elimination of Pollutants or the alteration of the nature of Pollutant properties in wastewater prior to introducing such Pollutants into the POTW. The User may obtain this reduction or alteration by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the

Pollutants allowed by an applicable Pretreatment Standard. Appropriate pretreatment technology includes control equipment such as equalization tanks or facilities for protection against surges or Slug loads that might interfere with or otherwise be incompatible with the POTW. Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated limit using the combined wastestream formula in 40 C.F.R. § 403.6(e).

Pretreatment Requirement OR REQUIREMENT. Any substantive or procedural requirement related to Pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standard or Standard. Any Prohibited Discharge Standard ANY REGULATION CONTAINING POLLUTANT DISCHARGE LIMITS PROMULGATED BY THE EPA IN ACCORDANCE WITH SECTION 307 (B) AND (C) OF THE ACT, WHICH APPLIES TO USERS. THIS TERM INCLUDES PROHIBITIVE DISCHARGE LIMITS ESTABLISHED PURSUANT TO §403.5,, Categorical Pretreatment Standard, BEST MANAGEMENT PRACTICES, or local limit.

Pretreatment Supervisor COORDINATOR. The individual who oversees and administers the Pretreatment program for the POTW.

Prohibited Discharge Standard or Prohibited Discharge. An absolute prohibition against the Discharge of certain substances; these prohibitions appear in Section 14.11.070 below.

Publicly Owned Treatment Works or POTW. The "treatment works," as defined by Section 212 of the Act (33 U.S.C. § 1292), that is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling or reclamation of Domestic or Nondomestic Wastewater and any conveyances that carry such wastewater. **POTW also means the City THE TERM ALSO MEANS THE MUNICIPALITY AS DEFINED IN SECTION 502(4) OF THE ACT, WHICH HAS JURISDICTION OVER THE INDIRECT DISCHARGES TO AND THE DISCHARGES FROM SUCH A TREATMENT WORKS.**

Satellite Waste Dump Site. A designated location directly connected to the POTW that is permitted to accept Hauled Portable Toilet Wastewater or nonhazardous wastewater and Nondomestic Wastewater.

Sector. Users that engage in similar activities and discharge similar pollutants. Examples of similar activities that produce similar pollutants may include, but are not limited to, food service establishments or processors that commonly discharge fats, oils and grease; transportation vehicle repair, maintenance and washing facilities that commonly discharge petroleum oil, grease and sand; photographic or x-ray processing facilities or operations that commonly discharge silver; dental offices that commonly discharge mercury; and healthcare facilities that often have new or emerging contaminants.

SEVERE PROPERTY DAMAGE. SUBSTANTIAL PHYSICAL DAMAGE TO PROPERTY, DAMAGE TO THE USER'S TREATMENT FACILITY THAT RENDERS IT INOPERABLE, OR SUBSTANTIAL AND PERMANENT LOSS OF NATURAL RESOURCES THAT CAN REASONABLY BE EXPECTED TO OCCUR IN THE ABSENCE OF A BYPASS. SEVERE PROPERTY DAMAGE DOES NOT MEAN ECONOMIC LOSS CAUSED BY DELAYS IN PRODUCTION.

Significant Industrial User or SIU.

- a. **A User subject to a Categorical Pretreatment Standard under 40 C.F.R. § 403.6 and 40 C.F.R. Chapter I, subchapter N CIU, EXCEPT FOR A CIU THAT THE DIRECTOR HAS DESIGNATED AS A NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER; or**
- b. A User that:
 1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 2. Contributes a process wastestream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW Treatment Plant; or

3. Is designated as such by the City on the basis that the User has a reasonable potential to adversely affect the POTW's operation or to violate any Pretreatment Standard or Requirement.
- c. ~~The City may determine that an Industrial User subject to a Categorical Pretreatment Standard under 40 C.F.R. § 403.6 and 40 C.F.R. Chapter I, Subchapter N, is a Nonsignificant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than one hundred (100) gpd of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:~~
 1. ~~The Industrial User, prior to the City's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;~~
 2. ~~The Industrial User annually submits the certification statement required in Subsection 14.11.770(b), together with additional information necessary to support the certification statement; and~~
 3. ~~The Industrial User never discharges any untreated concentrated wastewater.~~
- d. Upon a finding that a User meeting the criteria in Subparagraph **eb.** above has no reasonable potential to adversely affect the POTW's operation or to violate any Pretreatment Standard or Requirement, the **CITY DIRECTOR** may at any time, on **its HIS OR HER** own initiative or in response to a petition received from a User, and in accordance with procedures in 40 C.F.R. § 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

Slug Load or Slug. Any Discharge **OF A NON-ROUTINE, EPISODIC NATURE, INCLUDING BUT NOT LIMITED TO AN ACCIDENTAL SPILL OR NON-CUSTOMARY BATCH DISCHARGE** at a flow rate or concentration that could violate the Prohibited Discharge Standards of Section 14.11.070 below or the local limits of Section 14.11.100 of this Chapter, **PERMIT CONDITIONS** or which has the reasonable potential to cause Interference or Pass Through.

SLUG DISCHARGE CONTROL PLAN. A WRITTEN PLAN PREPARED IN ACCORDANCE WITH SECTION 14.11.180 AND IMPLEMENTED BY A USER TO CONTROL SLUG DISCHARGES.

Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquid and which is removable by laboratory filtering.

UPSET. AN EXCEPTIONAL INCIDENT THAT RESULTS IN UNINTENTIONAL AND TEMPORARY NONCOMPLIANCE WITH A CATEGORICAL PRETREATMENT STANDARD BECAUSE OF FACTORS BEYOND THE REASONABLE CONTROL OF THE USER. AN UPSET DOES NOT INCLUDE NONCOMPLIANCE TO THE EXTENT CAUSED BY OPERATIONAL ERROR, IMPROPERLY DESIGNED TREATMENT FACILITIES, INADEQUATE TREATMENT FACILITIES, LACK OF PREVENTIVE MAINTENANCE OR CARELESS OR IMPROPER OPERATION.

User or Industrial User. A PERSON WHO IS A source of **Indirect** Discharge.

Wastewater. Liquid and water-carried industrial and domestic waste from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, that is contributed to the POTW.

Wastewater Discharge Permit. An individual **wastewater-discharge** permit or a **gGeneral pPermit** giving authorization to Discharge Pollutants to the POTW in accordance with the requirements of the Act and this Chapter.

Wastewater Treatment Plant or Treatment Plant. That portion of the POTW designed to treat Wastewater.

(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.070 - Prohibited discharge standards.

- (a) The following general and specific prohibitions apply to all Users of the POTW, whether or not they are subject to Categorical Pretreatment Standards, or any other national, state or local Pretreatment Standard or Requirement.
- (b) General Prohibition. No User shall introduce or cause to be introduced into the POTW any Pollutant or Wastewater that causes Pass Through or Interference.
- (c) Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:
 - (1) Any liquid, solid or gas that creates, singly or by interaction with other substances, a fire or explosion hazard in the POTW, including but not limited to wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees F (60 degrees C) using the test methods specified in 40 C.F.R. § 261.21;
 - (2) Wastewater having a pH less than 5.5 or greater than 11.5, or that may otherwise corrode POTW structures or equipment;
 - (3) Solid or viscous substances in amounts that will obstruct the flow in the POTW, hinder POTW operations or cause POTW Interference;
 - (4) Wastewaters containing sand or other inorganic particulate matter that will result in a settleable solids concentration greater than twenty-five (25) milliliters per liter in the User's Discharge;
 - (5) Pollutants, including oxygen-demanding Pollutants (BOD, etc.), discharged at a flow rate and/or Pollutant concentration that, either singly or by interaction with other Pollutants, will cause Interference;
 - (6) Wastewater of a temperature sufficient to damage the POTW collection system, or inhibit biological activity in the POTW Treatment Plant (resulting in Interference) or that causes the temperature of the entire wastewater stream to exceed one hundred four (104) degrees F (40 degrees C) at the entry point to the Treatment Plant;
 - (7) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
 - (8) Pollutants that cause toxic gases, vapors or fumes within the POTW in a quantity that may cause worker health or safety problems;
 - (9) Trucked or hauled Pollutants, except at a Discharge point designated by the Director in accordance with Sections 14.11.190 and 14.11.200 herein;
 - (10) Noxious or malodorous liquids, gases, solids or other Wastewaters that, either singly or by interaction with other wastes, create a public nuisance or a human health hazard, or prevent entry into the sewers for maintenance or repair;
 - (11) Wastewater that imparts color that cannot be removed by the treatment process (such as, but not limited to, dye wastes and vegetable tanning solutions), which consequently imparts color to the POTW's effluent, thereby violating the City's CDPS permit;
 - (12) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
 - (13) Stormwater, surface water, ground water, artesian well water, roof runoff and subsurface drainage, unless specifically authorized in writing by the Director;

- (14) Sludges, screenings or other residues from the Pretreatment of industrial wastes;
- (15) Wastewater causing, alone or in conjunction with other sources, the POTW's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents or other substances that may cause excessive foaming in the POTW;
- (17) Fats, oils or greases of animal or vegetable origin in concentrations that cause blockages, flow obstructions or Interference;
- (18) Wastewater causing two (2) readings on a combustible gas detection meter at any point in the POTW, of more than five percent (5%), or any single meter reading over ten percent (10%) of the Lower Explosive Limit;
- (19) Chemical treatments used for controlling solidified grease in sewer lines or grease interceptors that cause Pass Through of grease or obstruction of flow in the POTW, except in accordance with written authorization from the Director;
- (20) Unused or expired pharmaceuticals, including, but not limited to, prescription and over-the-counter medications, **IN AMOUNTS THAT CAUSE OR CONTRIBUTE TO PASS THROUGH OR INTERFERENCE.**

No person shall process or store any Pollutant, substance or Wastewater prohibited by this Chapter in such a manner that it could be discharged to the POTW.

([Ord. 39, 2014, § 1\(Exh. A\), 12-16-2014](#); Ord. 30, 2013 §1; Ord. 31, 2011 §1; Ord. 35, 2008 §1)

14.11.080 - National Categorical Pretreatment Standards.

- (a) The Categorical Pretreatment Standards found at 40 C.F.R., Parts 405—471 are hereby incorporated in this Chapter. Users must comply with applicable Categorical Pretreatment Standards and Requirements.
- (b) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Director may impose, **ON HIS OR HER OWN INITIATIVE OR AT THE REQUEST OF A USER**, equivalent concentration or mass limits in accordance with 40 C.F.R. § 403.6(c) **AND SUBSECTIONS (B)(1) - (3) AND (C) OF THIS SECTION 14.11.080.**

(1) TO BE ELIGIBLE FOR EQUIVALENT MASS LIMITS, THE USER MUST:

- a. EMPLOY, OR DEMONSTRATE THAT IT WILL EMPLOY, WATER CONSERVATION METHODS AND TECHNOLOGIES THAT SUBSTANTIALLY REDUCE WATER USE DURING THE TERM OF ITS INDIVIDUAL WASTEWATER DISCHARGE PERMIT;**
- b. CURRENTLY USE CONTROL AND TREATMENT TECHNOLOGIES ADEQUATE TO ACHIEVE COMPLIANCE WITH THE APPLICABLE CATEGORICAL PRETREATMENT STANDARD, AND NOT HAVE USED DILUTION AS A SUBSTITUTE FOR TREATMENT;**
- c. PROVIDE SUFFICIENT INFORMATION TO ESTABLISH THE FACILITY'S ACTUAL AVERAGE DAILY FLOW RATE FOR ALL WASTESTREAMS, BASED ON DATA FROM A CONTINUOUS EFFLUENT FLOW MONITORING DEVICE, AS WELL AS THE FACILITY'S LONG-TERM AVERAGE PRODUCTION RATE. BOTH THE ACTUAL AVERAGE DAILY FLOW RATE AND THE LONG-TERM AVERAGE PRODUCTION RATE MUST BE REPRESENTATIVE OF CURRENT OPERATING CONDITIONS;**
- d. NOT HAVE DAILY FLOW RATES, PRODUCTION LEVELS, OR POLLUTANT LEVELS THAT VARY SO SIGNIFICANTLY THAT EQUIVALENT MASS LIMITS ARE NOT APPROPRIATE TO CONTROL THE DISCHARGE; AND**

e. HAVE CONSISTENTLY COMPLIED WITH ALL APPLICABLE CATEGORICAL PRETREATMENT STANDARDS DURING THE PERIOD PRIOR TO THE USER'S REQUEST FOR EQUIVALENT MASS LIMITS.

(2) AN USER SUBJECT TO EQUIVALENT MASS LIMITS MUST:

a. MAINTAIN AND EFFECTIVELY OPERATE CONTROL AND TREATMENT TECHNOLOGIES ADEQUATE TO ACHIEVE COMPLIANCE WITH THE EQUIVALENT MASS LIMITS;

b. CONTINUE TO RECORD THE FACILITY'S FLOW RATES THROUGH THE USE OF A CONTINUOUS EFFLUENT FLOW MONITORING DEVICE;

c. CONTINUE TO RECORD THE FACILITY'S PRODUCTION RATES AND NOTIFY THE DIRECTOR WHENEVER PRODUCTION RATES ARE EXPECTED TO VARY BY MORE THAN 20 PERCENT FROM ITS BASELINE PRODUCTION RATES DETERMINED IN SUBSECTION B(1)(c) ABOVE OF THIS SECTION. UPON NOTIFICATION OF A REVISED PRODUCTION RATE, THE DIRECTOR WILL REASSESS THE EQUIVALENT MASS LIMIT AND REVISE THE LIMIT AS NECESSARY TO REFLECT CHANGED CONDITIONS AT THE FACILITY; AND

d. CONTINUE TO EMPLOY THE SAME OR COMPARABLE WATER CONSERVATION METHODS AND TECHNOLOGIES AS THOSE IMPLEMENTED PURSUANT TO SUBSECTION B(1)(a) ABOVE SO LONG AS IT DISCHARGES UNDER AN EQUIVALENT MASS LIMIT.

(3) WHEN DEVELOPING EQUIVALENT MASS LIMITS, THE DIRECTOR:

a. WILL CALCULATE THE EQUIVALENT MASS LIMIT BY MULTIPLYING THE ACTUAL AVERAGE DAILY FLOW RATE OF THE REGULATED PROCESS(ES) OF THE USER BY THE CONCENTRATION-BASED DAILY MAXIMUM AND MONTHLY AVERAGE STANDARD FOR THE APPLICABLE CATEGORICAL PRETREATMENT STANDARD AND THE APPROPRIATE UNIT CONVERSION FACTOR;

b. UPON NOTIFICATION OF A REVISED PRODUCTION RATE, WILL REASSESS THE EQUIVALENT MASS LIMIT AND RECALCULATE THE LIMIT AS NECESSARY TO REFLECT CHANGED CONDITIONS AT THE FACILITY; AND

c. MAY RETAIN THE SAME EQUIVALENT MASS LIMIT IN SUBSEQUENT INDIVIDUAL WASTEWATER DISCHARGER PERMIT TERMS IF THE USER'S ACTUAL AVERAGE DAILY FLOW RATE WAS REDUCED SOLELY AS A RESULT OF THE IMPLEMENTATION OF WATER CONSERVATION METHODS AND TECHNOLOGIES, AND THE ACTUAL AVERAGE DAILY FLOW RATES USED IN THE ORIGINAL CALCULATION OF THE EQUIVALENT MASS LIMIT WERE NOT BASED ON THE USE OF DILUTION AS A SUBSTITUTE FOR TREATMENT PURSUANT TO SECTION 14.11.120. THE USER MUST ALSO BE IN COMPLIANCE WITH SECTION 14.11.740 REGARDING THE PROHIBITION OF BYPASS.

(d) THE DIRECTOR MAY CONVERT THE MASS LIMITS OF THE CATEGORICAL PRETREATMENT STANDARDS OF 40 CFR PARTS 414, 419, AND 455 TO CONCENTRATION LIMITS FOR PURPOSES OF CALCULATING LIMITATIONS APPLICABLE TO INDIVIDUAL USERS. THE CONVERSION IS AT THE DISCRETION OF THE DIRECTOR.

(e) ONCE INCLUDED IN ITS PERMIT, THE USER MUST COMPLY WITH THE EQUIVALENT LIMITATIONS DEVELOPED IN THIS SECTION IN LIEU OF THE PROMULGATED CATEGORICAL STANDARDS FROM WHICH THE EQUIVALENT LIMITATIONS WERE DERIVED.

(ef) When Wastewater subject to a Categorical Pretreatment Standard is mixed with Wastewater not regulated by the same Standard, the Director shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. § 403.6(e).

Commented [JS2]: Double check this cross reference. The model references 2.2F(1)(c) but there isn't any such paragraph under 2.2F.

- (dg) A User may obtain a variance from a Categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. § 403.13, that factors relating to its Discharge differ fundamentally from the factors that EPA considered in developing the Categorical Pretreatment Standard.
- (eh) A User may obtain a net/gross adjustment to a Categorical Pretreatment Standard in accordance with 40 C.F.R. § 403.15.
- (fi) Each User shall be knowledgeable of all regulations applicable to the User. The Director shall make reasonable efforts to notify all affected Users of applicable standards and reporting requirements under 40 C.F.R. § 403.12. Failure of the Director to notify an affected User, however, does not relieve the User of complying with appropriate Categorical Pretreatment Standards or applicable reporting requirements.

(Ord. 35, 2008 §1)

14.11.090 - Deadline for compliance with applicable pretreatment requirements and standards.

Existing Sources shall comply with applicable Categorical Pretreatment Standards within three (3) years of the effective date for the standard unless the standard specifies a shorter compliance period. The **City DIRECTOR** shall establish a final compliance deadline for any existing User not covered by Categorical Pretreatment Standards, or for any **categorical User CIU** whose local limits are more restrictive than the Categorical Pretreatment Standards. New Sources and new Users must comply with applicable Pretreatment Standards and Requirements upon initial Discharge. New Sources and new Users shall install, have operable and start up all pollution control equipment required to meet applicable Pretreatment Standards and Requirements before beginning to Discharge.

(Ord. 35, 2008 §1)

14.11.100 - Local limits.

- (a) Greeley has established the following local limits to prevent Pass Through and Interference and to protect beneficial use of **B**iosolids:

Table 14.11-A
Total Metals and Conventional Pollutants

<i>Pollutant/Pollutant Property</i>	<i>Daily Maximum Allowable Industrial Loading, lbs/day</i>
Arsenic, Total	0.527
Cadmium, Total	0.316
Chloride	17,082.000
Chromium, Hexavalent	7.978
Copper, Total	6.241
Cyanide, Total	1.170
Lead, Total	1.528

Mercury, Total	0.009
Molybdenum, Total	1.354
Nickel, Total	4.728
Selenium, Total	1.114
Silver, Total	4.436
Zinc, Total	11.711
BOD	14,173.000
TSS	13,176.000

**Table 14.11-B
Total BTEX (Benzene, Toluene,
Ethylbenzene and Xylenes) and Benzene**

<i>Pollutant/Pollutant Property</i>	<i>Instantaneous Grab, ug/L</i>
BTEX	750
Benzene	50

- (b) The **City DIRECTOR** will allocate the daily Maximum Allowable Industrial Loading among Significant Industrial Users through Wastewater Discharge Permits. The total mass of pollutants allocated to Significant Industrial Users shall not exceed the Maximum Allowable Industrial Loading. Allocation of the POTW's Maximum Allowable Industrial Loading among all Significant Industrial Users shall be based upon consideration of discharge volume, flow rate or equitable but feasible distribution.
- (c) In addition, the Director may develop specific Discharge limitations for any other toxic or inhibiting Pollutant as necessary to prevent Interference, Pass Through, danger to the health and safety of **POTW CITY** personnel or the general public, environmental harm, a POTW permit violation, or to avoid rendering the POTW's biosolids unacceptable for economical reclamation, disposal or use.

(Ord. 12, 2014 §1; Ord. 30, 2013 §1; Ord. 31, 2011 §1; Ord. 35, 2008 §1)

14.11.110 - City's right of revision.

The limitations in Section 14.11.100 above are intended to prevent Pass Through and Interference and to ensure receiving water and biosolids quality. The City reserves the right to establish, by ordinance or in Wastewater Discharge Permits, more stringent limitations if necessary to achieve such protections.

(Ord. 35, 2008 §1)

14.11.120 - Dilution prohibition.

No User shall ever increase the use of process water, or otherwise attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a Discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Director may impose mass limitations on Users who use dilution, pursuant to an applicable Pretreatment Standard or Requirement or in other cases when the imposition of mass limitations is appropriate.

(Ord. 35, 2008 §1)

14.11.130 - Best Management Practices.

The Director may require any User to implement BMPs as necessary to ensure compliance with this Chapter.

(Ord. 35, 2008 §1)

14.11.135 - Sector Control Programs.

The Director may establish Sector Control Programs to control specific pollutants as necessary to meet the objectives of this Chapter for Users that engage in similar activities and discharge similar pollutants. The Director shall establish policies for each Sector Control Program. Users subject to these Sector Control Programs may be required to install and operate wastewater pretreatment systems and/or implement ~~best management practices~~ **BMPs** and may be required to apply for a Wastewater Discharge Permit.

(Ord. 30, 2013 §1)

14.11.140 - False or misleading information.

A User shall not knowingly make a false statement, representation or certification in any record, report, plan or other documentation filed, or required to be maintained, pursuant to this Chapter, the User's Wastewater Discharge Permit or order issued hereunder.

(Ord. 35, 2008 §1)

14.11.150 - Tampering with monitoring devices or methods.

No person shall tamper, falsify or knowingly render inaccurate any monitoring device or method required under this Chapter, a Wastewater Discharge Permit or an order issued hereunder.

(Ord. 35, 2008 §1)

14.11.160 - Pretreatment facilities.

Users shall construct, operate and maintain all facilities necessary to comply with this Chapter and applicable Categorical Pretreatment Standards and Requirements, within the applicable time limitations specified by the EPA, the State or the Director. The User shall submit detailed plans describing such facilities and operating procedures to the Director for review prior to commencing construction. The

review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Chapter. Notwithstanding the City's review of a User's facilities and operating procedures under this Chapter, it shall be the User's sole responsibility to construct its facilities and implement operating procedures necessary to comply with applicable requirements.

(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.170 - Additional pretreatment measures.

- (a) Whenever the Director finds it necessary to protect the POTW or to accurately assess a User's compliance with this Chapter, he or she may require a User to restrict its Discharge during peak flow periods, Discharge only into specific sewers, relocate and/or consolidate points of Discharge, separate sewage wastestreams from industrial wastestreams or take other relevant measures.
- (b) The Director may require Users to install and maintain on their property a suitable storage and flow-control facility to ensure equalization of flow. The ~~City~~ **DIRECTOR** may issue a Wastewater Discharge Permit solely for flow equalization.
- (c) The User shall install grease, oil and sand interceptors when, in the opinion of the Director, they are necessary to properly handle Wastewater containing excessive amounts of grease, oil or sand. All interceptors shall be of the type and capacity specified in the City's ~~Building Code~~ **Code**. Users shall locate all interceptors so they are easily accessible for cleaning and inspection. The User shall inspect, clean, maintain and repair as needed all interceptors at its expense. The User shall make available for inspection by the Director all cleaning and maintenance records for a minimum of three (3) years.
- (d) The Director may require Users with the potential to Discharge flammable substances to install and maintain an approved combustible gas detection meter at a point prior to Discharge to the POTW.
- (e) The User shall calibrate all devices used to measure wastewater flow for billing purposes to ensure their accuracy as outlined in the City's Wastewater Flow Meter Accuracy Verification Guidelines. A copy of such Guidelines is available from the Director.

(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.180 - ~~Accidental discharge/Slug~~ **DISCHARGE** control plans.

- (a) The Director shall evaluate whether an ~~Industrial~~ User needs an ~~accidental Discharge/Slug DISCHARGE~~ **Control Plan**. Such evaluations must be documented in the administrative file. The Director may require any User to develop, submit for approval and implement such a plan. Any requirement to develop and implement a Slug ~~Control DISCHARGE~~ **Plan** shall be included in the User's Wastewater Discharge Permit. An ~~accidental Discharge/Slug DISCHARGE~~ **Control Plan** shall contain, at a minimum, the following:
 - (1) A description of Discharge practices including non-routine batch Discharges;
 - (2) A description of stored chemicals;
 - (3) Procedures for immediately notifying the Director of any ~~accidental or~~ Slug Discharge, as required by Subsection 14.11.440(a) below; and
 - (4) Procedures to prevent adverse impact from any ~~accidental or~~ Slug Discharge. Such procedures must address inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, containment structures or equipment, measures for containing toxic organic Pollutants (including solvents) and measures and equipment for emergency response.
- (b) An SIU shall notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

(Ord. 35, 2008 §1)

14.11.190 - Hauled portable toilet wastewater.

- (a) A User may introduce Hauled Portable Toilet Wastewater into the POTW only in accordance with its **WASTEWATER DISCHARGE Permit**.
- (b) Hauled Portable Toilet Wastewater shall comply with all relevant provisions of this Chapter, including but not limited to Section 14.11.070.
- (c) All portable toilet wastewater haulers shall obtain Wastewater Discharge Permits. Portable toilet wastewater haulers must submit a waste manifest form for every load.

(Ord. 30, 2013 §1; Ord. 31, 2011 §1; Ord. 35, 2008 §1)

14.11.210 - Satellite Waste Dump Sites.

- (a) Satellite Waste Dump Site operators must obtain a Wastewater Discharge Permit prior to introducing Wastewater to the POTW.
- (b) Satellite Waste Dump Site operators shall comply with all relevant provisions of this Chapter, including but not limited to Section 14.11.070.
- (c) Satellite Waste Dump Site operators must maintain records for all loads disposed of at their site. Such records shall include, at a minimum, the name of the hauler, the hauler's vehicle, the license number, the volume of waste and the hauler's certification that the waste is not RCRA hazardous. Satellite Waste Dump Site operators shall submit such records to the Director as required by their **WASTEWATER DISCHARGE Permit**.

(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.220 - Wastewater analysis.

When requested by the Director, a User must submit information on the nature and characteristics of its Wastewater within forty-five (45) days of the request.

(Ord. 35, 2008 §1)

14.11.230 - Requirement to obtain Wastewater Discharge Permit.

- (a) All SIUs **AND CIUS** shall obtain a Wastewater Discharge Permit from the Director ~~prior to any Discharge to the POTW~~.
- (b) The Director may require other Users to obtain a Wastewater Discharge Permit as necessary to accomplish the purposes of this Chapter.
- (c) Any violation of the terms and conditions of a Wastewater Discharge Permit shall constitute a violation of this Chapter. Obtaining a Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all applicable federal and state Pretreatment Standards or Requirements, or with any other applicable requirements of federal, state and local law.

(Ord. 35, 2008 §1)

14.11.240 - Wastewater discharge permitting; existing connections.

An existing **Discharger USER** that becomes newly subject to permitting requirements under this Chapter, and that does not currently have a Wastewater Discharge Permit, may continue to Discharge to the POTW until its timely **WASTEWATER DISCHARGE P**ermit application is processed, provided that its Discharge does not cause Interference or Pass Through. In order to qualify under this provision, the **Discharger USER** must submit its application within ten (10) business days of notification by the Director of the permitting requirement.

(Ord. 35, 2008 §1)

14.11.250 - Wastewater discharge permitting; new connections.

Any User required to obtain a Wastewater Discharge Permit that proposes to begin or recommence discharging into the POTW shall obtain such **WASTEWATER DISCHARGE P**ermit prior to beginning or recommencing its Discharge. The User shall file an application for a Wastewater Discharge Permit in accordance with Section 14.11.260 at least ninety (90) days prior to the date upon which such Discharge will begin or recommence.

(Ord. 35, 2008 §1)

14.11.260 - Wastewater Discharge Permit application.

All **U**users required to obtain a Wastewater Discharge Permit must submit a **WASTEWATER DISCHARGE P**ermit application. Users that are eligible may request a **G**eneral **P**ermit under Section 14.11.265 below. Such application shall include the following information for the premises from which the Discharge will occur:

- (1) All information required by Subsection 14.11.390(b);
- (2) A description of activities, facilities and plant processes, including a list of all raw materials and chemicals used or stored on the premises that will, or could accidentally or intentionally, be discharged to the POTW;
- (3) The number and type of employees and proposed or actual hours of operation;
- (4) Each product to be produced by type, amount, process or processes and rate of production;
- (5) The type and amount of raw materials to be processed (average and maximum per day);
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation, and all points of Discharge;
- (7) Facility contact information;
- (8) Time and duration of the Discharge; **and**
- (9) **ANY REQUESTS FOR A MONITORING WAIVER (OR A RENEWAL OF AN APPROVED MONITORING WAIVER) FOR A POLLUTANT NEITHER PRESENT NOR EXPECTED TO BE PRESENT IN THE DISCHARGE BASED ON SECTION 14.11.420 (E).**
- (10) **ANY REQUEST TO BE COVERED BY A GENERAL PERMIT BASED ON SECTION 14.11.265.**
- (11) Any other information that the Director deems necessary to evaluate the Wastewater Discharge Permit application. The Director will return unprocessed to the User all incomplete or inaccurate applications.

(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.265 - Wastewater discharge permitting; general permits.

Commented [JS3]: According to the model code, these two sections are required if we include the new 14.11.420 (e) and 14.11.265 below.

- (a) At the discretion of the Director, the Director may use **Ggeneral Ppermits** to control ~~industrial-user Ddischarges~~ to the POTW if the following conditions are met. All facilities to be covered by a **Ggeneral Ppermits** must:
- (1) Involve the same or substantially similar types of operations;
 - (2) Discharge the same types of wastes;
 - (3) Require the same effluent limitations;
 - (4) Require the same or similar monitoring; and
 - (5) In the opinion of the Director are **FACILITIES** more appropriately controlled under a **Ggeneral Ppermits** than under individual Wastewater Discharge Permits.
- (b) To be covered by ~~the A Ggeneral Ppermits~~, the User must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the **Ggeneral Ppermits**, any requests in accordance with Subsection 14.11.390(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the ~~POTW DIRECTOR~~ deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the **Ggeneral Ppermits** until after the Director has provided written notice to the User that such a waiver request has been granted in accordance with Subsection 14.11.390(b) **420 (e)**.
- (c) The Director will retain a copy of the **Ggeneral Ppermits**, documentation to support the ~~POTW DIRECTOR's~~ determination that a specific User meets the criteria in Paragraphs (a)(1) through (5) above and applicable state regulations, and a copy of the User's written request for coverage for three (3) years after the expiration of the **Ggeneral Ppermits**.
- (d) The Director may not control ~~an SCIU~~ through a **Ggeneral Ppermits** where the facility is subject to production-based ~~Ccategorical Ppretreatment Sstandards~~ or ~~Ccategorical Ppretreatment Sstandards~~ expressed as mass of pollutant discharged per day or for ~~IUSERS~~ whose limits are based on the combined wastestream formula in Subsection 14.11.080(c) or net/gross calculations in Subsection 14.11.080(e).

(Ord. 30, 2013 §1)

14.11.270 - Wastewater discharge permit decisions.

The Director will evaluate the data furnished by the User in its application and may require additional information. Within thirty (30) days of receipt of a complete Wastewater Discharge Permit application, the Director will determine whether or not to issue a Wastewater Discharge Permit.

(Ord. 35, 2008 §1)

14.11.280 - Issuance of draft wastewater discharge permits.

If the Director determines that a Wastewater Discharge Permit is appropriate, he or she will first issue a draft **WASTEWATER DISCHARGE Ppermit** for review. Notice of the availability of the draft shall be posted in the same manner as other public notices. The User and the public shall have thirty (30) days to submit written comments on the draft **WASTEWATER DISCHARGE Ppermit**. The Director shall issue a final **WASTEWATER DISCHARGE Ppermit** within fifteen (15) days of the close of the thirty-day comment period.

(Ord. 35, 2008 §1)

14.11.290 - Wastewater discharge permit decision appeals.

Any person, including the User, may petition the Director to reconsider the terms of a Wastewater Discharge Permit (~~"Administrative Appeal"~~) within thirty (30) days of the effective date of the final **WASTEWATER DISCHARGE P**permit or the decision not to issue a **WASTEWATER DISCHARGE P**permit.

- (1) Failure to submit a written petition for review within such thirty-day period shall constitute a waiver of the right to ~~the Administrative Appeal~~ **A WASTEWATER DISCHARGE PERMIT**.
- (2) In its **WRITTEN** petition **FOR REVIEW**, the appealing party must indicate the Wastewater Discharge Permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to place in the **WASTEWATER DISCHARGE P**permit. Except for provisions that change from the draft to the final **WASTEWATER DISCHARGE P**permit, the ~~petitioner~~ **APPEALING PARTY** may only appeal those issues ~~it~~ **THE APPEALING PARTY** raised during the public comment period.
- (3) Only the challenged portions of the final Wastewater Discharge Permit shall be stayed pending ~~an~~ **THE** appeal.
- (4) **THE DIRECTOR MUST ISSUE HIS OR HER FINAL DECISION WITHIN TWENTY (20) DAYS OF RECEIVING THE WRITTEN PETITION FOR REVIEW. Failure of t**~~The Director's FAILURE to act within twenty (20) days of receiving a written petition for review~~ **SHALL CONSTITUTE A DENIAL OF THE PETITION. THE DIRECTOR'S DECISION NOT TO (I) RECONSIDER AN INDIVIDUAL WASTEWATER DISCHARGE PERMIT, (II) ISSUE AN INDIVIDUAL WASTEWATER DISCHARGE, OR (III) MODIFY AN INDIVIDUAL WASTEWATER DISCHARGE PERMIT SHALL BE CONSIDERED THE DIRECTOR'S FINAL DECISION FOR PURPOSES OF THIS SECTION.**
- (5) ~~Aggrieved parties may seek review of the Director's Wastewater Discharge Permit decision by filing a request with the Director within thirty (30) days of the date of his or her final decision asking that the Director's written decision be sent to the Water and Sewer Board. The Director shall submit his or her written decision to the Water and Sewer Board within thirty (30) days of receiving the request. The Water and Sewer Board shall make its decision based on the administrative record.~~
- (56) ~~Aggrieved~~ **THE APPEALING part**~~ies~~ **Yies** **OR THE USER, IF NOT THE APPEALING PARTY,** seeking review of the ~~DIRECTOR'S Wastewater Discharge Permit~~ decision must do so by filing a request for hearing with the Administrative Hearing Officer, as authorized by Section 3-11 of the Greeley City Charter, within thirty (30) days ~~after~~ **OF THE DATE OF the DIRECTOR'S FINAL decision of the Board**. Such review shall be *de novo*, and the Administrative Hearing Officer's decision shall be final. Administrative Hearing Officer decisions not to reconsider a Wastewater Discharge Permit, not to issue a Wastewater Discharge Permit or not to modify a Wastewater Discharge Permit shall be considered the final administrative action for purposes of judicial review.
- (7) Any appeal from the decision of the Administrative Hearing Officer shall be to the appropriate court pursuant to C.R.C.P. 106.

(Ord. 35, 2008 §1)

14.11.300 - Wastewater discharge permit contents.

The Director shall include such conditions in the **WASTEWATER DISCHARGE P**permit that he or she determines are reasonably necessary to prevent Pass Through or Interference, protect the quality of the water body receiving the Treatment Plant's effluent, protect ~~POTW worker~~ **CITY PERSONNEL** health and safety, facilitate biosolids management and disposal and protect against damage to the POTW.

- (1) Wastewater Discharge Permits shall:
 - a. Identify the permit term, which in no event shall exceed five (5) years;

- b. Contain a statement that the **WASTEWATER DISCHARGE P**ermit is nontransferable without prior notification to the Director in accordance with Section 14.11.330, and provisions for furnishing the new owner or operator with a copy of the existing **WASTEWATER DISCHARGE P**ermit;
 - c. Contain effluent limits, including BMPs, based on applicable Pretreatment Standards and Requirements;
 - d. Contain self-monitoring, sampling, reporting, notification and record-keeping requirements, which shall include the Pollutants or BMP to be monitored, sampling location, sampling frequency, sample type and analysis method based on federal, state and local law;
 - e. Contain requirements to control Slug **D**ischarges, if determined by the Director to be necessary;
 - f. Contain a statement of applicable civil and criminal penalties for violating Pretreatment Standards and Requirements; and
 - g. Contain any applicable compliance schedule, which shall not extend the time for compliance beyond that required by applicable federal, state or local law.
- (2) Wastewater Discharge Permits may contain the following:
- a. Limits on the average and/or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;
 - b. Requirements to install, operate and maintain Pretreatment technology, pollution control or containment devices to reduce, eliminate or prevent the introduction of Pollutants into the POTW;
 - c. Requirements to develop and implement spill control plans or other special conditions necessary to prevent accidental, unanticipated or no routine discharges;
 - d. Requirements to develop and implement waste minimization plans to reduce the amount of Pollutants discharged to the POTW;
 - e. The unit charge or schedule of User charges and fees for treating Wastewater discharged to the POTW;
 - f. Requirements to install and maintain inspection and sampling facilities or other equipment, including flow measurement devices;
 - g. A statement that compliance with the Wastewater Discharge Permit does not relieve the permittee of responsibility to comply with all applicable federal and state Pretreatment Standards, including those that become effective during the term of the Wastewater Discharge Permit; and
 - h. Other conditions that the Director deems necessary to ensure compliance with this Chapter and state and federal requirements.

(Ord. 35, 2008 §1)

14.11.310 - Wastewater discharge permit duration.

A Wastewater Discharge Permit shall be issued for a specified term, not exceeding five (5) years from the effective date of the **WASTEWATER DISCHARGE P**ermit. The Director may issue a Wastewater Discharge Permit for a term less than five (5) years.

(Ord. 35, 2008 §1)

14.11.320 - Wastewater discharge permit modification.

(a) The Director may modify a Wastewater Discharge Permit for good cause, including but not limited to the following reasons:

- (1) To incorporate any new or revised federal, state or local Pretreatment Standards or Requirements;
- (2) To address significant alterations or additions to the User's operation, processes or Wastewater volume or character since the time of **WASTEWATER DISCHARGE P**permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the permitted **D**discharge;
- (4) Information indicating that the permitted **D**discharge may threaten the POTW, human health or the environment;
- (5) Violation of any terms or conditions of the **WASTEWATER DISCHARGE P**permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the **WASTEWATER DISCHARGE P**permit application or in any required reporting;
- (7) Revision of Categorical Pretreatment Standards, or a variance there from under 40 C.F.R. § 403.13;
- (8) To correct typographical or other errors in the **WASTEWATER DISCHARGE P**permit; or
- (9) To reflect a transfer of facility ownership or operation to a new owner or operator.

(b) A User may **PETITION THE DIRECTOR AND** seek review of **ANY WASTEWATER DISCHARGE P**permit ~~m~~Modification ~~and request an Administrative Appeal Hearing~~ within ten (10) days following issuance of **THE WASTEWATER DISCHARGE PERMIT WITH** modifications. ~~The Administrative Appeal Hearing shall be conducted according~~ **PURSUANT** to ~~procedures described in~~ Section 14.11.290.

(Ord. 35, 2008 §1)

14.11.330 - Wastewater discharge permit transfer.

A Wastewater Discharge Permit holder may transfer its **WASTEWATER DISCHARGE P**permit to a new owner or operator only if the permittee gives ~~at least sixty (60) days' advance~~ **WRITTEN** notice to the Director **NO LESS THEN THIRTY (30) DAYS IN ADVANCE OF THE DATE OF TRANSFER**, and the Director approves the **WASTEWATER DISCHARGE P**permit transfer in writing. The notice to the Director must include a written certification by the new owner or operator that:

- (1) The new owner and/or operator acknowledges receipt of a copy of the existing **WASTEWATER DISCHARGE P**permit;
- (2) The new owner and/or operator has fully read and understands the **WASTEWATER DISCHARGE P**permit conditions and accepts full responsibility for complying with the existing **WASTEWATER DISCHARGE P**permit;
- (3) The new owner and/or operator has no immediate intent to change the facility's operations and processes; and
- (4) Identifies the specific date of transfer.

Upon approval of the Wastewater Discharge Permit transfer, the Director shall reissue the transferred **WASTEWATER DISCHARGE P**permit in the name of the new owner and/or operator.

([Ord. 39, 2014, § 1\(Exh. A\), 12-16-2014](#); Ord. 31, 2011 §1; Ord. 35, 2008 §1)

14.11.340 - Wastewater discharge permit suspension, ~~or~~ revocation, **OR TERMINATION**.

- (a) The Director may suspend or revoke a Wastewater Discharge Permit for good cause, including but not limited to the following reasons:
- (1) Failure to provide prior notification to the Director of changed conditions pursuant to Section 14.11.430;
 - (2) Misrepresentation or failure to fully disclose all relevant facts in the **WASTEWATER DISCHARGE P**ermit application;
 - (3) Falsifying monitoring reports;
 - (4) Tampering with monitoring equipment;
 - (5) Refusing to allow the Director timely access to the facility premises and records;
 - (6) Failure to pay fines;
 - (7) Failure to pay sewer charges;
 - (8) Failure to meet compliance schedules;
 - (9) Failure to complete a Wastewater survey or timely permit renewal application;
 - (10) Failure to provide advance notice of the transfer of business ownership of a permitted facility as required by Section 14.11.330; or
 - (11) Violation of any Pretreatment Standard or Requirement, or any terms of the permit or this Chapter.
- (b) **A USER MAY FILE A PETITION TO RECONSIDER THE SUSPENSION OR REVOCATION OF ITS WASTEWATER DISCHARGE PERMIT AND REQUEST AN ADMINISTRATIVE APPEAL WITHIN TEN (10) DAYS FOLLOWING ISSUANCE OF THE NOTICE OF SUSPENSION OR REVOCATION. THE ADMINISTRATIVE APPEAL SHALL BE CONDUCTED ACCORDING TO THE PROCEDURES DESCRIBED IN SECTION 14.11.710.**
- (c) **ALL Wastewater Discharge Permits shall be voidable TERMINATED upon THE cessation of operations; ~~All Wastewater Discharge Permits are void upon~~ the issuance of a new replacement Wastewater Discharge Permit; ~~THE EXPIRATION OF THE WASTEWATER DISCHARGE PERMIT TERM; OR THE REQUEST OF THE PERMITTEE.~~ The permittee may FILE A PETITION TO RECONSIDER THE ~~appeal the voiding~~ TERMINATION of a WASTEWATER DISCHARGE Ppermit PURSUANT TO SECTION 14.11.290 within ten (10) days of notice that the WASTEWATER DISCHARGE Ppermit is void HAS TERMINATED. This appeal may be taken pursuant to Section 14.11.290.**

(Ord. 35, 2008 §1)

14.11.350 - Suspension or revocation of permit; duration.

If the Director finds cause for suspension or revocation of a Wastewater Discharge Permit, either under the terms of Section 14.11.340 or any other section of this Chapter, the Director shall determine whether to revoke the permit for the remainder of its term or to suspend it for any shorter period. Such determination shall be based on the severity of the violation, the effects on public health, safety and welfare and the time during which the violation can be remedied, if at all.

(Ord. 35, 2008 §1)

14.11.360 – **RESERVED. Suspension or revocation of permit; appeal; emergency suspension.**

- (a) ~~Upon determination by the Director of just cause under the terms of this Chapter to suspend or revoke a Wastewater Discharge Permit, the User shall be sent, by certified mail or personal delivery service, written notice of termination of POTW service.~~
- (b) ~~The User may elect to appeal such determination, in which event such User shall, within ten (10) days of the date of mailing or service, notify in writing, the Director of intent to appeal, specifying the particular section of the determination contested and the basis thereof. The Appeal shall be conducted according to procedures described in Section 14.11.290.~~
- (c) ~~The suspension or revocation of the permit shall be stayed pending the appeal hearing unless the Director determines that the suspension is necessary to prevent an imminent danger to the public health, safety or welfare, or interference with the operation or treatment abilities of the POTW. The Director may include in the temporary suspension reasonable orders or conditions with which the permittee shall comply to protect the public health and safety.~~
- ~~(1) Any User notified to suspend its discharge shall immediately stop or eliminate its contribution. If a User fails to immediately comply voluntarily with the suspension order, the Director may take all necessary steps, including immediate severance of the water or sewer connection, to prevent or minimize damage to the POTW, its receiving stream or danger to any individuals. The Director may allow the User to recommence its discharge when the User demonstrates to the Director that the threat has been satisfactorily resolved, unless the Director initiates termination proceedings against the User under Section 14.11.610.~~
- ~~(2) A User wholly or partly responsible for any discharge that is ordered suspended under this Section shall, within five (5) days of receiving such order, submit to the Director a detailed written report describing the causes of the harmful situation and the measures taken to prevent any future occurrence.~~
- (d) ~~Any breach of the conditions or orders of an emergency suspension is an independent ground for revocation of the permit, assessment of a penalty or both.~~

(Ord. 35, 2008 §1)

14.11.370 - Wastewater Discharge Permit reissuance.

A User with an expiring Wastewater Discharge Permit shall apply for permit reissuance by submitting a complete permit application a minimum of ninety (90) days prior to the expiration of the User's existing permit.

(Ord. 35, 2008 §1)

14.11.380 - Regulation of waste received from other jurisdictions.

If another governmental entity or User outside of the City's jurisdictional boundary contributes Wastewater to the POTW, the Director shall rely on one (1) or more of the following to ensure compliance with the terms of this Chapter:

- (1) Extra-jurisdictional enforcement authority to the extent permitted by law.
- (2) Intergovernmental agreement with the other jurisdiction.
- (3) Wastewater Discharge Permit with the specific User.

(Ord. 35, 2008 §1)

14.11.390 - Baseline monitoring reports.

- (a) Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 C.F.R. § 403.6(a)(4), whichever is later, existing categorical Users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report containing the information listed in Subsection (b) below. At least ninety (90) days prior to commencing their discharge, New Sources, and sources that become categorical Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Director a report containing the information listed in Subsection (b) below. A New Source shall report the method of Pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall estimate the anticipated flow and quantity of Pollutants it will discharge.
- (b) Each User described in Subsection (a) above shall submit a report containing the following information:
- (1) *Identifying Information.* The name and address of the facility, including the name of the operator and owner.
 - (2) ~~Contact information, description of activities, facilities and plant production processes on the premises.~~ (3) *Environmental Permits.* A list of all environmental control permits held by or for the facility.
 - (34) *Description of Operations.* A brief description of the User's operations and average production rates, including identification of all applicable North American Industry Classification System Codes. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
 - (45) *Flow Measurement.* The measured average daily and maximum daily flow, in gpd, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 C.F.R. § 403.6(e).
 - (56) *Measurement of Pollutants.*
 - a. The Categorical Pretreatment Standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass where required by the Categorical Standard or by the Director, of regulated Pollutants in the discharge from each regulated process. The information shall include a Chain of Custody record ~~that lists the outfall location, sample date, sample time, sample type and name of sample collector.~~
 - c. Instantaneous, ~~D~~daily ~~M~~maximum and long-term average concentrations, or mass where required.
 - d. The sample shall be representative of daily operations and shall be analyzed according to procedures set out in Section 14.11.490. Where the standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard.
 - e. The User must sample according to the procedures set out in Section 14.11.500.
 - f. The User shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this Subsection.
 - g. The User should take samples immediately downstream from Pretreatment facilities if such exist or immediately downstream from the regulated process if no Pretreatment exists. If other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 C.F.R. § 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternative concentration or mass limit has been calculated in accordance with 40 C.F.R. § 403.6(e), the User shall submit this adjusted limit along with supporting data to the POTW.

- h. The Director may allow the User to submit a baseline report that utilizes only historical data so long as the data provides information sufficient to determine the need for industrial Pretreatment measures.
 - i. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis accurately represent normal work cycles and expected Pollutant discharges to the POTW.
- (67) *Certification.* A statement, reviewed by the Authorized Representative of the User and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional O&M and/or additional Pretreatment is required to meet the Pretreatment Standards and Requirements.
- (78) *Compliance Schedule.* If additional Pretreatment and/or O&M is required to meet the Categorical Pretreatment Standards, the shortest schedule by which the User will provide such additional Pretreatment and/or O&M shall be submitted. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Chapter must meet the requirements set out in Section 14.11.400 **AND, WHEN APPLICABLE, SUBMITTED IN ACCORDANCE WITH 40 C.F.R. § 403.12 (b)(7)(i-ii).**
- (89) *Signature and Report Certification.* All baseline monitoring reports must be signed and certified in accordance with Subsection 14.11.770(a).

(Ord. 35, 2008 §1)

14.11.400 - Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by Paragraph 14.11.390(b)(8):

- (1) The schedule shall contain progress increments in the form of dates by which to commence and complete major events leading to the construction and operation of additional Pretreatment, or implementation of additional O&M, required for the User to meet the applicable Pretreatment Standards. (Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction and beginning and conducting routine operations.)
- (2) No increment referred to in the preceding Paragraph shall exceed nine (9) months.
- (3) The User shall submit a progress report to the Director no later than fourteen (14) days following each increment date in the schedule and the final date of compliance, including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps the User is taking to return to the established schedule.
- (4) In no event shall more than nine (9) months elapse between such progress reports to the Director.

(Ord. 35, 2008 §1)

14.11.410 - Reports on compliance with Categorical Pretreatment Standard deadline.

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of Wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Director a report containing the information described in Paragraphs 14.11.390(b)(4) through (6). For Users subject to equivalent mass or concentration limits established according to the procedures in 40 C.F.R. § 403.6(c), this report shall contain a reasonable measure of the User's long-

term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified according to Subsection 14.11.770(a).

(Ord. 35, 2008 §1)

14.11.420 - Periodic self-monitoring compliance reports.

- (a) An SIU shall submit periodic reports that indicate the nature and concentration of Pollutants in its discharge that are limited by a Pretreatment Standard, along with the measured daily flows. The information shall include a Chain of Custody record ~~that lists the outfall location, sample date, sample time, sample type and name of sample collector~~. The Director shall establish the schedule for such reporting in the SIU's Wastewater Discharge Permit. Such schedule shall require submittal of the reports at a frequency of no less than every six (6) months. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation as required by the Director or the applicable Standard to determine the compliance status of the User. All periodic compliance reports must be signed and certified according to Subsection 14.11.770(a).
- (b) All reports under this Section are due thirty (30) days following the end of the reporting period stated in the SIU's permit.
- (c) All Wastewater samples required under this Section must be representative of the SIU's discharge. The SIU shall properly operate and maintain all Wastewater monitoring and flow measurement facilities. Failure of an SIU to keep its monitoring facility in good working order shall not be grounds for the SIU to claim that sample results are unrepresentative of its discharge.
- (d) If an SIU subject to the reporting requirement in this Section monitors any Pollutant more frequently than required by the Director using the procedures prescribed in Section 14.11.500, the SIU shall include the results of this monitoring in the periodic compliance report.
- (e) **THE DIRECTOR MAY AUTHORIZE A USER SUBJECT TO A CATEGORICAL PRETREATMENT STANDARD TO FOREGO SAMPLING OF A POLLUTANT REGULATED BY A CATEGORICAL PRETREATMENT STANDARD IF THE USER HAS DEMONSTRATED THROUGH SAMPLING AND OTHER TECHNICAL FACTORS THAT THE POLLUTANT IS NEITHER PRESENT NOR EXPECTED TO BE PRESENT IN THE DISCHARGE, OR IS PRESENT ONLY AT BACKGROUND LEVELS FROM INTAKE WATER AND WITHOUT ANY INCREASE IN THE POLLUTANT DUE TO ACTIVITIES OF THE INDUSTRIAL USER. (SEE 40 CFR 403.12(E)(2)) THIS AUTHORIZATION IS SUBJECT TO THE FOLLOWING CONDITIONS:**
 - (1) THE WAIVER MAY BE AUTHORIZED WHERE A POLLUTANT IS DETERMINED TO BE PRESENT SOLELY DUE TO SANITARY WASTEWATER DISCHARGED FROM THE FACILITY PROVIDED THAT THE SANITARY WASTEWATER IS NOT REGULATED BY AN APPLICABLE CATEGORICAL STANDARD AND OTHERWISE INCLUDES NO PROCESS WASTEWATER.**
 - (2) THE MONITORING WAIVER IS VALID ONLY FOR THE DURATION OF THE EFFECTIVE PERIOD OF THE INDIVIDUAL WASTEWATER DISCHARGE PERMIT, BUT IN NO CASE LONGER THAN 5 YEARS. THE USER MUST SUBMIT A NEW REQUEST FOR THE WAIVER BEFORE THE WAIVER CAN BE GRANTED FOR EACH SUBSEQUENT INDIVIDUAL WASTEWATER DISCHARGE PERMIT. SEE SECTION 14.11.260(9)**
 - (3) IN MAKING A DEMONSTRATION THAT A POLLUTANT IS NOT PRESENT, THE USER MUST PROVIDE DATA FROM AT LEAST ONE SAMPLING OF THE FACILITY'S PROCESS WASTEWATER PRIOR TO ANY TREATMENT PRESENT AT THE FACILITY THAT IS REPRESENTATIVE OF ALL WASTEWATER FROM ALL PROCESSES.**
 - (4) THE REQUEST FOR A MONITORING WAIVER MUST BE SIGNED IN ACCORDANCE WITH 14.11.525 AND INCLUDE THE CERTIFICATION STATEMENT IN 14.11.525 (A).**

Commented [JS4]: Confirm cross-reference.

- (5) NON-DETECTABLE SAMPLE RESULTS MAY BE USED ONLY AS A DEMONSTRATION THAT A POLLUTANT IS NOT PRESENT IF THE EPA APPROVED METHOD FROM 40 CFR PART 136 WITH THE LOWEST MINIMUM DETECTION LEVEL FOR THAT POLLUTANT WAS USED IN THE ANALYSIS.
- (6) ANY GRANT OF THE MONITORING WAIVER BY THE DIRECTOR MUST BE INCLUDED AS A CONDITION IN THE USER'S PERMIT. THE REASONS SUPPORTING THE WAIVER AND ANY INFORMATION SUBMITTED BY THE USER IN ITS REQUEST FOR THE WAIVER MUST BE MAINTAINED BY THE DIRECTOR FOR 3 YEARS AFTER EXPIRATION OF THE WAIVER.
- (7) UPON APPROVAL OF THE MONITORING WAIVER AND REVISION OF THE USER'S PERMIT BY THE DIRECTOR, THE USER MUST CERTIFY ON EACH REPORT WITH THE STATEMENT IN SECTION 14.11.525(C), THAT THERE HAS BEEN NO INCREASE IN THE POLLUTANT IN ITS WASTESTREAM DUE TO ACTIVITIES OF THE USER.
- (8) IN THE EVENT THAT A WAIVED POLLUTANT IS FOUND TO BE PRESENT OR IS EXPECTED TO BE PRESENT BECAUSE OF CHANGES THAT OCCUR IN THE USER'S OPERATIONS, THE USER MUST IMMEDIATELY: COMPLY WITH THE MONITORING REQUIREMENTS OF SECTION 14.11.420(a), OR OTHER MORE FREQUENT MONITORING REQUIREMENTS IMPOSED BY THE DIRECTOR, AND NOTIFY THE DIRECTOR
- (9) THIS PROVISION DOES NOT SUPERSEDE CERTIFICATION PROCESSES AND REQUIREMENTS ESTABLISHED IN CATEGORICAL PRETREATMENT STANDARDS, EXCEPT AS OTHERWISE SPECIFIED IN THE CATEGORICAL PRETREATMENT STANDARD.

Commented [J55]: Confirm cross-reference.

(Ord. 35, 2008 §1)

14.11.430 - Reports of changed conditions.

- (a) Each User must notify the Director at least thirty (30) days in advance of any planned significant changes to the User's operations or system that might alter the nature, quality or volume of its Wastewater.
- (b) The Director may require the User to submit any information necessary to evaluate the changed condition, including a Wastewater Discharge Permit application under Section 14.11.260.
- (c) The Director may issue a Wastewater Discharge Permit under Section 14.11.280 or modify an existing Wastewater Discharge Permit under Section 14.11.320 in response to changed conditions or anticipated changed conditions.
- (d) For purposes of this requirement significant changes include, but are not limited to, flow or Pollutant loading increases of twenty percent (20%) or greater, and the discharge of any previously unreported Pollutants.

(Ord. 35, 2008 §1)

14.11.440 - Reports of potential problems.

- (a) In the case of any Discharge that may cause potential problems for the POTW, including but not limited to accidental Discharges, Discharges of a nonroutine episodic nature, a noncustomary batch Discharge or a Slug Load, the User shall immediately notify the **POTW DIRECTOR** by telephone of the incident. This notification shall include the location of the Discharge, type of waste, duration, concentration and volume, if known, and corrective actions taken by the User.
- (b) Within five (5) days following such Discharge, the User shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the Discharge and the measures the User will take to prevent similar future occurrences. Such report shall not relieve the User of any expense, loss, damage or other liability that it may incur as a result of damage to the POTW, natural resources or

other persons or property; nor shall such report relieve the User of any fines, penalties or other liability that may be imposed pursuant to this Chapter or other applicable law.

- (c) A User shall permanently post on its bulletin board or other prominent place information advising employees whom to call in the event of a Discharge described in Subsection (a) above. The **SIU USER** shall ensure that all employees who may cause such a Discharge to occur are advised of the emergency notification procedure.

(Ord. 35, 2008 §1)

14.11.450 - Reports from un-permitted users.

Users not required to obtain a Wastewater Discharge Permit shall provide reports to the Director as the Director may require.

(Ord. 35, 2008 §1)

14.11.460 - Reporting of violations and repeat sampling.

If sampling performed by a User indicates a violation, the User must notify the Director in writing or by telephone within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. Where the **City DIRECTOR** has performed sampling and analysis in lieu of the User, the **City DIRECTOR** must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Where the **City DIRECTOR** finds a violation as a result of its compliance monitoring event, then the User shall perform repeat sampling and analysis within thirty (30) days after becoming notified of the violation.

(Ord. 35, 2008 §1)

14.11.470 - Bypass reporting.

Users must report all Bypasses in accordance with Subsection 14.11.740(c).

(Ord. 35, 2008 §1)

14.11.480 - Notification of the discharge of hazardous waste.

A User shall notify in writing the Director, the EPA Region VIII Waste Management Division and the Colorado Hazardous Materials and Waste Management Division of any Discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number and the type of Discharge (continuous, batch or other).

- (1) If the User Discharges more than one hundred (100) kilograms of such waste per **calendar** month to the POTW, to the extent such information is known and readily available to the User, the notification shall also: identify the hazardous constituents contained in the wastestream; estimate the mass and concentration of such constituents in the wastestream Discharged during that **calendar** month; and estimate the mass and concentration of such constituents in the wastestream the User expects to Discharge during the following twelve (12) months.
- (2) The User shall provide such notification no later than one hundred eighty (180) days after the Discharge commences. Any notification under this Subsection need be submitted only once for each hazardous waste Discharged. (However, the User must notify the **POTW DIRECTOR** of any changed conditions under Section 14.11.430). The notification requirement in this Subsection

does not apply to Pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 14.11.390, 14.11.410 and 14.11.420.

- (b) Users are exempt from the requirements of Subsection (a) above during a **calendar** month in which they Discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non acute hazardous wastes in a **calendar** month, or of any quantity of acute hazardous wastes as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User Discharges more than such quantities of any hazardous waste do not require additional notification. (However, the User must notify the **POTW DIRECTOR** of any changed conditions under Section 14.11.430.)
- (c) If EPA or the State issues any new regulations under Section 3001 of RCRA identifying any additional characteristic of a hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Director, the EPA Region VIII Waste Management Division and the Colorado Hazardous Materials and Waste Management Division of the Discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this Chapter, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practicable.
- (e) This provision does not create a right to Discharge any substance not otherwise permitted to be Discharged by this Chapter, a **WASTEWATER DISCHARGE P**ermit issued hereunder or any applicable federal or state law.

(Ord. 35, 2008 §1)

14.11.490 - Analytical requirements.

All Pollutant analyses, including sampling techniques, to be submitted as part of a Wastewater Discharge Permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties, that are approved by the EPA.

(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.500 - Sample collection.

Reports required in Section 14.11.390, 14.11.410 and 14.11.420 must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- (1) Except as indicated in Paragraphs (2) and (3) below, the User must collect wastewater samples using twenty-four-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the **City DIRECTOR**, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 C.F.R. Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for cyanide, total phenols and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the

laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the **City DIRECTOR**, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

- (2) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques unless specified otherwise in a Wastewater Discharge Permit or otherwise approved by the **City DIRECTOR**.
- (3) For sampling required in support of baseline monitoring and ninety-day compliance reports required in Sections 14.11.390 and 14.11.410, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by Section 14.11.420, the **Industrial** User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.510 - Timely submittal of reports.

For written reports required by this Chapter or a Wastewater Discharge Permit:

- (1) The date of the postmark shall constitute submittal for reports sent postage prepaid by U.S. Mail;
OR
- (2) The date of receipt by the Director shall constitute submittal for reports sent by other means,
INCLUDING BUT NOT LIMITED TO PRIVATE COURIER.

(Ord. 35, 2008 §1)

14.11.520 - Record keeping.

Users subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 14.11.130. Records shall include the date, exact place, method and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Director.

(Ord. 35, 2008 §1)

14.11.525 - SIGNATORIES AND CERTIFICATION.

- (A) **ALL WASTEWATER DISCHARGE PERMIT APPLICATIONS AND USER REPORTS MUST BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE USER AND CONTAIN THE FOLLOWING CERTIFICATION STATEMENT:**

I CERTIFY UNDER PENALTY OF LAW THAT THIS DOCUMENT AND ALL ATTACHMENTS WERE PREPARED UNDER MY DIRECTION OR SUPERVISION IN ACCORDANCE WITH A SYSTEM DESIGNED TO ASSURE THAT QUALIFIED PERSONNEL PROPERLY GATHER AND EVALUATE THE INFORMATION SUBMITTED. BASED ON MY INQUIRY OF THE PERSON OR

PERSONS WHO MANAGE THE SYSTEM, OR THOSE PERSONS DIRECTLY RESPONSIBLE FOR GATHERING THE INFORMATION, THE INFORMATION SUBMITTED IS, TO THE BEST OF MY KNOWLEDGE AND BELIEF, TRUE, ACCURATE AND COMPLETE. I AM AWARE THAT THERE ARE SIGNIFICANT PENALTIES FOR SUBMITTING FALSE INFORMATION, INCLUDING THE POSSIBILITY OF FINE AND IMPRISONMENT FOR KNOWING VIOLATIONS.

- (B) **ANNUAL CERTIFICATION FOR NONSIGNIFICANT CATEGORICAL INDUSTRIAL USERS.** A FACILITY THAT THE DIRECTOR DETERMINES IS A NONSIGNIFICANT CATEGORICAL INDUSTRIAL USER MUST ANNUALLY SUBMIT TO THE POTW THE FOLLOWING CERTIFICATION SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE USER. THIS CERTIFICATION MUST ACCOMPANY AN ALTERNATIVE REPORT REQUIRED BY THE DIRECTOR:

BASED ON MY INQUIRY OF THE PERSON OR PERSONS DIRECTLY RESPONSIBLE FOR MANAGING COMPLIANCE WITH THE CATEGORICAL PRETREATMENT STANDARDS UNDER 40 C.F.R. _____, I CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT DURING THE PERIOD FROM _____, TO _____, [MONTHS, DAYS, YEAR]:

- (1) THE FACILITY DESCRIBED AS _____ [FACILITY NAME] MET THE DEFINITION OF A NONSIGNIFICANT CATEGORICAL INDUSTRIAL USER.**
- (2) THE FACILITY COMPLIED WITH ALL APPLICABLE PRETREATMENT STANDARDS AND REQUIREMENTS DURING THIS REPORTING PERIOD; AND**
- (3) THE FACILITY NEVER DISCHARGED MORE THAN ONE HUNDRED (100) GALLONS OF TOTAL CATEGORICAL WASTEWATER ON ANY GIVEN DAY DURING THIS REPORTING PERIOD.**

THIS COMPLIANCE CERTIFICATION IS BASED UPON THE FOLLOWING INFORMATION:

OFFICIAL SIGNATURE

- (C) CERTIFICATION OF POLLUTANTS NOT PRESENT.** USERS THAT HAVE AN APPROVED MONITORING WAIVER BASED ON 14.11.420(e) MUST CERTIFY ON EACH REPORT WITH THE FOLLOWING STATEMENT THAT THERE HAS BEEN NO INCREASE IN THE POLLUTANT IN ITS WASTESTREAM DUE TO ACTIVITIES OF THE USER.

BASED ON MY INQUIRY OF THE PERSON OR PERSONS DIRECTLY RESPONSIBLE FOR MANAGING COMPLIANCE WITH THE PRETREATMENT STANDARD FOR 40 CFR _____ [SPECIFY APPLICABLE NATIONAL PRETREATMENT STANDARD PART(S)], I CERTIFY THAT, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THERE HAS BEEN NO INCREASE IN THE LEVEL OF _____ [LIST POLLUTANT(S)] IN THE WASTEWATERS DUE TO THE ACTIVITIES AT THE FACILITY SINCE FILING OF THE LAST PERIODIC REPORT UNDER SECTION 14.11.420(A).

14.11.530 - Right of entry; inspection and sampling.

Upon presentation of proper credentials, the Director may enter the premises of any User to determine the User's compliance with this Chapter and any **WASTEWATER DISCHARGE P**ermit or order issued hereunder. Users shall allow the Director ready access to all parts of the premises to inspect, sample, examine and copy records, and to perform any additional duties related to such compliance issues.

- (1) Where a User has security measures in force that require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security

personnel so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purpose of performing specific responsibilities.

- (2) The Director shall have the right to set up on the User's property, or require installation of, any devices necessary to sample and/or measure the User's operations.
- (3) The Director may require the User to install, in accordance with local construction standards and specifications, such sampling and monitoring equipment and facilities as necessary to ensure compliance with applicable requirements. The User shall maintain sampling and monitoring equipment at all times in a safe and proper operating condition at its own expense.
- (4) The Director may require the User to install and maintain sampling and monitoring facilities independent of the User's sampling and monitoring facilities to enable the Director to independently monitor the User's Discharge activities.
- (5) At the request of the Director, the User shall promptly remove any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled. The User shall bear any costs of clearing such access.
- (6) In the event that the Director is refused admission to the **Discharger's premises USER'S PROPERTY**, the Director may discontinue water or wastewater service to the premises until the Director has been afforded reasonable access to the premises to accomplish inspection or sampling.

(Ord. 35, 2008 §1)

14.11.540 - Search warrants.

The Director may request the Municipal Court or other appropriate court to issue a search warrant if:

- (1) The User or someone the Director reasonably believes to be acting on the User's behalf denies the Director access to a building, structure or property, or portion thereof; and
- (2) The Director can demonstrate probable cause to believe that access to such area may show a violation of this Chapter, that the Director requires access to the area to conduct routine compliance inspection or sampling or that the Director needs access to the area to otherwise protect the public health, safety or welfare.

(Ord. 35, 2008 §1)

14.11.550 - Confidential information.

Information and data on a User obtained from reports, surveys, Wastewater Discharge Permit applications, Wastewater Discharge Permits and monitoring programs, and from the Director's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such materials would divulge information, processes or methods of production entitled to protection as trade secrets under applicable law. The User must assert any such request at the time it submits the materials. When a User requests and demonstrates upon submitting materials that they should be held confidential, the Director shall withhold from public inspection those portions of materials such that might disclose trade secrets or secret processes. The Director shall, however, make such materials available immediately upon request to governmental agencies for uses related to the CDPS or Pretreatment programs, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 C.F.R. § 2.302 do not constitute confidential information and shall be available to the public without restriction.

(Ord. 35, 2008 §1)

14.11.560 - Publication of Users in Significant Noncompliance.

The Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the Users that, **AT ANY TIME** during the previous ~~twelve (12) months~~ **CALENDAR YEAR**, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. **A USER IS IN The term Significant Noncompliance shall mean IF A USER COMMITTED A VIOLATION THAT MEETS ONE OR MORE OF THE FOLLOWING CRITERIA:**

- (1) Chronic violations of **ANY Wastewater** Discharge limits, defined herein as those in which sixty-six percent (66%) or more of **ALL OF THE Wastewater** measurements taken for the same **Pollutant PARAMETER** during a six-month period exceed by any ~~amount~~ **MAGNITUDE**, a numeric Pretreatment Standard or Requirement, including Instantaneous Maximum Allowable Discharge Limits;
- (2) Technical Review Criteria (TRC) violations, defined herein as those in which thirty-three percent (33%) or more of **ALL OF THE Wastewater** measurements taken for ~~each THE SAME~~ **Pollutant** parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including the Instantaneous Maximum Allowable Discharge Limit, multiplied by the applicable ~~criteria~~ **TRC** (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other Pollutants except pH);
- (3) Any other violation of Pretreatment Standards or Requirements (~~D~~**daily M**maximum, long-term average, Instantaneous Maximum Allowable Discharge Limit or narrative standard) that the Director determines has caused, alone or in combination with other Discharges, Interference or Pass Through, ~~or that has~~ **INCLUDING** endangered ~~ED~~**ING** the health of ~~POTW CITY~~ **POTW CITY** personnel or the general public;
- (4) Any Discharge ~~of a Pollutant~~ that caused imminent endangerment to human health **OR WELFARE** or the environment, or resulted in the Director's exercise of his or her emergency authority **UNDER SECTION 14.11.615** to halt or prevent such a Discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Wastewater Discharge Permit or ~~enforcement~~ **COMPLIANCE** order for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide within ~~forty-five thirty~~ **(3045)** days after the due date, any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports and reports related to compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation~~(s)~~, including a violation of a Sector Control Program or **OTHER** BMP, that the Director determines will adversely affect the operation or implementation of the local Pretreatment program.

(Ord. 30, 2013 §1; Ord. 35, 2008 §1)

14.11.570 - Notice of violation.

When the Director finds that a User has violated or continues to violate any provision of this Chapter, a Wastewater Discharge Permit, an order issued **hereunder THIS CHAPTER** or any other Pretreatment Standard or Requirement, the Director may serve that User a written Notice of Violation. ~~Within thirty (30) days of the receipt of such notice, the User shall submit in writing to the Director an explanation of the violation and a plan with specific steps to correct the violation and prevent its recurrence. Submission of this plan~~ **A NOTICE OF VIOLATION ONLY APPLIES TO THE VIOLATION(S) IDENTIFIED THEREIN AND** in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Issuance of a Notice of Violation shall not be a bar against, or a prerequisite for, taking any other action against the User. ~~A User may seek review of a~~

Notice of Violation and request an Administrative Appeal Hearing within ten (10) days following issuance of the Notice of Violation. The Administrative Appeal Hearing shall be conducted according to procedures described in Section 14.11.710.

(Ord. 35, 2008 §1)

14.11.580 - Compliance orders.

When the Director finds that a User has violated or continues to violate any provision of this Chapter, a Wastewater Discharge Permit, an order issued **hereunder THIS CHAPTER** or any other Pretreatment Standard or Requirement, the Director may order the User responsible for the Discharge to attain compliance within a specified time. Compliance orders also may contain other requirements to address the noncompliance, including **PROHIBITING DISCHARGE, REQUIRING TREATMENT**, additional self-monitoring and **OTHER** management practices designed to minimize the amount of Pollutants discharged to the POTW. Compliance orders may also ~~assess fines and administrative costs~~ **INCLUDE THE ASSESSMENT OF ADMINISTRATIVE FINES** against the User **IN ACCORDANCE WITH SECTION 14.11.620**. A compliance order ~~may~~ **SHALL** not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User. A User may ~~seek review~~ **FILE A PETITION TO RECONSIDER THE ISSUANCE** of a compliance **ORDER** and request an Administrative Appeal **Hearing** within ten (10) days following issuance of a compliance order. The Administrative Appeal **Hearing** shall be conducted according to the procedures described in Section 14.11.710. **A USER'S PETITION TO RECONSIDER WILL NOT STAY ANY CONDITION OF A COMPLIANCE ORDER THAT IS NOT CHALLENGED BY THE USER. THE USER SHALL BE LIABLE FOR ALL CONTINUING VIOLATIONS.**

(Ord. 35, 2008 §1)

14.11.590 - Show cause hearing.

The Director may order a User that has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit, ~~or~~ **AN** order issued **hereunder THIS CHAPTER** or any other Pretreatment Standard or Requirement, to appear before the Director and show cause why the City should not take the proposed enforcement action, including the assessment of administrative fines ~~and costs~~ **AGAINST THE USER IN ACCORDANCE WITH SECTION 14.11.620**. The Director shall serve notice on the User specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and requesting that the User show cause why the proposed enforcement action should not be taken. The Director shall serve notice of the hearing by **PERSONAL SERVICE OR certified FIRST CLASS U.S. mail (return receipt requested)** at least **five TEN (105)** days prior to the hearing. The Director may serve such notice on any Authorized Representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User. **A User may seek review of a Show Cause Hearing determination and request an Administrative Appeal Hearing within ten (10) days following receipt of Show Cause Hearing decision. The Administrative Appeal Hearing shall be conducted according to procedures described in Section 14.11.710.**

(Ord. 35, 2008 §1)

14.11.600 - Consent orders.

The **Director CITY** may enter into a consent order, an assurance of voluntary compliance or other similar document establishing an agreement with any User responsible for noncompliance. Such **documents AGREEMENT** shall include specific action for the User to take to correct the noncompliance

within a specified time period **AND MAY INCLUDE ADMINISTRATIVE FINES, STIPULATED PENALTIES, SUPPLEMENTAL ENVIRONMENTAL PROJECTS, OR OTHER CONDITIONS AND REQUIREMENTS AS AGREED TO BY AND BETWEEN THE CITY AND THE USER.** Such documents shall have the same force and effect as the compliance orders issued pursuant to Section 14.11.580, ~~may contain an agreement as to payment of fines and costs~~ and shall be judicially enforceable.

(Ord. 35, 2008 §1)

14.11.610 - Cease and desist orders.

When the Director determines: that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or **AN** order issued **hereunder THIS CHAPTER**, or any other Pretreatment Standard or Requirement **AND;** that the User's past violations are likely to recur; ~~or that the User's Discharge endangers the environment or threatens to interfere with the operation of the POTW;~~ **THEN** the Director may, ~~after formal notice to the User and an opportunity to be heard under Section 14.11.590,~~ order the User to cease and desist all such violations and direct the User to:

- (1) Immediately comply with all requirements; and
 - (2) Take such appropriate remedial or preventive action necessary to properly address a continuing or threatened violation, including halting operations and/or terminating the Discharge.
- (b) ~~When the Director determines that a User's Discharge imminently threatens human health or welfare, the Director may, after informal notice to the User, order the User to cease and desist such threat and direct the User to:~~
- ~~(1) Immediately comply with all requirements; and~~
 - ~~(2) Take such appropriate remedial or preventive action necessary to properly address the imminent threat, including halting operations and/or terminating the Discharge.~~
- (c) A User may **FILE A PETITION TO RECONSIDER THE ISSUANCE** ~~seek review~~ of a cease and desist order according to procedures described in Section 14.11.710. **A USER'S PETITION TO RECONSIDER WILL NOT STAY ANY CONDITION OF A CEASE AND DESIST ORDER THAT IS NOT CHALLENGED BY THE USER. THE USER SHALL BE LIABLE FOR ALL CONTINUING VIOLATIONS.** Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(Ord. 35, 2008 §1)

14.11.615 EMERGENCY SUSPENSION OF SERVICE.

- (a) **ENDANGERMENT TO HUMAN HEALTH OR WELFARE.** THE CITY, WITHOUT WRITTEN NOTICE TO THE RESPONSIBLE USER, MAY IMMEDIATELY HALT OR PREVENT ANY DISCHARGE INTO THE POTW OR SANITARY SEWER SYSTEM OF A CONNECTING JURISDICTION BY ANY AVAILABLE MEANS TO THE CITY, INCLUDING BUT NOT LIMITED TO PHYSICAL DISCONNECTION FROM THE POTW, WHENEVER IT REASONABLY APPEARS THAT A USER'S DISCHARGE PRESENTS AN IMMINENT ENDANGERMENT TO HUMAN HEALTH OR WELFARE.
- (b) **ENDANGERMENT TO ENVIRONMENT OR TREATMENT WORKS.** THE CITY, AFTER WRITTEN NOTICE TO THE RESPONSIBLE USER, MAY HALT OR PREVENT ANY DISCHARGE INTO THE POTW OR SANITARY SEWER SYSTEM OF A CONNECTING JURISDICTION BY ANY AVAILABLE MEANS TO THE CITY, INCLUDING BUT NOT LIMITED TO PHYSICAL DISCONNECTION FROM THE POTW, WHENEVER A USER'S DISCHARGE PRESENTS OR MAY PRESENT AN ENDANGERMENT TO THE ENVIRONMENT OR THREATENS TO INTERFERE WITH THE OPERATION OF THE POTW.

- (c) ANY USER NOTIFIED OF A SUSPENSION OF ITS WASTEWATER DISCHARGE PERMIT AND/OR ITS WASTEWATER TREATMENT SERVICE SHALL IMMEDIATELY STOP OR ELIMINATE THE DISCHARGE. IN THE EVENT THAT A USER FAILS TO COMPLY WITH THE SUSPENSION ORDER, THE CITY MAY TAKE ANY MEASURE IT DEEMS NECESSARY, INCLUDING BUT NOT LIMITED TO IMMEDIATE PHYSICAL DISCONNECTION OF THE SEWER CONNECTION, TO PREVENT OR MINIMIZE HARM TO HUMAN HEALTH OR THE ENVIRONMENT OR DAMAGE TO THE POTW. THE CITY MAY REINSTATE THE USER'S WASTEWATER DISCHARGE PERMIT AND/OR ITS WASTEWATER TREATMENT SERVICE UPON PROOF THAT THE USER HAS ELIMINATED THE NON-COMPLYING DISCHARGE.
- (d) WITHIN FIVE (5) DAYS AFTER RECEIVING THE NOTICE OF A SUSPENSION, THE USER SHALL SUBMIT A DETAILED WRITTEN STATEMENT TO THE DIRECTOR DESCRIBING THE CAUSE OF THE HARMFUL DISCHARGE AND THE MEASURES TAKEN TO PREVENT ANY REOCCURRENCE. SUSPENSION OF SERVICE SHALL NOT BE A BAR AGAINST, OR A PREREQUISITE FOR, TAKING ANY OTHER ACTION AGAINST THE USER.

14.11.620 - Administrative fines.

- (a) ~~Following the issuance of a Notice of Violation, a Compliance Order or Order to Show Cause, the Director may fine a User in an amount not to exceed one thousand dollars (\$1,000.00) per violation. The Director shall determine the applicable fine using the City's Administrative Penalty Evaluation Form and Administrative Penalty Matrix.~~ WHEN THE DIRECTOR DETERMINES THAT A USER HAS VIOLATED, OR CONTINUES TO VIOLATE, ANY PROVISION OF THIS CHAPTER, A WASTEWATER DISCHARGE PERMIT, AN ORDER ISSUED UNDER THIS CHAPTER OR ANY OTHER PRETREATMENT STANDARD OR REQUIREMENT, THE DIRECTOR MAY ASSESS AN ADMINISTRATIVE FINE AGAINST SUCH USER IN AN AMOUNT NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00) PER VIOLATION PER DAY. Each day on which ~~noncompliance~~ A VIOLATION occurs, or continues, shall constitute a separate and distinct violation. In the case of monthly or other long-term average Discharge limits, the Director may assess AN ADMINISTRATIVE fines for each day during the period of violation. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the ADMINISTRATIVE fine.
- (b) A USER MAY FILE A PETITION TO RECONSIDER THE ASSESSMENT OF AN ADMINISTRATIVE FINE ACCORDING TO PROCEDURES DESCRIBED IN SECTION 14.11.710. A USER'S PETITION TO RECONSIDER WILL NOT STAY ANY ENFORCEMENT ACTION THAT IS NOT CHALLENGED BY THE USER. THE USER SHALL BE LIABLE FOR ALL CONTINUING VIOLATIONS.
- (1c) The Director may add unpaid charges and fines to the User's next scheduled sewer service charge or utilize other collection remedies. All unpaid fines and charges shall constitute a lien against the User's property. ~~In that case, the Director of Finance shall file such lien to protect the City's interest.~~ Fines and charges remaining unpaid for sixty (60) ~~calendar~~ days shall accrue interest at the rate set forth in Section 4.04.319 of this Code ~~on the unpaid balances.~~
- (2d) ~~ASSESSMENT~~ Issuance of an administrative ~~penalty~~ FINE shall not be a bar against, or a prerequisite for, taking any other action against the User.

(Ord. 35, 2008 §1)

14.11.630 - Delinquent payment of administrative fines ~~and costs~~; notice before collection action.

Before filing a civil action to collect one (1) or more delinquent ~~penalty~~ assessments, the Director shall send a notice to the responsible ~~party or parties~~ USER, which advises the ~~party or parties~~ USER of the nature of the violation that resulted in ~~a civil penalty~~ THE ASSESSMENT OF AN ADMINISTRATIVE FINE, the dates on which violations occurred, the original due date of the ~~penalty~~ DELINQUENT assessment and the TOTAL amount DUE, ~~of the penalty~~, including any delinquency

charges. The notice shall further advise the responsible ~~party or parties~~ **USER** that, unless payment of ~~all assessments~~ **THE TOTAL AMOUNT DUE** is made to the City within ten (10) days of the date of the notice, civil action to collect the delinquent amounts may be filed in a court of competent jurisdiction for collection of such assessments.

(Ord. 35, 2008 §1)

14.11.640 – **RESERVED. Delinquent payment of administrative fines and costs; collection action initiation.**

~~If the City does not receive full payment of all fines and costs following the notice provided for in Section 14.11.630, the City Attorney shall file civil action for collection in the appropriate court. Any inaccuracy or omission in the notice under Section 14.11.630 shall not bar or serve as a defense to the civil action. Any such defect may result in the disallowance of interest until the City perfects notice.~~

(Ord. 35, 2008 §1)

14.11.650 - Liability for expenses and fines.

Any User violating this Chapter shall be liable for any expense, loss or damage ~~caused TO~~ the POTW ~~CAUSED by reason of~~ such violation, including increased costs for sewage treatment, biosolids treatment and disposal, and POTW operation and maintenance expenses resulting from the User's Discharge. If a User's ~~Discharges pollutants that causeS~~ the State ~~OR EPA to ASSESS A fine AGAINST~~ the City for violating any condition of its CDPS permit ~~OR ITS APPROVED PRETREATMENT PROGRAM, THEN the Discharger USER shall BE FULLY LIABLE FOR THE TOTAL AMOUNT OF THE FINE ASSESSED AGAINST THE CITY BY THE STATE OR EPA indemnify the City for the total cost of the fine, including, without limitation, all legal, sampling, analytical and other associated costs and expenses.~~

(Ord. 35, 2008 §1)

14.11.660 - Injunctive relief.

When the Director finds that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit, an order issued ~~hereunder THIS CHAPTER~~ or any other Pretreatment Standard or Requirement, the ~~Director CITY~~ may petition the appropriate court, ~~through the City Attorney,~~ to issue a temporary or permanent injunction, as appropriate, to restrain or compel the specific performance of the Wastewater Discharge Permit, order or other requirement imposed by this Chapter on activities of the User. The ~~Director CITY~~ may also seek such other action appropriate for legal and/or equitable relief, including requiring the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

(Ord. 35, 2008 §1)

14.11.665 - CIVIL PENALTIES

- (a) **A USER WHO HAS VIOLATED, OR CONTINUES TO VIOLATE, ANY PROVISION OF THIS CHAPTER, A WASTEWATER DISCHARGE PERMIT, AN ORDER ISSUED PURSUANT TO THIS CHAPTER, OR ANY OTHER PRETREATMENT REQUIREMENT OR STANDARD SHALL BE LIABLE TO THE CITY FOR A CIVIL PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000.00) PER DAY PER VIOLATION. IN THE CASE OF A MONTHLY OR OTHER LONG-TERM AVERAGE DISCHARGE LIMIT, PENALTIES SHALL ACCRUE FOR EACH DAY DURING THE PERIOD OF VIOLATION.**

- (b) **THE CITY MAY RECOVER REASONABLE ATTORNEYS' FEES, COURT COSTS, AND OTHER EXPENSES ASSOCIATED WITH ENFORCEMENT ACTIVITIES, INCLUDING SAMPLING AND MONITORING EXPENSES, AND THE COST OF ANY ACTUAL DAMAGES INCURRED BY THE CITY.**
- (c) **FILING A SUIT FOR CIVIL PENALTIES SHALL NOT BE A BAR AGAINST, OR A PREREQUISITE FOR, TAKING ANY OTHER ACTION AGAINST A USER.**
- (d) **IN DETERMINING THE AMOUNT OF CIVIL LIABILITY, THE COURT SHALL TAKE INTO ACCOUNT ALL RELEVANT CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, THE EXTENT OF HARM CAUSED BY THE VIOLATION, THE MAGNITUDE AND DURATION OF THE VIOLATION, ANY ECONOMIC BENEFIT GAINED THROUGH THE USER'S VIOLATION, CORRECTIVE ACTIONS BY THE USER, THE COMPLIANCE HISTORY OF THE USER, AND ANY OTHER FACTOR AS JUSTICE REQUIRES.**

14.11.670 - Criminal prosecution.

- (a) A User who knowingly or negligently violates any provision of this Chapter, a Wastewater Discharge Permit, ~~or AN~~ order issued ~~hereunder~~ **THIS CHAPTER**, or any other Pretreatment Standard or Requirement, shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one (1) year, or both. Each day, or portion thereof, that a ~~USER person~~ commits, continues or allows a violation of any provision of this Chapter, Wastewater Discharge Permit, ~~or AN~~ order issued ~~hereunder~~ **THIS CHAPTER**, or any other Pretreatment Standard or Requirement, shall constitute a separate offense and ~~is BE~~ punishable accordingly.
- (b) A User who knowingly makes any false statements, representations or certifications in any application, record, report, plan or other documentation filed or required to be maintained pursuant to this Chapter, a Wastewater Discharge Permit, ~~or AN~~ order issued ~~hereunder~~ **THIS CHAPTER**, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day, or imprisonment of not more than one (1) year, or both.
- (C) **THE CITY MAY REFER VIOLATIONS THAT MAY WARRANT CRIMINAL PROSECUTION TO THE U.S. ATTORNEY, STATE ATTORNEY GENERAL, EPA CRIMINAL INVESTIGATIONS DIVISION, OR OTHER APPROPRIATE AGENCY. SUCH REFERRAL SHALL NOT BE A BAR AGAINST, OR A PREREQUISITE FOR, TAKING ANY OTHER ACTION AGAINST A USER.**

(Ord. 35, 2008 §1)

14.11.680 - Remedies nonexclusive.

The remedies provided for in this Chapter are not exclusive **OF ANY OTHER REMEDIES THAT THE CITY MAY HAVE UNDER COLORADO LAW.** The ~~Director~~ CITY may take any, all or any combination of ~~these~~ actions **DESCRIBED IN THIS CHAPTER** against a ~~noncompliant~~ User **WHO VIOLATES ANY PROVISION OF THIS CHAPTER, A WASTEWATER DISCHARGE PERMIT, AN ORDER ISSUED PURSUANT TO THIS CHAPTER, OR ANY OTHER PRETREATMENT REQUIREMENT as permitted by law.** THE CITY MAY SEEK DAMAGES FROM ANY USER WHOSE DISCHARGE CAUSES DAMAGE OR DETRIMENTAL EFFECTS ON THE POTW OR OTHERWISE CAUSES THE CITY TO EXPEND RESOURCES TO RESPOND TO SUCH DISCHARGE. ~~The City's Enforcement Response Guide will direct enforcement of Pretreatment Violations. However, the Director may take other action against any User when the circumstances warrant. Interested parties may obtain copies of the City's Enforcement Response Guide from the Director.~~

(Ord. 35, 2008 §1)

14.11.690 - Performance bonds.

The Director may decline to issue or reissue a Wastewater Discharge Permit to any User who has failed to comply with any provision of this Chapter, a previous Wastewater Discharge Permit, ~~or AN~~ order issued ~~hereunder~~ **THIS CHAPTER**, or any other Pretreatment Standard or Requirement, unless such User first files a bond or other financial instrument acceptable to the Director of Finance and payable to the City, in a sum not to exceed a value that the Director determines to be necessary to achieve consistent compliance.

(Ord. 35, 2008 §1)

14.11.700 - Water supply severance.

The Director may discontinue water service to any User who has violated or continues to violate any provision of this Chapter, a Wastewater Discharge Permit, ~~or AN~~ order issued ~~hereunder~~ **THIS CHAPTER**, or any other Pretreatment Standard or Requirement. Service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply. Within ten (10) days following discontinuance of water **SUPPLY** service, the User may request a hearing, which shall be held in accordance with Section 14.11.710.

(Ord. 35, 2008 §1)

14.11.710 - Administrative appeal hearings.

- (a) Any User ("**APPEALING PARTY**") may petition the Director to reconsider ("**Administrative Appeal**") ~~a~~ **Notice of Violation, or order ISSUED UNDER THIS CHAPTER, P**penalty or **any other enforcement action FINE IMPOSED PURSUANT TO** in this Chapter within ten (10) days of the receipt of the ~~Notice of Violation or other enforcement action~~ **ORDER, PENALTY OR FINE.** ~~(1)~~ Failure to submit a written petition for ~~review~~ **RECONSIDERATION** within such ten-day period shall constitute a waiver of the right to the Administrative Appeal.
- (12) In its written petition, the ~~a~~ **Appealing P**party must indicate the enforcement actions objected to, the reasons for this objection and any proposed alternative action. ~~(3)~~ Only the challenged portions of the final enforcement action shall be stayed pending an appeal.
- (24) The Director shall serve **THE APPEALING PARTY WITH** notice of the hearing **ON THE ADMINISTRATIVE APPEAL, INCLUDING THE LOCATION, DATE AND TIME,** by **certified FIRST CLASS U.S. mail (return receipt requested) of the location, date and time of the Administrative Appeal Hearing** at least ~~five~~ **TEN (510)** days prior to the hearing.
- (35) The Director shall issue a written decision on the ~~petition~~ **ADMINISTRATIVE APPEAL** within twenty (20) days after the ~~Administrative Appeal H~~hearing.
- (6) ~~Aggrieved parties may seek review of the Director's decision by filing a written request with the Director within thirty (30) days of the date of such final decision, asking that the Director's written decision be sent to the Water and Sewer Board. The Director shall submit his or her written decision to the Water and Sewer Board within thirty (30) days of receiving the request. The Water and Sewer Board shall make its decision based on the administrative record. The Water and Sewer Board may elect to decline to issue a decision on the User's appeal. If the Water and Sewer Board so elects, the User's appeal shall be directed to the Administrative Hearing Officer.~~
- (7b)(1) ~~Aggrieved parties~~ **THE APPEALING PARTY MAY** seeking review of the ~~Water and Sewer Board~~ **DIRECTOR's** decision **ON THE PETITION FOR RECONSIDERATION on the administrative record must do so** by filing a request ~~and fee~~ **FOR** hearing with the Administrative Hearing Officer, as authorized by Section 3-11 of the City Charter, within thirty (30) days **OF THE DATE OF THE DIRECTOR'S** ~~after the~~ decision ~~of the Board.~~ **THE ADMINISTRATIVE HEARING OFFICER SHALL CONDUCT THE HEARING IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN CHAPTER 2.09 AND THE ADMINISTRATIVE**

HEARING OFFICER RULES AND REGULATIONS. Such ~~review~~ HEARING shall be *de novo*-, and **THE ADMINISTRATIVE HEARING OFFICER MAY ASSESS FINES AND ISSUE ORDERS CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER.** ~~The Administrative Hearing Officer's decision shall be~~ **CONSIDERED final ADMINISTRATIVE ACTION FOR PURPOSES OF SECTION 14.11.710(D).**

(2) ~~THE Administrative Hearing Officer'S decisions not to DENY A REQUEST FOR HEARING reconsider an enforcement action shall be considered the final administrative action for purposes of judicial review SECTION 14.11.710(D). The Administrative Hearing Officer shall conduct the hearing in accordance with the procedures set forth in Chapter 2.09 and in the Administrative Hearing Officer Rules and Regulations. The Administrative Hearing Officer may assess fines and issue orders consistent with the provisions of this Chapter.~~

(3) To the extent this Chapter is inconsistent with Chapter 2.09 or the Administrative Hearing Officer Rules and Regulations, this Chapter shall govern. **CHAPTER 1.33 DOES NOT APPLY TO THIS CHAPTER.**

(d8) Any appeal from the decision of the Administrative Hearing Officer shall be to the appropriate court pursuant to C.R.C.P. 106.

(Ord. 35, 2008 §1)

14.11.720 - Upset.

~~(a) For purposes of this Chapter, Upset means an exceptional incident that results in unintentional and temporary noncompliance with a Categorical Pretreatment Standard because of factors beyond the reasonable control of the User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.~~

~~(ab)~~ An Upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards, provided that the User immediately notifies the Director upon discovery of the Upset, and meets the requirements of Subsection ~~(cb)~~ below.

~~(bc)~~ A User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

- (1) An Upset occurred and the User can identify its cause(s);
- (2) The facility was, at the time, being operated in a prudent and professional manner and in compliance with applicable operation and maintenance procedures; and
- (3) In addition to the immediate notice required in Subsection ~~(ab)~~ above, the User submitted the following information to the Director within twenty-four (24) hours of becoming aware of the Upset:
 - a. A description of the Indirect Discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - c. Steps the User is taking or plans to take to reduce, eliminate and prevent recurrence of the noncompliance; and
 - d. If the User initially provided the foregoing information orally, the User must submit it in writing within five (5) days.

~~(cd)~~ In any enforcement proceeding, the User seeking to establish the affirmative defense of an Upset shall have the burden of proof.

~~(de)~~ A User will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.

- (ef) A User shall control all Discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss or failure of its treatment facility until restoring the facility or providing an alternative method of treatment. This requirement applies in the situation, among others, where the User partially or completely loses power to its treatment facility.

(Ord. 35, 2008 §1)

14.11.730 - ~~Affirmative defense~~ LACK OF KNOWLEDGE.

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the General Prohibition in Subsection 14.11.070(b) or the Specific Prohibitions in Subsection 14.11.070(c), if it can prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

- (1) A local limit exists for each Pollutant discharged, and the User complied with each limit directly prior to and during the Pass Through or Interference; or
- (2) No local limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when the City was regularly in compliance with its CDPS permit and, in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. 35, 2008 §1)

14.11.740 - Bypass.

(a) ~~For the purposes of this Section:~~

~~**Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.**~~

~~**Severe property damage means substantial physical damage to property, damage to the treatment facility that renders it inoperable or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a Bypass. Severe property damage does not mean economic loss caused by delays in production.**~~

- (ab) A User may allow any Bypass to occur that does not violate a Pretreatment Standard or Requirement, but only if such Bypass is necessary for essential maintenance to assure efficient operation. These bypasses are not subject to Subsections (b) AND (c) and (d) of this Section.
- (be) If a User knows in advance of the need for a Bypass, it shall notify the Director at least ten (10) days before the date of the Bypass or at the earliest possible time the User becomes aware of the Bypass need if less than ten (10) days prior to the Bypass.
- (cd) A User shall orally notify the Director of an unanticipated Bypass that exceeds applicable Pretreatment Standards immediately upon becoming aware of the Bypass, but in no case later than twenty-four (24) hours from the time it becomes aware of the Bypass. The User must also submit a written report within five (5) days of the time it becomes aware of the Bypass. The report shall describe the Bypass and its cause; state the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, its anticipated duration; and steps taken or planned to prevent reoccurrence of the Bypass.
- (de) Bypass is prohibited, and the Director may take enforcement action against a User for a Bypass, unless:
- (1) The Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - (2) There was no feasible alternative to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime.

(This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass that occurred during normal periods of equipment downtime or preventive maintenance.); and

(3) The User submitted the notices required under Subsection (be) of this Section.

(ef) The Director may approve an anticipated Bypass, after considering its adverse effects, if the Director determines that the Bypass will meet the three (3) conditions listed in Subsection (d) of this Section.

(Ord. 35, 2008 §1)

14.11.750 - Pretreatment charges and fees.

The City may assess reasonable fees and charges through rules or other means to recoup the costs of administering its Pretreatment Program, which may include:

- (1) Fees for Wastewater Discharge Permit applications, including the cost of processing such applications;
- (2) Fees for monitoring, inspection and surveillance procedures, including the cost to collect and analyze a User's Discharge samples and to review monitoring reports submitted by Users;
- (3) Fees for reviewing accidental Discharge procedures;
- (4) Fees for filing appeals; and
- (5) Other fees that the City may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this Chapter and are separate from all other fees, fines and penalties chargeable by the City.

(Ord. 35, 2008 §1)

14.11.760 - Severability.

If any provision of this Chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

(Ord. 35, 2008 §1)

14.11.770 - Signatories and certification.

~~(a) All Wastewater Discharge Permit applications and User reports must be signed by an Authorized Representative of the User and contain the following certification statement:~~

~~I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.~~

~~(b) Annual Certification for Nonsignificant Categorical Industrial Users - A facility that the Director determines is a Nonsignificant Categorical Industrial User as defined in Section 14.11.060 must annually submit to the POTW the following certification signed by an Authorized~~

~~Representative of the User. This certification must accompany an alternative report required by the Director:~~

~~Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 C.F.R. _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____, to _____, _____, [months, days, year]:~~

- ~~(1) The facility described as _____ [facility name] met the definition of a Nonsignificant Categorical Industrial User as described in Section 14.11.060.~~
- ~~(2) The facility complied with all applicable Pretreatment Standards and Requirements during this reporting period; and~~
- ~~(3) The facility never discharged more than one hundred (100) gallons of total categorical Wastewater on any given day during this reporting period.~~

~~This compliance certification is based upon the following information:~~

____ OFFICIAL SIGNATURE

- -

(Ord. 35, 2008 §1)



Industrial Pretreatment Program

Water & Sewer Board

Amendments to the Industrial
Pretreatment Article VI of the City
Code



Industrial Pretreatment Program

Required Program Modifications

- Substantial Modifications to the Program required from EPA Audit in August 2020
 - Amend Industrial Pretreatment Article VI of the City Code
 - Amend IPP Enforcement Response Plan (ERP)
 - Amend Program Implementation Procedures



Industrial Pretreatment Program

Ordinance Modifications

- Amend City Code (Industrial Pretreatment Article VI)
 - Update to achieve the following:
 - Amend the definitions to better align with Federal definitions
 - Align the Ordinance with current program processes such as permitting and enforcement
 - Simplify submittal process;
 - Correct minor clerical errors.



Industrial Pretreatment Program

Amend IPP Enforcement Response Plan (ERP)

- Amendments will provide more clarity for enforcement actions
 - o Additional enforcement responses to a larger variety of violations
 - o Additional enforcement actions for different types of Significant Noncompliance (SNC)
 - o Beneficial towards Industrial User understanding of enforcement actions



Industrial Pretreatment Program

Amend Program Implementation Procedures

- Clarify User Classification Procedures
- Modify Wastewater Discharge Permit Template
- Change Timing of Industrial and Commercial User Survey Distribution



EPA PCI Response Timeline

- 
- Develop Program Modification Package (Completed)

- 
- W&S Board Informational Presentation (Completed)
 - EPA Draft Review of Substantial Program Modification Submittal (Submitted awaiting approval)

- 
- Submit Formal Substantial Program Modification Request to EPA
 - Update EPA Enforcement Section on Program Modification Progress (Completed)
 - EPA Start 30-Day Notice

- 
- W&S Board approval
 - EPA approval

- 
- Council Readings (2) June 1 and June 15

Recommended Board Action

- A motion to introduce the ordinance and approve final reading for June 15, 2021





WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 6

TITLE: RECOMMEND TO COUNCIL APPROVAL OF
AN ORDINANCE ESTABLISHING LOCAL
IMPROVEMENT DISTRICT NO. 343795
(ASHCROFT LIFT STATION) FOR THE
CONSTRUCTION OF SANITARY SEWER
INFRASTRUCTURE

RECOMMENDATION: RECOMMEND TO CITY COUNCIL

ADDITIONAL INFORMATION:

Water and Sewer is proposing the creation of a Local Improvement District (LID) for construction of a regional wastewater lift station and gravity sewer line to serve existing and future developments. The 2.9 Million Gallons per Day (MGD) full build out capacity lift station will be located adjacent to the southeast corner of existing St. Michaels Subdivision along 65th Ave. Wastewater treatment for the residents in St Michaels Subdivision, which are Greeley W&S customers, are currently provided service by the City of Evans, subject to an Intergovernmental Agreement (IGA). This IGA was amended by ordinance in May of 2021 to address temporary treatment rates and allows for Evans to provide emergency overflow for the proposed Ashcroft lift station.

While Evans has provided treatment in this basin since 2013, they have experienced limited treatment capacity, which has limited development potential within the Ashcroft Draw Basin. In 2018, Evans upgraded their wastewater plant, which significantly increased the monthly sewer rates, for which Greeley has paid the difference. Even with the recent upgrades the existing wastewater plant is experiencing capacity limitations, which will continue to limit development potential in the basin and further increase sewer rates.

The proposed Ashcroft lift station will allow Greeley to provide wastewater treatment to existing and future developments in Greeley within the Ashcroft Draw Basin. W&S will cover all up front cost of the proposed lift station improvements and with approval of the LID will all recovery of the cost of the improvements, at time of future property development. W&S will be responsible for the portion of the cost of the lift station associated with developed St Michaels Subdivision that are currently Greeley W&S customers.

The LID establishes two rates, 1) properties only tributary to the downstream proposed gravity sewer, and 2) properties tributary to the proposed lift station, force main, and gravity sewer as depicted in Exhibit A of the Ordinance. The Lift Station service area is approximately 900 acres, while the gravity sewer service area is approximately 1080 acres, with 180 acres of the service area being directly tributary to the gravity sewer main.

The basis of repayment for the LID will be water service tap size and $\frac{3}{4}$ " equivalents. The lift station will have a $\frac{3}{4}$ " equivalent capacity of 5156 and the downstream gravity sewer has a $\frac{3}{4}$ " equivalent of 7,051. The current budget for the project is \$4.64 million, however the LID rate will be adjusted with receipt of GMP pricing anticipated in the end of May 2021.

**CITY OF GREELEY, COLORADO
ORDINANCE ___, 2021**

**AN ORDINANCE ESTABLISHING LOCAL IMPROVEMENT DISTRICT NO. 343795
FOR THE CONSTRUCTION OF SANITARY SEWER INFRASTRUCTURE IN GREELEY, COLORADO;
DETERMINATION OF LOTS AND LANDS TO BE INCLUDED WITHIN LOCAL IMPROVEMENT DISTRICT
343795; SETTING FORTH THE MAXIMUM COSTS OF CONSTRUCTION; AND SETTING FORTH THE
PROPERTY TO BE INCLUDED AND NAMES OF THE APPARENT OWNERS OF PROPERTY TO BE
INCLUDED (ASHCROFT DRAW BASIN SANITARY SEWER INFRASTRUCTURE)**

WHEREAS, the City of Greeley, Colorado ("City") is a home rule municipality empowered pursuant to Sections 1 and 6 of Article XX, and Section 7 of Article X of the Colorado Constitution to, *inter alia*, levy assessments against real property within the City for municipal purposes, including, without limitation, for local improvements; and

WHEREAS, the Charter for the City of Greeley, Colorado further empowers the City to establish local improvement districts, for the purpose of, *inter alia*, constructing local improvements and assessing the costs thereof upon the property especially benefitted by such improvements; and

WHEREAS, Title 18, Chapter 6 (Local Improvement Districts) of the Greeley Municipal Code sets forth the particular authority and procedures by which the City may establish such local improvement districts; and

WHEREAS, the Ashcroft Draw Basin is a geographic area, a portion of which is located generally south of U.S. Highway 34, north of 37th Street, and east of 95th Avenue in southwest Greeley; and

WHEREAS, the City anticipates continued development within the Ashcroft Draw Basin and has accordingly identified the need for additional sanitary sewer infrastructure in this area; and

WHEREAS, the City Council desires, on its own initiative, to establish a local improvement district for the construction of municipal sanitary sewer infrastructure for the benefit of undeveloped properties without sanitary sewer service located within the Ashcroft Draw Basin in Greeley;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREELEY, COLORADO:

Section 1. Establishment of Local Improvement District 343795. Pursuant to the authority set forth in Section 18-379(d) of the Greeley Municipal Code, the City Council hereby orders the creation of a local improvement district for the construction of sanitary sewer infrastructure to the benefit of undeveloped properties within the Ashcroft Draw Basin in Greeley, Colorado ("Ashcroft Draw Basin Sanitary Sewer Infrastructure"). The local improvement district shall be assigned number 343795 and contain the lots and lands set forth in Section 7 below. The anticipated location of the Ashcroft Draw Basin Sanitary Sewer Infrastructure, and the currently undeveloped lots and lands to be included within Local Improvement District No. 343795, are shown on the map attached hereto as Exhibit A.

Section 2. Anticipated Infrastructure Capacity. The Lift Station and Force Main aspects of the Ashcroft Draw Basin Sanitary Sewer Infrastructure are anticipated to have a maximum capacity of 5156 three-quarter inch ($\frac{3}{4}$ ") tap equivalents. The Gravity Main aspect of the Ashcroft Draw Basin Sanitary Sewer Infrastructure is anticipated to have a maximum capacity of 7051 three-quarter inch ($\frac{3}{4}$ ") tap equivalents.

Section 3. Estimation and Description of Maximum Costs. The total maximum cost of construction and incidental expenses for the Ashcroft Draw Basin Sanitary Sewer Infrastructure is estimated at this time to be \$4,640,000.00. Incidental expenses may include those expenses associated with design, inspection, engineering, advertising, abstracting, publishing, postage, collections, and other similar expenses attributable to the construction of the Ashcroft Draw Basin Sanitary Sewer Infrastructure and the establishment of Local Improvement District 343795. Of the total estimated maximum cost, \$4,000,000.00 is attributable to the Lift Station and Force Main aspects of the project, and \$640,000.00 is attributable to the Gravity Main. This total estimated maximum cost includes expenses for which the City will be responsible, as described in Section 4.

Section 4. City Portion of Infrastructure Costs. Of the total estimated maximum cost set forth in Section 3, the City will be responsible for the construction and incidental expenses attributable to the 466.34 three-quarter inch ($\frac{3}{4}$ ") tap equivalents existing and associated with developed properties within the City of Greeley that will be served by the Ashcroft Draw Basin Sanitary Sewer Infrastructure.

Section 5. Assessments against Local Improvement District 343795 Properties. The final determination of assessments to be made against the lots and lands included in Local Improvement District 343795 shall be established by an ordinance adopted after completion of the Ashcroft Draw Basin Sanitary Sewer Infrastructure improvements described herein, and such assessments shall be based upon the costs of construction, incidental expenses, and a fair market rate of projected interest to be recommended by the Director of Finance and set forth in the assessment ordinance at the time it is adopted. Interest shall accrue on each assessment from the date of the City's final payment on construction costs until the assessment is paid in full. The portion of the total maximum cost of construction and incidental expenses for the Ashcroft Draw Basin Sanitary Sewer Infrastructure to be assessed against the lots and lands described in Section 7 below, and interest accrued thereon, shall be first allocated between two divisions of undeveloped properties within Local Improvement District 343795 – those properties benefitted by the Lift Station, Force Main, and Gravity Main aspects of the overall project, and those properties benefitted only by the Gravity Main aspect of the project, as is shown on the map attached hereto as Exhibit A. Within such allocations, the costs, expenses, and interest shall then be assessed proportionally in accordance with the water tap size and $\frac{3}{4}$ " tap equivalents against sanitary sewer taps requested on the lots and lands within Local Improvement District 343795. Assessments shall be due from the property owner at the time sanitary sewer plant investment fees are collected, and payable in accordance with the terms set forth in the assessment ordinance.

Water Tap Size	$\frac{3}{4}$ " Tap Equivalents
$\frac{3}{4}$ "	1
1"	1.67
$1\frac{1}{2}$ "	3.33
2"	5.33
3"	10.67
4"	16.67
6"	33.33
8"	53.33

Section 6. City of Greeley staff shall perform construction of the Ashcroft Draw Basin Sanitary Sewer Infrastructure, or authorize it to be done, within a reasonable time after passage of this ordinance.

Section 7. Lots and Lands to be Included in Local Improvement District 343795; Owners. The lots and lands that shall be included within Local Improvement District 343795, the street addresses (if applicable) and legal descriptions of such lots and lands, and the current record owners of such lots and lands, according to the records of the Weld County Clerk and Recorder's Office, are as follows.

- Owner(s): Edward Rose Development Co., LLC
Mailing Address of Owner(s): 38525 Woodward Avenue
Bloomfield Hills, MI 48304-5011
Address of LID Property: 6070 Hwy 34 Bypass
Greeley, CO 80634
Weld County Parcel No.: 095921100005
Legal Description of LID Property:

PT NE4 21-5-66 EXC BEG AT A PT ON E LINE OF SEC 21 WHICH NE COR BEARS N0D08'E 170' TH N89D55'W 1173.70' S84D22'W 201' N89D55'W 1246.80' S0D18'E 276.90' S16D17'W 65.50' S83D42'W 31.30' N0D18'W 530' S89D55'E 2671.90' S0D08'W 170' TO BEG ALSO EXC ASHTON ESTATES SUB ALSO EXC COMM N4 COR S00D47E 1002.59 N89D23E 30 TO POB N00D47W 432.44 THENCE ALNG CURVE R 44.98 (R=376.50 CH=N02D37E) N15D47E 60.65 N00D47W 18.06 THENCE ALNG CURVE R 53.98 (R=376.5 CH=N22D04E) S07D13W 99.09 S02D08W 234.92 THENCE ALNG CURVE L 100.36 (R=1952 CH=S00D40W) THENCE ALNG CURVE R 21.87 (R=111 CH=S04D51W) THENCE ALNG CURVE L 18.72 (R=95 CH=S04D51W) S00D47E 129.83 S89D23W 8.5 TO POB ALSO EXC COMM N4 COR S00D47E 530 N89D12E 31.30 N15D47E 65.50 N00D47W 148.86 TO POB N00D47W 128.04 N89D34E 28.70 THENCE ALNG CURVE L 30.62 (R=69 CH=S12D01W) S00D47E 69.55 THENCE ALNG CURVE L 35.91 (R=436.5 CH=S36D48W) TO POB

2. Owner(s): Spirit Hospitality, LLC
Mailing Address of Owner(s): 4836 S. College Avenue
Fort Collins, CO 80525
Address of LID Property: N/A
Weld County Parcel No.: 095921281001
Legal Description of LID Property:

LOT 1 VILLAGE AT ST MICHAELS 3RD RPLT

3. Owner(s): Lotts, LLC
Mailing Address of Owner(s): c/o Boomerang Self Storage, LLC
7025 W. 8th Street
Greeley, CO 80634-1214
Address of LID Property: 6714 W. 31st Street Road
Greeley, CO 80634
Weld County Parcel No.: 095921282001
Legal Description of LID Property:

Lot 9A ST MICHAELS 4TH MINOR

4. Owner(s): Park Place Homes, LLC
Mailing Address of Owner(s): c/o Boomerang Self Storage, LLC
7025 W. 8th Street
Greeley, CO 80634-1214
Address of LID Property: 3105 67th Avenue Place
Greeley, CO 80634
Weld County Parcel No.: 095921232005
Legal Description of LID Property:

GR STM L5 BLK32 ST MICHAELS

5. Owner(s): Greeley Commons Investments, LLC
Mailing Address of Owner(s): 5189 Copper Blush Court
Castle Rock, CO 80108-8063
Address of LID Property: N/A
Weld County Parcel No.: 095920000018
Legal Description of LID Property:

GR 17606-B PT NE4 & SE4 20 5 66 (HURST ANNEXATION) BEG NE COR NE4 S0D58'E 1274.46' TO TRUE POB TH CONT S ALG E LN SEC S0D58'E 1378.53' TO E4 COR SEC & AGAIN S0D59'E 1054' TH N62D02'W 873' N43D01'W 875' TH ACROSS ASHCROFT DRAW N40D30'E 35.21' TH N36D44'W 151.07' N45D26'W 235.41' N56D21'W 687.89' N18D52'W 180.13' N49D23'E 225.72' S44D29'E 236.53' N51D43'E 96.55' N32D39'E 372.53' S85D15'W 404.26' N56D59'W 46.95' TO N BANK GREELEY-LOVELAND IRRIGATION DITCH TH ALG SD N BANK N68D16'E 193.42' N83D37'E 230.14' N59D55'E 575.32' N86D02'E 508.51' S62D29'E 422.11' S77D46'E 238.34' TO POB AKA PARCEL B AMD SUB EXEMPT SE-162 (3.98R3D)

6. Owner(s): Greeley Commons Investments, LLC

Mailing Address of Owner(s): 5189 Copper Blush Court
Castle Rock, CO 80108-8063
Address of LID Property: N/A
Weld County Parcel No.: 095920000012
Legal Description of LID Property:

GR 17608 PT NE4 20 5 66 (BASTDOFBA ANNEX) COMM NE COR THENCE S0D58'E 2652.99' TO SE COR NE4 S0D59'E 1054' N62D03'W 873' N43D01'W 875' TO TRUE POB THENCE S89D47'W 1274.97' N01D18'W 1169.01' N88DE 449.08' N75D58'E 150.88' S56D59'E 61.11' N85D15'E 404.26' S32D39'W 372.53' S51D43'W 96.55' N44D29'W 236.53' S49D23'W 225.72' S18D52'E 180.13' S56D21'E 687.89' S45D26'E 235.41' S36D44'E 151.07' S40D30'W 35.21' TO TRUE POB AKA LOT A AMD SUB EXEMPT SE-162 (1D)

7. Owner(s): Gary W. Wiedeman
Mailing Address of Owner(s): 5880 49th Street
Greeley, CO 80634-9643
Address of LID Property: N/A
Weld County Parcel No.: 095920400069
Legal Description of LID Property:

GR PT SE4 20-5-66 (WIEDEMAN 1ST ANNEX) BEG E4 COR S01D21'E 1120.66' TO TRUE POB S01D21'E 107.03' S88D38'W 20' N01D21'W 184.88' S62D45'E 22.78' S01D21'E 66.94' TRUE POB

8. Owner(s): Gary W. Wiedeman
Mailing Address of Owner(s): 5880 49th Street
Greeley, CO 80634-9643
Address of LID Property: N/A
Weld County Parcel No.: 095920400070
Legal Description of LID Property:

GR PT SE4 20-5-66 (WIEDEMAN 2ND ANNEX) BEG E4 COR S01D21'E 1227.69' TO TRUE POB S88D38'W 20' N01D21'W 184.88' N62D45'W 45.56' S01D21'E 226.68' N88D38'E 20' S01D21'E 336.05' N88D38'E 20' N01D21'W 336.05' N88D38'E 20' N01D21'W 20' TRUE POB

9. Owner(s): Gary W. Wiedeman
Mailing Address of Owner(s): 5880 49th Street
Greeley, CO 80634-9643
Address of LID Property: N/A
Weld County Parcel No.: 095920400071
Legal Description of LID Property:

GR PT SE4 20-5-66 (WIEDEMAN 3RD ANNEX) BEG E4 COR S01D21'E 1247.69' TO TRUE POB S01D21'E 1078.16' S88D38'W 20' N01D21'W 722.11' S88D38'W 20' S01D21'E 722.11' S88D38'W 20' N01D21'W 1078.16' N88D38'E 20' S01D21'E 336.05' N88D38'E 20' N01D21'W 336.05' N88D38'E 20' TRUE POB

10. Owner(s): Gary W. Wiedeman

Mailing Address of Owner(s): 5880 49th Street
Greeley, CO 80634-9643
Address of LID Property: N/A
Weld County Parcel No.: 095920400072
Legal Description of LID Property:

GR PT SE4 20-5-66 (WIEDEMAN 4TH ANNEX) BEG E4 COR S01D21'E 2325.85' TO TRUE POB
S01D21'E 297.19' S89D36'W 812.69' N1973.87' S62D45'E 804.09' S01D21'E 1304.84'
N88D38'E 20' N01D21'W 772.11' N88D38'E 20' S01D21'E 722.11' N88D38'E 20' TRUE POB

11. Owner(s): Gary W. Wiedeman
Mailing Address of Owner(s): 5880 49th Street
Greeley, CO 80634-9643
Address of LID Property: 7727 County Road 27
Greeley, CO 80634
Weld County Parcel No.: 095920400073
Legal Description of LID Property:

GR PT S2 20-5-66 (WIEDEMAN 5TH ANNEX) BEG E4 COR S01D21'E 2623.04' S89D36'W
812.69' TO TRUE POB S89D36'W 1798.35' S89D11'W 1440.74' N29D44'E 730.86' N23D40'E
95.64' S86D25'E 308.53' N29D19'E 306.47' S79D36'E 36.40' S73D0'E 146.25' N86D34'E 71.57'
N54D52'E 111.32' N43D02'E 71.79' N36D06'E 288.57' N30D25'E 81.42' N22D57'E 44.85'
N15D40'E 35' N0D46'E 705.36' N09D04'W 76.82' N18D44'W 314.19' N14D14'W 134.48'
N89D18'E 1292.17' S43D12'E 875' S1973.87' TRUE POB

12. Owner(s): Lundvall, LLC
Mailing Address of Owner(s): 2015 Clubhouse Drive, Suite 101
Greeley, CO 80634-3644
Address of LID Property: N/A
Weld County Parcel No.: 095920000064
Legal Description of LID Property:

17607-A PT S2 20 5 66 LYING NLY & WLY OF C/L OF LOVELAND & GREELEY CANAL ALSO
BEG AT SW COR SEC N65D19'E 1795.15' TO WLY LN OF LOVELAND & GREELEY CANAL
& TRUE POB N29D46'E 210.36' N42D21'E 131.83' N71D05'E 79.38' S80D26'E 251.07'
S30D08'W 336.1' N85D36'W 348.24' TO BEG (2.69R 5D)

13. Owner(s): Suncor Energy (USA) Pipeline Company
Mailing Address of Owner(s): c/o Right of Way/Claims
717 17th Street, Floor 29
Denver, CO 80202-3330
Address of LID Property: N/A
Weld County Parcel No.: 095919000008
Legal Description of LID Property:

17605-B PT SE4 19 5 66 BEG N0D29'E 30 & N88D47'W 30' OF SE COR SE4 N88D47'W 295.17'
N45D51'E 414.78 S0D29'W 295.29' TO POB (1A M/L) EXC UPRR RES

14. Owner(s): Cynthia Dean Chismar 2012 Irrevocable Trust; Dylan Alexander Chismar 2012 Irrevocable Trust; Alexis Carol Chismar 2012 Irrevocable Trust
Mailing Address of Owner(s): 3051 Taliesin Way
Fort Collins, CO 80524-9383
Address of LID Property: N/A
Weld County Parcel No.: 095919000049
Legal Description of LID Property:

GR 17605-E S2 19 5 66 (LUNDVALL ANNEXATION) EXC E265' W2SW4 ALSO EXC BEG N0D29'E 30' & N88D47'W 30' OF SE COR SE4 N88D47'W 295.17' N45D51'E 414.78' S0D29'W 295.29' TO POB (8R)
15. Owner(s): Public Service Company of Colorado
Mailing Address of Owner(s): Tax Service Department
P.O. Box 1979
Denver, CO 80201-1979
Address of LID Property: N/A
Weld County Parcel No.: 095919000007
Legal Description of LID Property:

17605D E265' W2 19 5 66 EXC UPRR RES
16. Owner(s): Public Service Company of Colorado
Mailing Address of Owner(s): Tax Service Department
P.O. Box 1979
Denver, CO 80201-1979
Address of LID Property: N/A
Weld County Parcel No.: 095919000014
Legal Description of LID Property:

17605C S75' OF NE4 19 5 66 EXC UPRR RES
17. Owner(s): Dale L. Boehner
Mailing Address of Owner(s): 3207 83rd Avenue
Greeley, CO 80634-9041
Address of LID Property: 3207 County Road 27
Greeley, Colorado 80634
Weld County Parcel No.: 095919000068
Legal Description of LID Property:

GR PT NE4 19-5-66 (LUNDVALL ANNEX) LOT A REC EXEMPT RE-1540 EXC UPRR RES (.25R)
18. Owner(s): Lundvall, LLC
Mailing Address of Owner(s): 2015 Clubhouse Drive, Suite 101
Greeley, CO 80634-3644
Address of LID Property: N/A
Weld County Parcel No.: 095919000069

Legal Description of LID Property:

GR PT NE4 19-5-66 (LUNDVALL ANNEX) LOT B REC EXEMPT RE-1540 EXC UPRR RES (1.14R)

19. Owner(s): Nicholas J. Noce and Julianne Noce
Mailing Address of Owner(s): 2815 83rd Avenue
Greeley, CO 80634-9009
Address of LID Property: 2815 83rd Avenue
Greeley, CO 80634-9009
Weld County Parcel No.: 095919000066
Legal Description of LID Property:

GR PT NE4 19-5-66 LOT A (WEST RIDGE AREA ANNEX) REC EXEMPT RE-867 EXC UPRR RES (.38R)

20. Owner(s): Loren L. Johnson and Dorothy A. Johnson
Mailing Address of Owner(s): 8200 W. 28th Street
Greeley, CO 80634-9679
Address of LID Property: N/A
Weld County Parcel No.: 095920000067
Legal Description of LID Property:

GR PT W2NW4 20-5-66 (WEST RIDGE AREA ANNEX) PT LOT A AMENDED REC EXEMPT AM-RE-800 DESC AS BEG NW4 COR THN N89D47'E 319.60' S300' S89D47'W 317.42' N0D11'E 299.99' TO POB (.41R)

21. Owner(s): Loren L. Johnson and Dorothy A. Johnson
Mailing Address of Owner(s): 8200 W. 28th Street
Greeley, CO 80634-9679
Address of LID Property: 8200 W. 28th Street
Greeley, CO 80634-9679
Weld County Parcel No.: 095920000065
Legal Description of LID Property:

GR PT W2NW4 20-5-66 PT LOT A (WEST RIDGE AREA ANNEX) AMENDED REC EXEMPT AM-RE-800 DESC AS BEG NW COR SEC THN N89D47'E 319.60' TO TRUE POB THN CONT N89D47'E 293.33' S0D13'W 300' S89D47'W 293.33' N300' TO TRUE POB AKA LOT A RE-800 (.2R)

22. Owner(s): Herbies Homes
Mailing Address of Owner(s): 2563 W. 28th Street
Greeley, CO 80634-8043
Address of LID Property: N/A
Weld County Parcel No.: 095920000068
Legal Description of LID Property:

GR PT W2NW4 20-5-66 (BASTDOFBA ANNEX) PT LOT B AMENDED REC EXEMPT AM-RE-800 DESC AS LOT B EXC BEG NW4 COR S30°N89°46'W 30' TO TRUE POB CONT N89°46'E 291 M/L THN S270° S89°46'W 291' M/L N270° TO TRUE POB (2.41R)

23. Owner(s): Jerald L. Stugart and Joanne M. Stugart
Mailing Address of Owner(s): 7700 W. 28th Street
Greeley, CO 80634-9678
Address of LID Property: 7700 W. 28th Street
Greeley, CO 80634-9678
Weld County Parcel No.: 095920000061
Legal Description of LID Property:

GR 17609 E2NW4 20 5 66 (BASTDOFBA ANNEX) (2D 1R)

24. Owner(s): David C. Funderburk and
Rebecca A. Funderburk
Mailing Address of Owner(s): 7520 W. 28th Street
Greeley, CO 80634-9678
Address of LID Property: 7520 W. 28th Street
Greeley, CO 80634-9678
Weld County Parcel No.: 095920000037
Legal Description of LID Property:

GR 17606-A PT NW4NE4 20 5 66 (BASTDOFBA ANNEX) BEG AT PT 30'S OF N4 COR N89D47'E 1295' S55D25'W 350' S35D58'W 273.18' S89D47'W 844.65' TO PT ON W LINE NW4NE4 N1D17'W 423.60' (10.41A M/L) (.25R)

25. Owner(s): David C. Funderburk and
Rebecca A. Funderburk
Mailing Address of Owner(s): 7520 W. 28th Street
Greeley, CO 80634-9678
Address of LID Property: N/A
Weld County Parcel No.: 095920000058
Legal Description of LID Property:

GR PT NE4 20-5-66 (BASTDOFBA ANNEX) LOT A REC EXEMPT RE-376

26. Owner(s): Linnea S. Dollard and Robert G. Dollard
Mailing Address of Owner(s): 7440 W. 28th Street
Greeley, CO 80634-9652
Address of LID Property: 7440 W. 28th Street
Greeley, CO 80634-9652
Weld County Parcel No.: 095920000052
Legal Description of LID Property:

GR 17606-C PT NE4 20 5 66 (BASTDOFBA ANNEX) BEG S01D18'E 1119.98' FROM NW COR OF NE4 THENCE S01D18'E 364.24' N88D0'E 449.08' N75D58'E 150.88' N08D26'E 317.88' S89D47'W 650.11' TO BEG (5A M/L)

27. Owner(s): Greeley Commons Investments, LLC
Mailing Address of Owner(s): 5189 Copper Blush Court
Castle Rock, CO 80108-8063
Address of LID Property: 7220 W. 28th Street
Greeley, CO 80634
Weld County Parcel No.: 095920100003
Legal Description of LID Property:

PT NE4 20 5 66 COMM NE COR S00D58E 197.56 N90D00W 1074.06 TO POB THENCE
ALNG CURVE R 241.24 (R=1146 CH=N77D24W) N73D58W 147.90 S55D24W 225.60
S33D58W 273.18 S28D58W 136.89 N90D00E 677.82 N79D07E 106.37 N00D00E 360.87 TO
POB
28. Owner(s): Greeley Commons Investments, LLC
Mailing Address of Owner(s): 5189 Copper Blush Court
Castle Rock, CO 80108-8063
Address of LID Property: N/A
Weld County Parcel No.: 095920100004
Legal Description of LID Property:

PT NE4 20-5-66 (HURST ANNEXATION) BEG NE COR SEC S0D58'E 250' TPOB S0D58'E
1024.46' TO POINT ON N BANK GREELEY-LOVELAND IRRIGATION DITCH N77D46'W
238.34' N62D29'W 422.11' S86D02'W 508.51' S59D55'W 575.32' S83D37'W 230.14'
S68D16'W 193.42' N56D59'W 14.16' N08D26'E 797.61' N28D58'E 221.62' N33D58'E 273.18'
N55D24'E 25.60' S73D58'E 147.90' CURVE TO LEFT (R=1146' CHORD S79D51'E) N89D51'E
390.80' S85D28'E 588.10' TPOB EXC COMM NE COR S00D58E 197.56 N90D00W 1074.06
TO POB THENCE ALNG CURVE R 241.24 (R=1146 CH=N77D24W) N73D58W 147.90
S55D24W 225.60 S33D58W 273.18 S28D58W 136.89 N90D00E 677.82 N79D07E 106.37
N00D00E 360.87 TO POB
29. Owner(s): St. Michael's Commercial Enterprises, LLC
Mailing Address of Owner(s): c/o CMCL, Inc.
P.O. Box 1734
Eagle, CO 81631-1734
Address of LID Property: N/A
Weld County Parcel No.: 095921253001
Legal Description of LID Property:

GR STM1R TRACT 1 ST MICHAELS 1ST RPLT

Section 8. Assessments shall be collected only against properties requesting sanitary sewer taps that connect directly to, or upstream of, the Ashcroft Basin Sanitary Sewer Infrastructure associated with Local Improvement District 343795, and only against the properties described in Section 7 above.

Section 9. Properties within the boundaries of Local Improvement District No. 343795 remain subject to all requirements of the Greeley Municipal Code regarding City sanitary sewer

service, including, without limitation, the requirement to construct additional sanitary sewer line extensions, if necessary, to facilitate connection to the Ashcroft Basin Sanitary Sewer Infrastructure, and the requirement to pay sanitary sewer plant investment fees.

Section 10. This ordinance shall take effect on the fifth (5th) day following its final publication, as set forth in Section 3-16 of the Greeley City Charter.

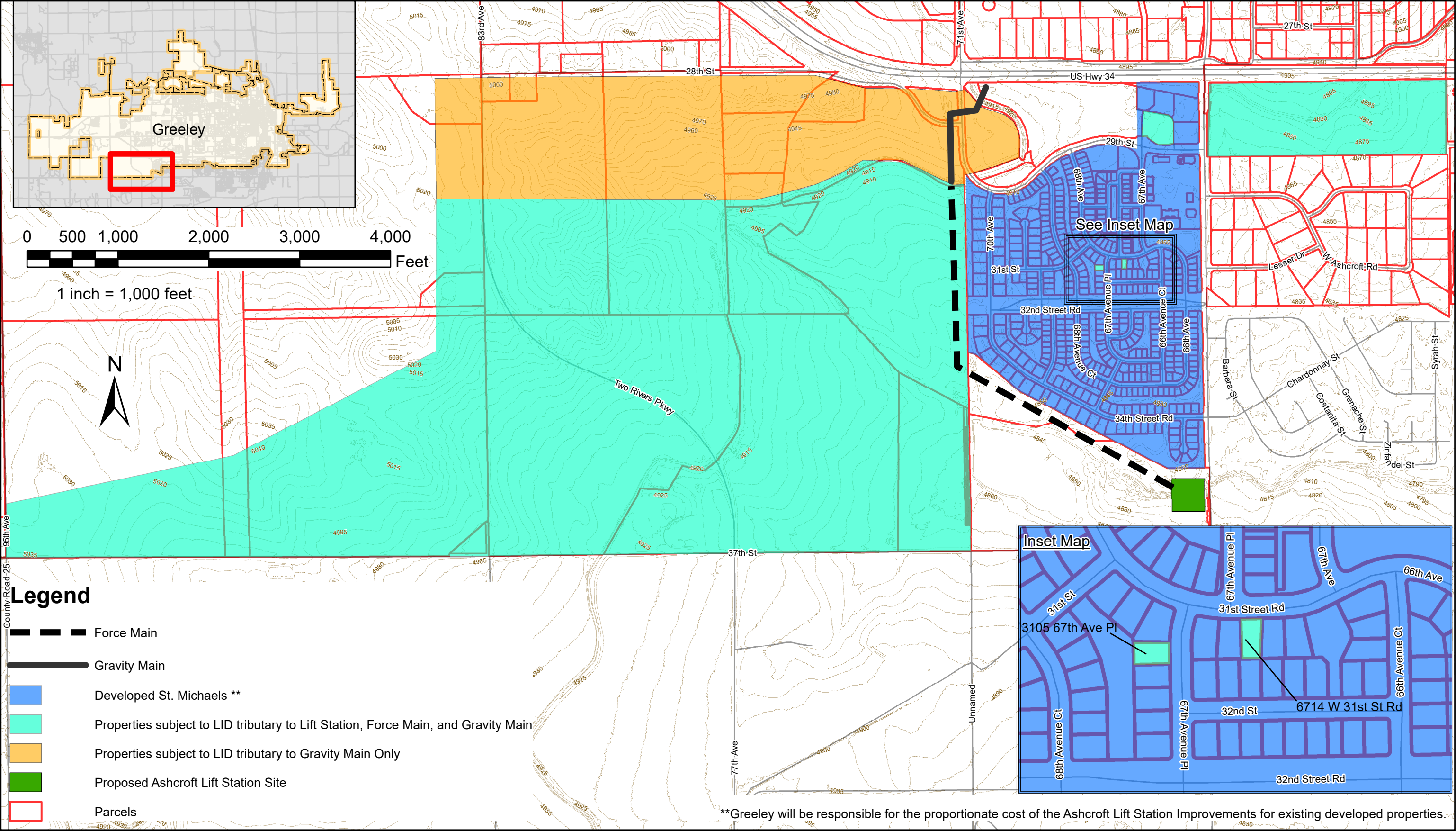
PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS _____ DAY OF _____ 2021.

ATTEST:

THE CITY OF GREELEY, COLORADO

City Clerk

Mayor



**Greeley will be responsible for the proportionate cost of the Ashcroft Lift Station Improvements for existing developed properties.



Exhibit A - Local Improvement District 343795 - Ashcroft Draw Basin

Coordinate System: NAD 1983 HARN StatePlane Colorado North FIPS 0501 Feet
Units: Foot US

Date: 4/27/2021
Reference Scale: 1:12,000

Ashcroft Draw Lift Station Local Improvement District (LID)

Water & Sewer Board

May 19, 2021 2:00 PM



Ashcroft Sewer Basin Challenges

- Currently Evans provides Wastewater Treatment to Greeley Resident's in St Michaels, via Intergovernmental Agreement (IGA)
 - o Development in Greeley is contingent on Evans Treatment Plant Capacity and Approval
 - o Historically development has been limited by Evans Treatment Capacity
 - o Greeley W&S pays the difference between Greeley and Evans monthly rates
 - o Evans \$43/month
 - o Greeley \$23/month



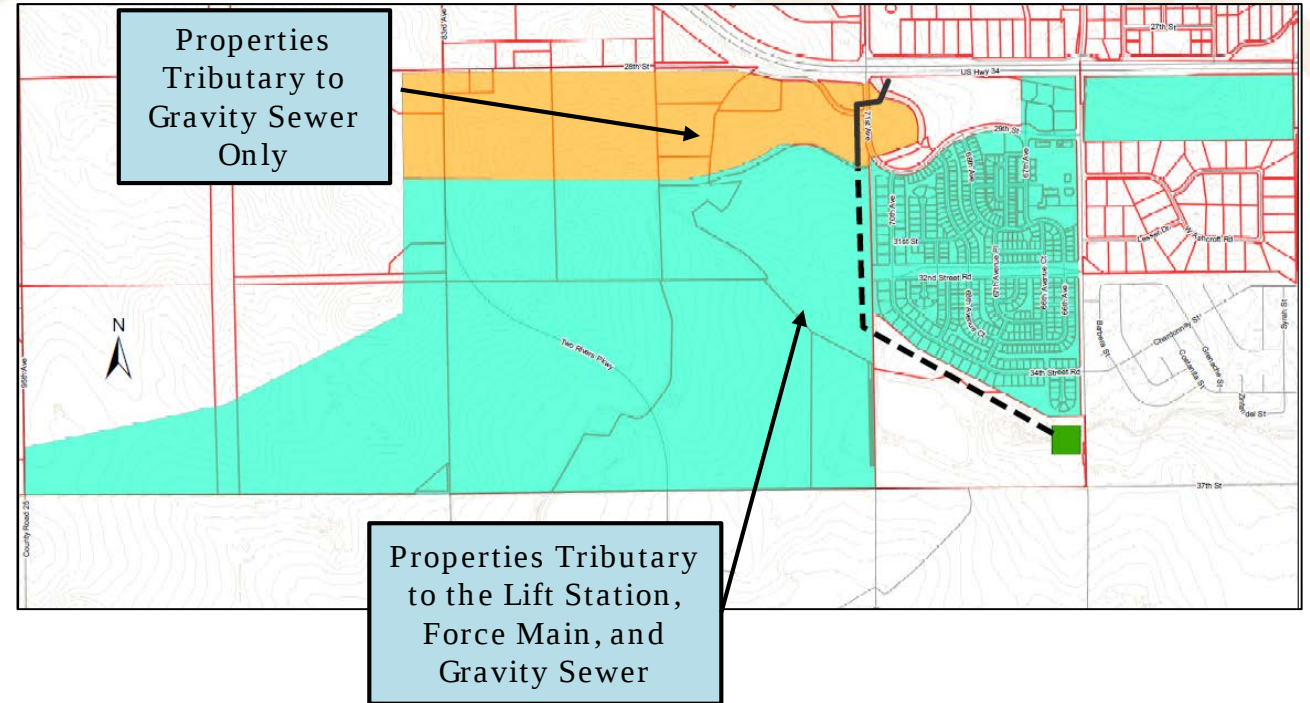
Ashcroft Lift Station Project Goals

- Address Wastewater flows from Existing Greeley Customers
- Insure Reliable Wastewater Delivery and Treatment to Existing and Future Greeley Customers
- Improve Development Potential for properties within the basin
- Minimize Impacts of Existing Developed Properties with proposed lift station
- Reimburse Cost to W&S through Local Improvement District (LID)
- Fair cost of service for all future and existing development



Local Improvement District Structure

- Two rates established with Local Improvement District (LID)
 - 1) Properties Tributary to Lift Station, Force Main, and Gravity Sewer Main
 - 2) Properties only Tributary to Gravity Sewer Main (Not subject to Lift Station Cost)
- Water and Sewer will front all project costs
- LID fee due at Building Permit
- Interest Rate assessed to LID established based on bond rates (2-3 percent)



- Lift Station and Force Main Service Area (900 Acres)
- Gravity Main Service Area (180 Acres) + Lift Station (900 Acres)
- Services Boundaries based on Topography

[illegible]

- (Yellow) Properties subject to LID for Gravity Sewer
- (Green) Properties subject to LID for Lift Station, Force Main and Gravity Sewer
- (Blue) Areas Greeley is responsible for Lift Station, Force Main, and Gravity Sewer (existing developed properties)

Local Improvement District Structure

- LID Rates based on water tap size and $\frac{3}{4}$ " equivalents
 - o Lift Station Capacity 5,156 - $\frac{3}{4}$ " equivalents
 - o Gravity Sewer Service Area Total Capacity 7,051 - $\frac{3}{4}$ " equivalents
 - Includes 5,156 - $\frac{3}{4}$ " for Lift Station
 - Gravity Sewer Service area 1,895 - $\frac{3}{4}$ " equivalents

Water Service Size	$\frac{3}{4}$ " Equivalent
$\frac{3}{4}$ "	1.00
1"	1.67
1 1/2"	3.33
2"	5.33
3"	10.67
4"	16.67
6"	33.33
8"	53.33



Local Improvement District Cost

- Current Project Total Budget \$4.64 Million
- EXAMPLE HOW LID FEES WILL BE CALCULATED
 - Assume Lift Station \$4,000,000.00
 - Assume Gravity Sewer \$640,000.00

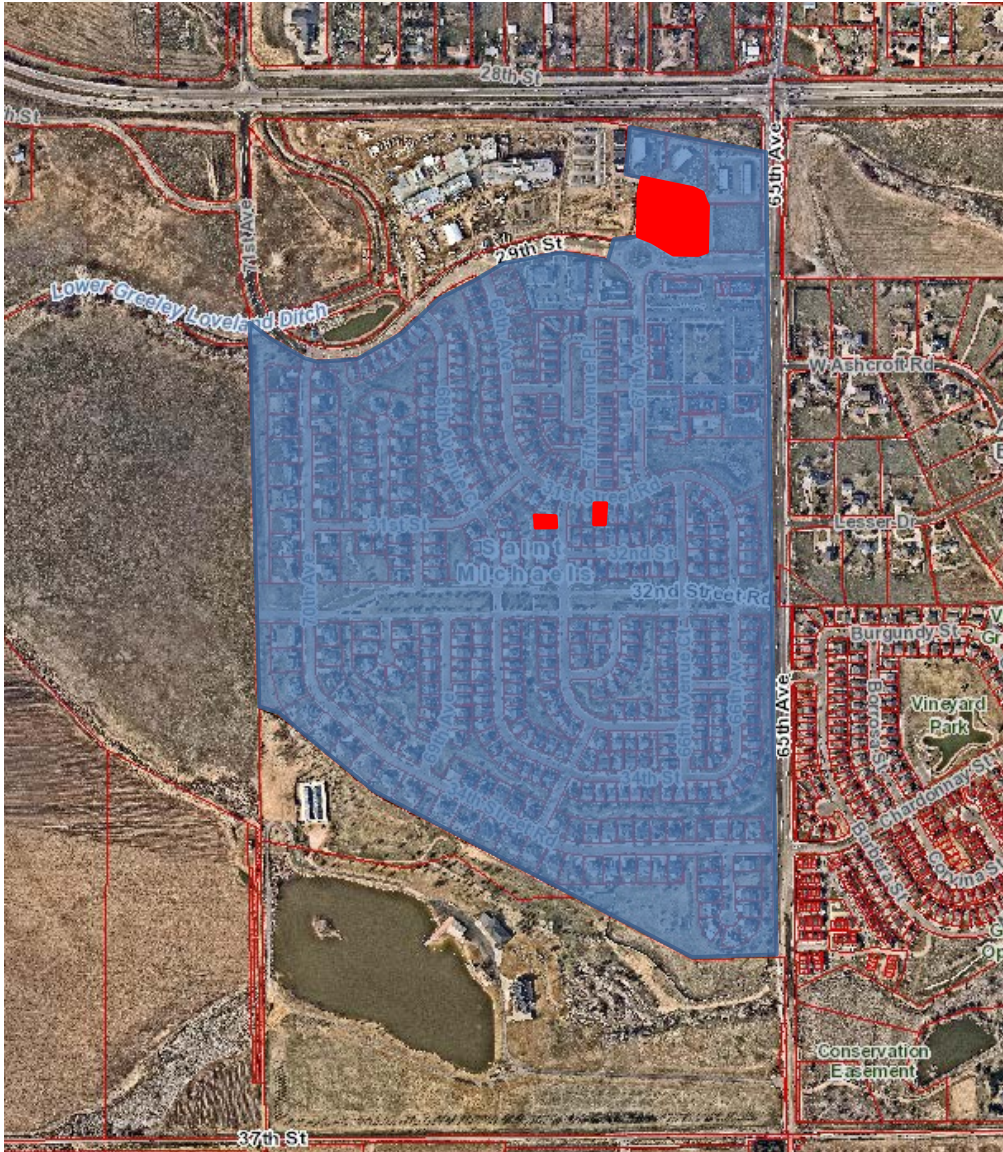
	Gravity Sewer	Lift Station and FM Only
Total 3/4" Equiv	7,051	5,156
Estimated Cost	\$640,000	\$4,000,000
Cost per 3/4" Equiv	\$90.77	\$775.80

Water Service Size	3/4" Equivalent	Gravity Sewer Cost	Lift Station and FM+ Gravity Sewer Cost
3/4"	1.00	\$90.77	\$866.56
1"	1.67	\$151.28	\$1,444.27
1-1/2"	3.33	\$302.56	\$2,888.54
2"	5.33	\$484.09	\$4,621.67
3"	10.67	\$968.49	\$9,246.22
4"	16.67	\$1,513.09	\$14,445.60
6"	33.33	\$3,025.27	\$28,882.53
8"	53.33	\$4,840.62	\$46,213.78

- Actual Contractor Pricing will establish estimated maximum cost listed in LID Ordinance (End of May)



Local Improvement District Costs (cont)



- City Responsible for cost for St. Michaels Subdivision properties where Development Fees have been paid
- 428 existing water services at 466.34 - ¾" Equivalents
- City cost approximately \$404,106.00 based on current estimate
- LID Fees due for undeveloped properties
 - o Lot 1, Village at St Michaels 3rd Replat
 - o 6714 W 31st St Rd
 - o 3105 67th Ave Pl

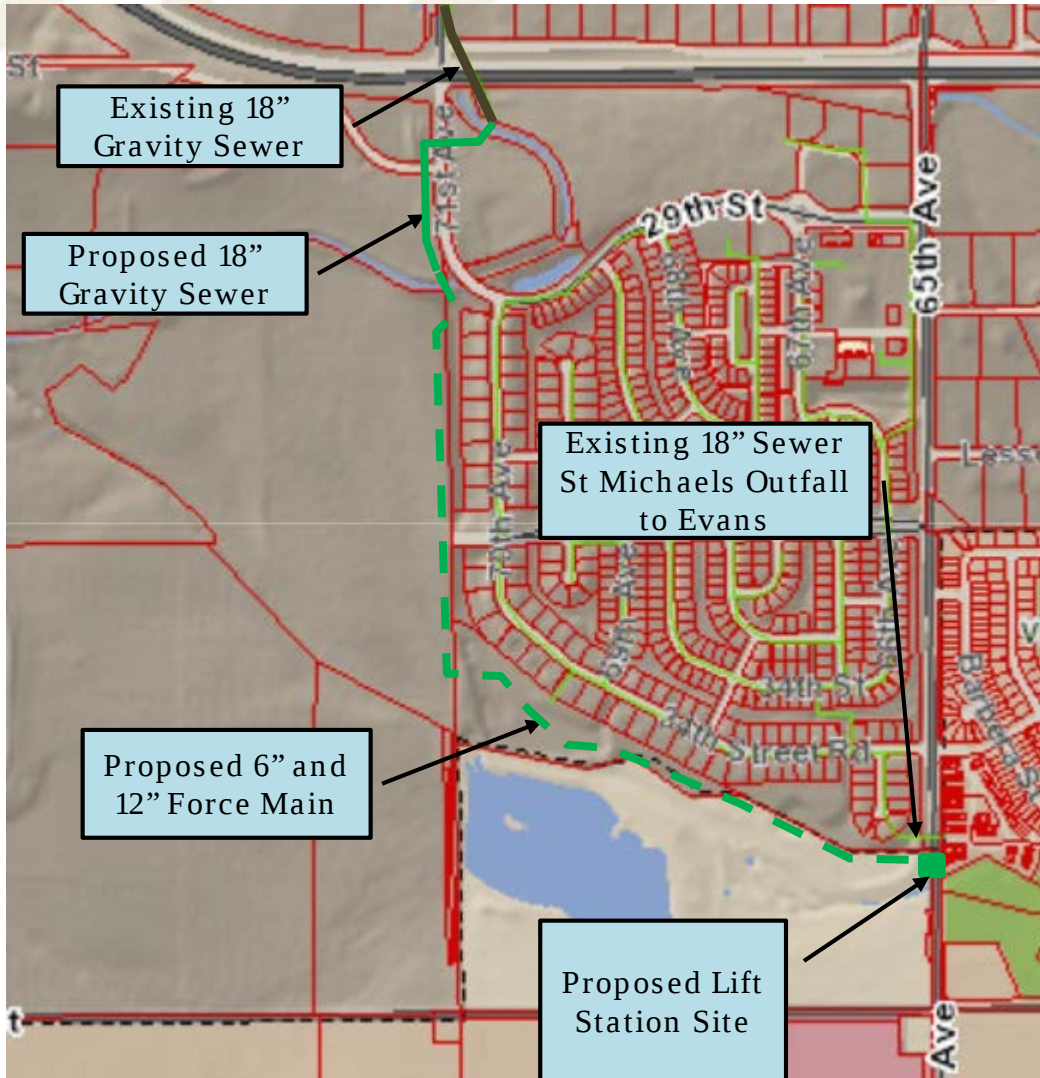
Local Improvement District Schedule

The Local Improvement District (LID) includes two ordinances going to City Council for approval

- 1st Ordinance creates the boundary, list properties, and maximum total cost.
 - o Residents listed will receive a mailed public hearing notice for July 6th hearing
- 2nd Ordinance defines the actual cost of the project and cost per tap
 - o 2nd Ordinance goes to council upon completion of the project



Ashcroft Lift Station Improvements



Lift Station Project

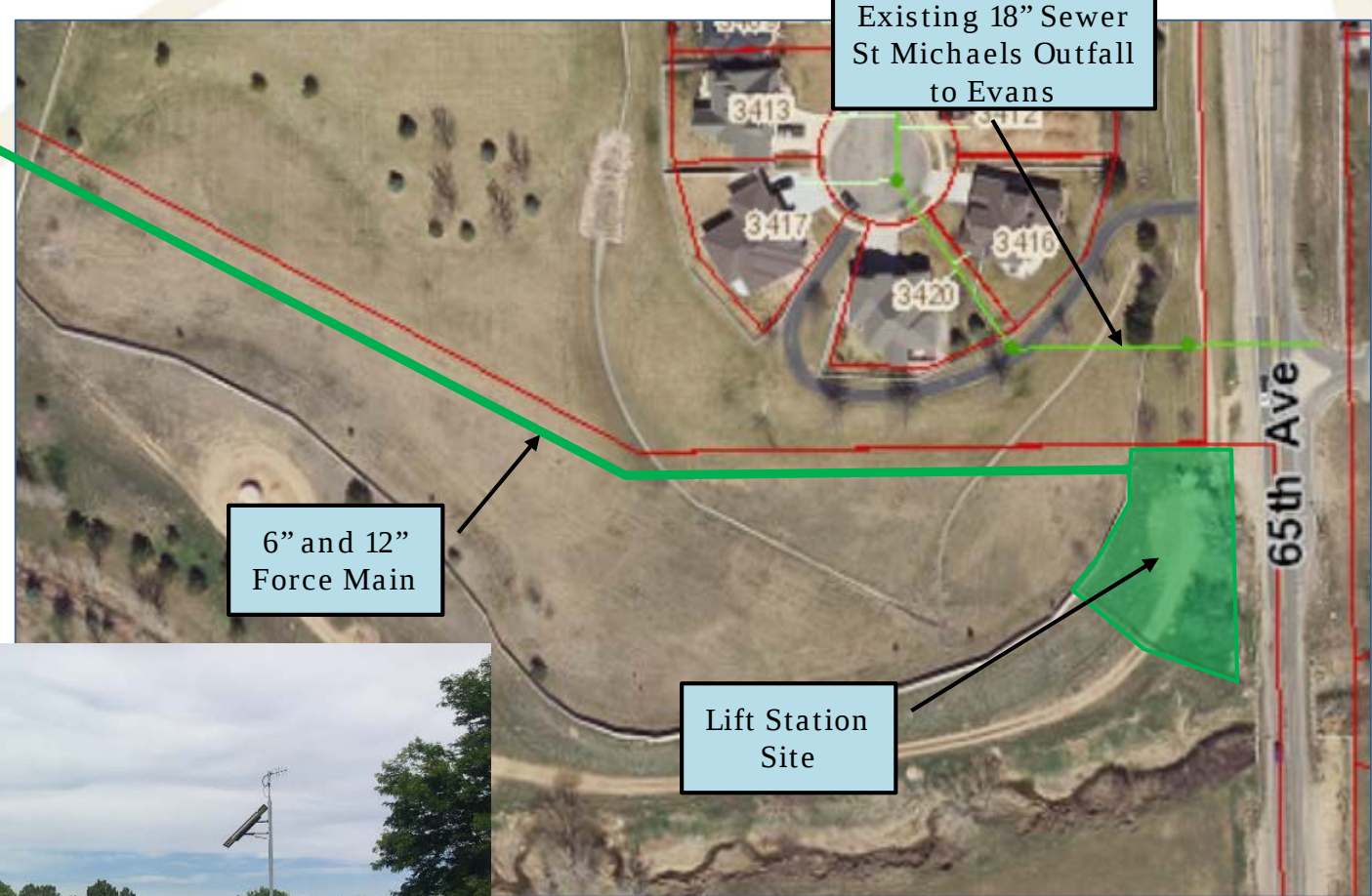
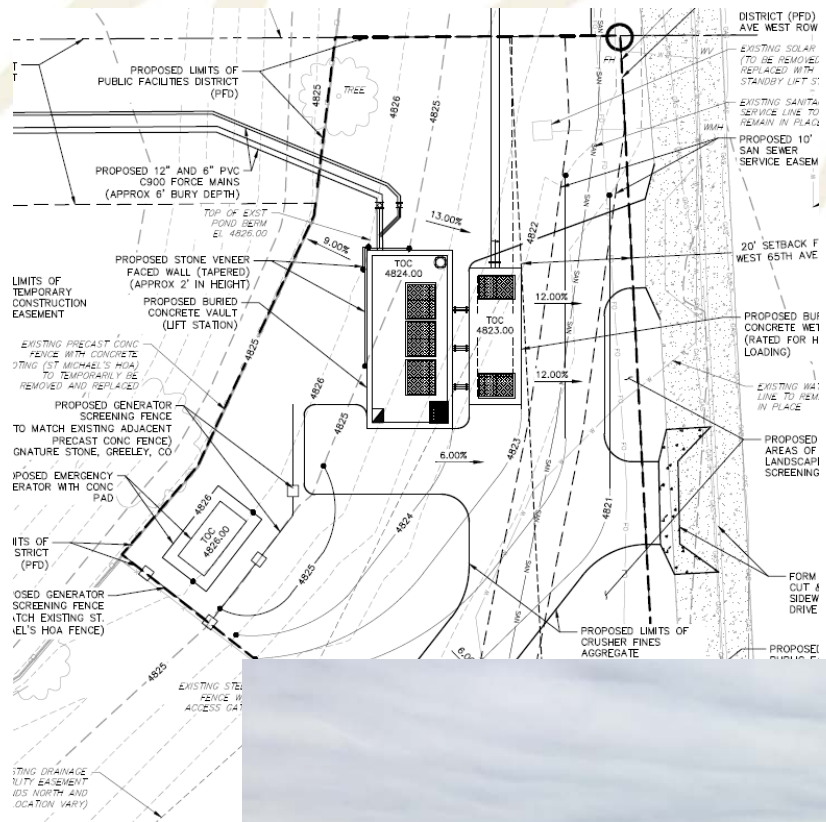
- Below Grade Dry Pit and Wet Pit, Odor Control, Force Main & Gravity Sewer
- Build Out Capacity 2.9 MGD (sized by on Greeley Comprehensive Plan)
- Emergency Gravity Overflow to Evans (Evans IGA Amendment)

Ashcroft Lift Station Project Schedule

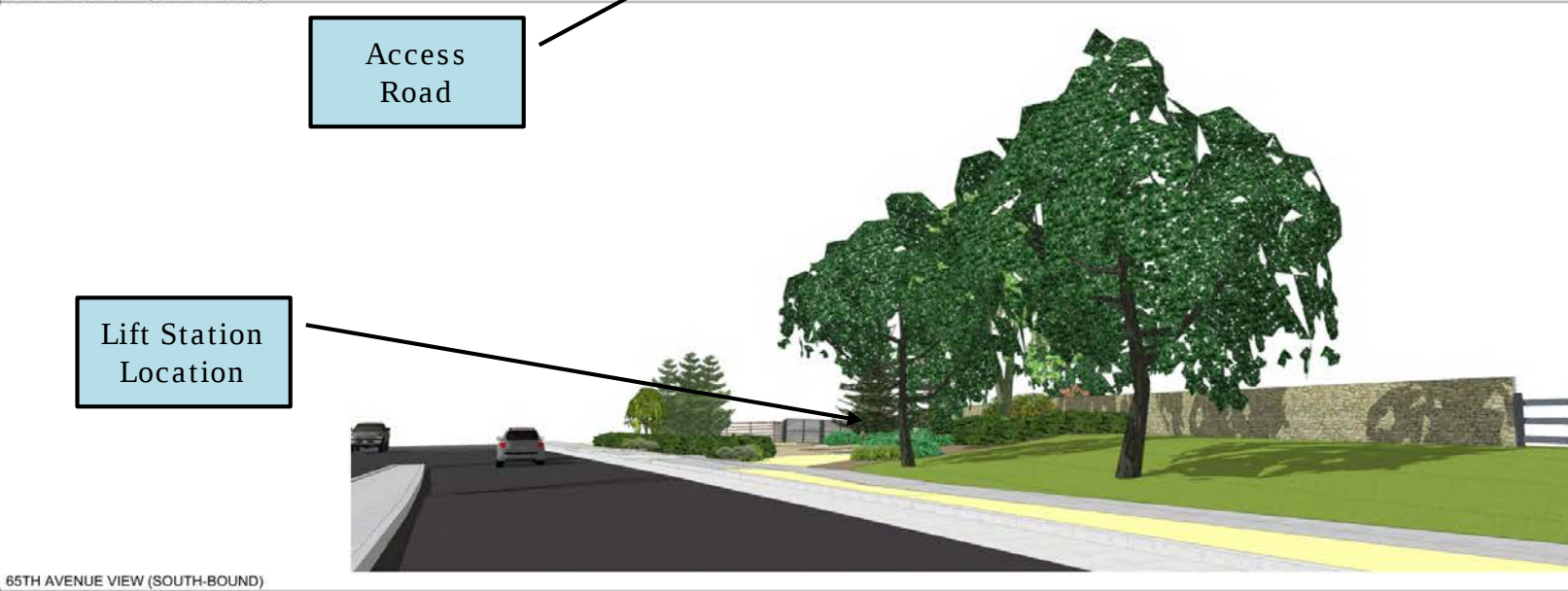
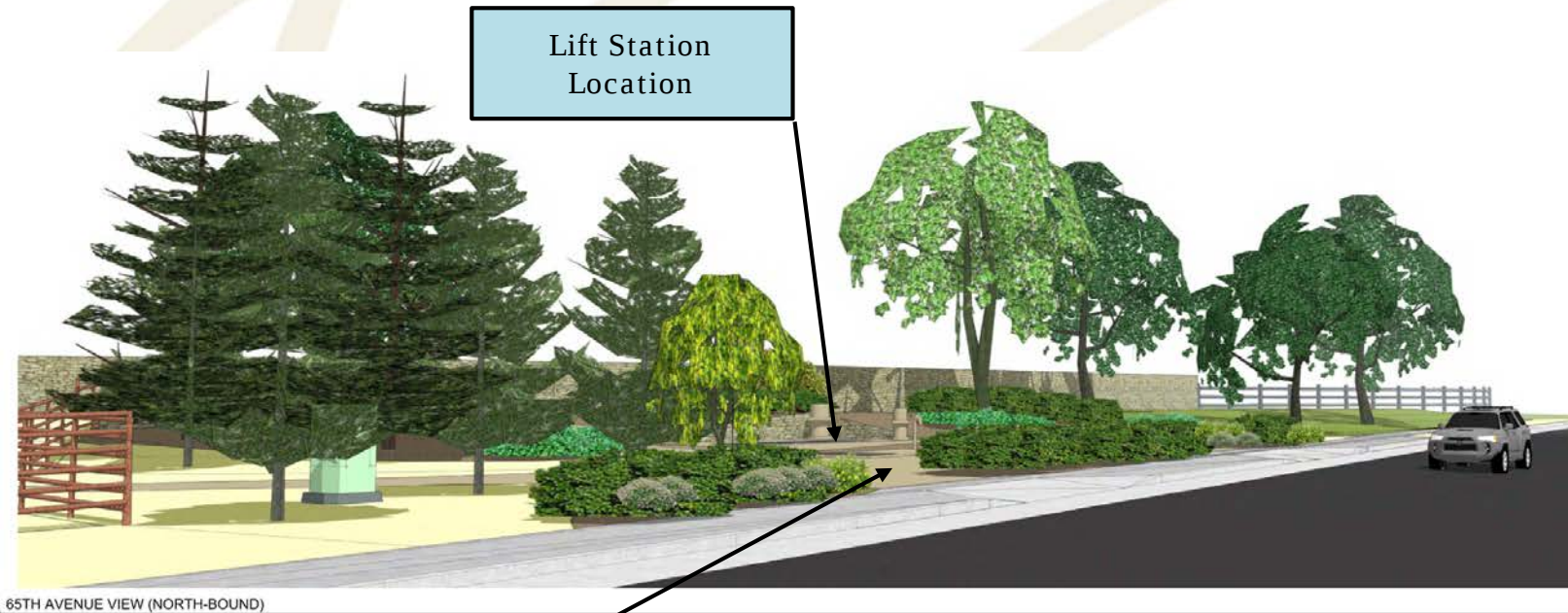
- 90% Construction Drawings - April 28, 2021
- Contractor Guaranteed Maximum Price - May 28, 2021
- Local Improvement District (LID) Ordinance - June 2021
- Construction anticipated start between July-November (dependent on land acquisition)
- 7 month construction duration



Lift Station Site



Concept Landscape Plan - Lift Station Site



Recommended City Council Action

- Recommend to City Council an Ordinance
Establishing Local Improvement District for the
Ashcroft Regional Lift Station



Ashcroft Draw Lift Station Local Improvement District

Questions?



WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 7

TITLE: EXECUTIVE SESSION

RECOMMENDATION:

ADDITIONAL INFORMATION:



WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER:

TITLE: PURCHASE AND SALE AGREEMENT FOR
 LONGS PEAK DAIRY WATER RIGHTS

RECOMMENDATION: APPROVE PURCHASE AND SALE
 AGREEMENT WITH LONGS PEAK DAIRY
 AND RECOMMEND CITY COUNCIL
 APPROVE THE DIVESTMENT OF CITY
 OWNED PROPERTY IDENTIFIED THEREIN

ADDITIONAL INFORMATION:

Staff recommends that the Water and Sewer Board approve the enclosed Purchase and Sale Agreement (PSA) for water rights with Longs Peak Dairy, LLC. The Agreement contemplates Greeley's purchase of five and one-sixth shares of the Water Storage and Supply Company (WSSC). Part of the negotiation was a leaseback with an initial term of twenty years, which may be extended for up to five additional one-year terms for the acquired WSSC shares. Sellers also agreed to grant Greeley a Right of First Refusal to purchase Seller's seven remaining shares of WSSC. Purchase price is \$10,900,000.00 plus two Greeley owned farms (The Varra Farm & The Hasbrouck Farm). The ROFR agreement, dry-up covenants, revegetation covenants, lease for the acquired water rights and leases for water rights associated with the two farms are included in the PSA.

Total purchase price in form of both cash and farm property for the Water Rights is \$12,900,000.00



PURCHASE AND SALE AGREEMENT
(Longs Peak Dairy, LLC)

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made and entered into as of the Effective Date (as defined in Section 1.15 below) by and between LONGS PEAK DAIRY, LLC ("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, commonly referred to as the "Owl Creek Farm", legally described on Exhibit "A" attached hereto and incorporated herein by reference (the "Historic Property").

B. Seller is the owner of water and water rights represented by five and one-sixth (5-1/6) shares of stock in The Water Supply and Storage Company (the "Ditch Company"), evidenced by (i) Stock Certificate No. 6576 (for two (2) shares), (ii) Stock Certificate No. 6581 (for one-half (1/2) of a share), (iii) Stock Certificate No. 6603 (for five-twelfths (5/12) of a share), (vi) Stock Certificate No. 6614 (for two (2) shares), and (v) Stock Certificate No. 6617 (for one-fourth (1/4) of a share), issued in the name of Seller, depicted on Exhibit "B", attached hereto and incorporated herein by reference (collectively, the "Ditch Company Certificates"), which have historically been delivered through the Larimer County Ditch.

C. Seller is also the owner of certain stock certificates evidencing an interest in certain lateral ditch companies, which have been used to convey the Water Rights to the Historic Property. The stock certificates include five and one-sixth (5-1/6) shares of stock in The Collins Ditch Company ("Collins"), evidenced by Stock Certificate No. 844 (for five and one-sixth (5-1/6) shares of the total represented six (6) shares); and five and one-sixth (5-1/6) shares of stock in The Lone Tree Lateral Company ("Lone Tree"), evidenced by Stock Certificate No. 230 (for five and one-sixth (5-1/6) shares of the total represented six (6) shares), issued in the name of Seller, depicted on Exhibit "C", attached hereto and incorporated herein by reference (collectively, the "Lateral Certificates").

D. To the best of the Parties' knowledge and belief, the Ditch Company Certificates and the Lateral Certificates represent ownership of and the right to divert, deliver, and use water under and a proportional interest in the water rights described on Exhibit "D" (the "Water Rights").

E. Seller is also the owner of water and water rights represented by seven (7) shares of stock in the Ditch Company, evidenced by Stock Certificate No. 6473 (for four (4) shares), Stock Certificate No. 6588 (for one and one-fourth (1-1/4) shares), Stock Certificate No. 6589 (for one-fourth (1/4) share), and Stock Certificate No. 6611 (for one and one-half (1-1/2) shares); eleven (11) shares of stock in The Peirce Lateral Company, evidenced by Stock Certificate No. 606 (for six (6) shares), Stock Certificate No. 628 (for three (3) shares), and Stock Certificate No. 631 (for two (2) shares); three and five-sixths (3-5/6) shares of stock in the Collins,

evidenced by Stock Certificate No. 851 (for (2) shares), and Stock Certificate No. 863 (for one (1) share), together with the balance of Stock Certificate No. 844 (for five-sixth (5/6) of a share); one and five-sixths (1-5/6) shares of stock in the Lone Tree, evidenced by Stock Certificate No. 255 (for one (1) share), together with the balance of Stock Certificate No. 230 (for five-sixth (5/6) of a share); and one and one-half (1-1/2) shares of stock in the Cross Cut Ditch Company (“Cross Cut”), evidenced by Stock Certificate No. 110, all of which have been issued in the name of Seller, depicted on Exhibit “E”, attached hereto and incorporated herein by reference (the “ROFR Certificates”), which have also historically been delivered through the Larimer County Ditch.

F. To the best of the Parties’ knowledge and belief, the ROFR Certificates represent ownership of and the right to divert and use water under and a proportional interest in the water rights described on Exhibit “D” (the “ROFR Water Rights”).

G. Greeley owns real property located in Weld County, Colorado, commonly referred to as the “Varra Farm” and the “Hasbrouck Farm”, legally described on Exhibit “F-1” and “F-2” respectively, attached hereto and incorporated herein by reference (collectively, the “Land”).

H. Seller desires to sell, and Greeley desires to purchase, the Property (defined below) and, as part of the consideration for the Property, Greeley desires to convey, and Seller desires to accept, the Land.

I. The Parties also desire to enter into an agreement at Closing (defined below) that will grant Greeley a right of first refusal to purchase the ROFR Water Rights and Seller a right of first refusal to buy back a portion of the Water Rights represented by Stock Certificate No. 844 (i.e., five and one-six (5-1/6) shares) conveyed to Greeley at Closing (the “ROFR Agreement”), in the form attached hereto as Exhibit “G”.

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:

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 “*Ancillary Interests*” means all right, title and interest of Greeley, without warranty of any type, in and to: (i) all governmental permits, licenses, certificates and authorizations relating to the construction, development, use or operation of the Land; (ii) any and all other rights, privileges and appurtenances owned by Greeley, which relate to or are used

in connection with the Land to the extent that they are assignable; and (iii) the Transferable Water Rights (defined below).

1.3 “*Augmentation Plans*” mean those augmentation plans known as Lonetree Members Accretion Company augmentation plan, decreed on January 14, 2009, in Case No. 2003CW0089, and the Cache la Poudre Augmentation Plan, decreed on February 10, 1975, in Case No. W-7921 (75).

1.4 “*Board*” means the Greeley Water and Sewer Board.

1.5 “*Closing*” means the closing of this transaction.

1.6 “*Closing Date*” means the date of the Closing.

1.7 “*Council*” means the Greeley City Council.

1.8 “*Covenants*” means the Restrictive Covenants-No Irrigation and Revegetation, in the form of Exhibits “H-1”, “H-2”, and “H-3” attached hereto and incorporated herein.

1.9 “*Deposit*” has the meaning given in Section 3.2.

1.10 “*Diligence*” has the meaning given in Section 5.1.D.

1.11 “*Ditch Company*” means The Water Supply and Storage Company.

1.12 “*Ditch Company Certificates*” has the meaning given in Recital B.

1.13 “*Double J Lease*” has the meaning given in Section 4.6.D.

1.14 “*Dry-up Area*” has the meaning given in Section 4.5.

1.15 “*Effective Date*” means the date upon which the last party hereunder signs this Agreement in accordance with Sections 13.16 and 13.17 below.

1.16 “*Excluded Water Rights*” means the water and water rights represented by four and one-fourth (4-1/4) shares of stock in the Ditch Company, represented by Stock Certificate No. 6698 and Stock Certificate No. 6721; four (4) shares of stock in the Collins, represented by Stock Certificate No. 855 and Stock Certificate No. 858; and five (5) shares of Lone Tree represented by Stock Certificate No. 251 and Stock Certificate No. 252, all of which have been issued to Greeley.

1.17 “*Governing Body Approvals*” has the meaning given in Section 6.1.

1.18 “*Governmental Approval Period*” has the meaning given in Section 6.1.A.

1.19 “*Greeley’s Off-Record Documents*” has the meaning given in Section 4.4.B.

1.20 “*Greeley’s Title Documents*” has the meaning given in Section 4.4.A.

1.21 “*Historic Property*” means the real property defined under Recital A above.

1.22 “*Improvements*” means all existing improvements, structures, pipes and fixtures placed, constructed, installed or located on the Land; all fences, gates, plants, trees, landscaping and other appurtenances, if any, upon, over or under the Land; and all furniture, furnishings, appliances, equipment, machinery and other items of personal property, including irrigation sprinklers systems and all associated pumps, motors, pipes, and fuel injection systems, if any, upon, over or under the Land.

1.23 “*Inspections*” has the meaning given in Section 5.1.A.

1.24 “*Inspection Period*” has the meaning given in Section 5.1.A.

1.25 “*JV Farms Lease*” has the meaning given in Section 4.6.C.

1.26 “*Land*” means the real property defined under Recital H above, which will be conveyed to Seller along with the Improvements and the Ancillary Interests.

1.27 “*Lateral Certificates*” has the meaning given in Recital C.

1.28 “*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.

1.29 “*Seller’s Off-Record Documents*” has the meaning given in Section 4.1.C.

1.30 “*Permitted Exceptions*” has the meaning given in Section 4.6.

1.31 “*Property*” means (i) the Water Rights and (ii) the Covenants.

1.32 “*Purchase Price*” has the meaning given in Section 3.1.

1.33 “*Specified Sum*” has the meaning given in Section 9.4.

1.34 “*ROFR Agreement*” has the meaning given in Recital J above.

1.35 “*ROFR Certificates*” has the meaning given in Recital F above.

1.36 “*ROFR Water Rights*” has the meaning given in Recital G above.

1.37 “*Title Commitment*” means a commitment for an owner’s policy of title insurance, whether for the Historic Property Title Commitment or the Land Title Commitment.

1.38 “*Title Company*” means Land Title Guaranty.

1.39 “*Transferable Water Rights*” all right, title and interest of Greeley, without warranty of any type, to all water and water rights, wells and well permits and rights, ditches and ditch rights, reservoirs and reservoir rights appurtenant to the Land, whether tributary, nontributary or not nontributary, including, but not limited to, any domestic and/or irrigation

wells and well permits located on or associated with or appurtenant to the Land; EXCEPT FOR THE EXCLUDED WATER RIGHTS. SELLER WILL ACCEPT ALL WELLS ASSOCIATED WITH THE LAND "AS-IS" IN ALL RESPECTS. The Transferable Water Rights include certain wells that are subject to the Augmentation Plans, the rights and obligations to which Greeley will assign, and Seller will assume, at Closing.

1.40 “*Seller’s Title Documents*” has the meaning given in Section 4.1.A.

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

1.42 “*Water Leases*” means those Irrigation Water Lease Agreements in the form of Exhibits “I-1”, “I-2”, and “I-3” attached hereto and incorporated herein.

ARTICLE 2

SALE OF PROPERTY, CONVEYANCE OF THE LAND, AND AGREEMENTS

2.1 Property. Seller agrees to sell, and Greeley agrees to buy, on the terms and conditions set forth in this Agreement, the Property.

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

2.2 Land. Greeley agrees to convey, and Seller agrees to accept, on the terms and conditions set forth in this Agreement, the Land.

A. Inclusions. The Improvements and the Ancillary Interests.

B. Exclusions. The Excluded Water Rights.

2.3 Water Lease. Greeley and Seller agrees to enter into the Water Leases at Closing, subject to the terms and conditions set forth in this Agreement.

2.4 ROFR Agreement. Greeley and Seller agrees to enter into the ROFR Agreement at Closing, subject to the terms and conditions set forth in this Agreement.

ARTICLE 3

PURCHASE PRICE

3.1 Purchase Price. Total consideration for the Property and the ROFR Agreement shall be (i) ten million, nine hundred thousand dollars (\$10,900,000.00) (“Purchase Price”); (ii) conveyance of the Land to Seller; and (iii) the Water Leases.

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 one hundred thousand dollars (\$100,000.00) (“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 ("Historic Property Title Commitment") issued by the Title Company covering the Historic Property in the amount of the Purchase Price, with such Historic Property Title Commitment setting forth the status of title to the Historic 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 the Historic Property (the copies of all recorded documents in the Historic Property Title Commitment are collectively referred to as "Seller's Title Documents").

B. A fully executed historical consumptive use affidavit and questionnaire describing the historical use of (i) the Water Rights, in the form of Exhibit "J-1" attached hereto and incorporated herein, and (ii) the ROFR Water Rights, in the form of Exhibit "J-2" attached hereto and incorporated herein.

C. To the extent the same exist, true and correct copies of all Company documents related to the Water Rights and the ROFR 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. Seller 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 the end of 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 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 Seller; (ii) contracts or other agreements relating to the development, operation, maintenance or leasing or otherwise affecting the Water Rights and the ROFR Water Rights and/or Historic Property; and (iii) any engineering, investigation or inspection document or reports related to the Water Rights and the ROFR Water Rights and/or Historic Property, (collectively referred to as "Seller's Off-Record Documents").

4.2 Condition and Vesting of Title to the Water Rights; Conveyance. At Closing, Seller shall convey the Water Rights to Greeley by special warranty deed, in the form attached as Exhibit "K" free and clear of all liens and encumbrances.

4.3 Title Insurance for the Water Rights. The purpose of the Historic Property Title Commitment is to enable Greeley to conduct the title review described in Article 5 below, and said Historic Property 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 Exhibits H-1, H-2, and H-3) at its expense.

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

A. A commitment for an owner's policy of title insurance ("Land Title Commitment") issued by the Title Company covering the Land in the amount of two million dollars (\$2,000,000.00), with such Land 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 Land (the copies of all recorded documents in the Land Title Commitment are collectively referred to as "Greeley's Title Documents").

B. To the extent the same exist, true and correct copies of all: (i) governmental permits, licenses, certificates and authorizations relating to the construction, development, use or operation of the Land; (ii) well permits relating to the exposure of groundwater to evaporation and/or consumption, together with any "substitute water supply plans" describing methods used to replace evaporative and consumptive groundwater losses; (iii) copies of all contracts or other agreements relating to the operation, maintenance or leasing of the Land or any portion thereof; and (iv) any other agreements affecting the Land which are not included in the Title Documents provided by the Title Company (collectively referred to as "Greeley's Off-Record Documents").

4.5 Survey of Historic Property. Prior to the expiration of the Inspection Period, Greeley shall have prepared a survey of the Historic Property, depicting that area which shall be subject to the Covenants ("Dry-up Area"). The Dry-up Area shall include sufficient acreage historically irrigated by the Water Rights to enable Greeley to obtain judicial approval of a change of use of the Water Rights and to obtain full credit for the historical consumptive use of the Water Rights when the Historic Property is subject to the Covenants. Upon completion of the survey, this Agreement will be deemed amended to incorporate the legal description and depiction of the Dry-up Area on Exhibit H-1 and the Parties will enter into an amendment to document the same.

4.6 Condition and Vesting of Title to the Land; Conveyance. At Closing, Greeley agrees to convey, and Seller agrees to accept, title to the Land free and clear of all liens and encumbrances subject to the following ("Permitted Exceptions") and to convey the same by special warranty deed, in the form attached as Exhibits "L-1" and "L-2".

A. All covenants, easements, agreements, restrictions and other recorded documents set forth in the Land Title Commitment, except for mortgages, mechanic's liens and other financial encumbrances which shall be discharged by Greeley at Closing

B. Any matters created by or through Seller.

C. Existing written Farm Lease, dated December 13, 2016, by and between JV Farms, Inc. and Greeley, previously provided to Seller on or about March 3, 2021 ("JV Farms Lease").

D. Existing written Farm Lease, dated June 9, 2016, by and between Double J Farms & Feeding, Inc. and Greeley, previously provided to Seller on or about March 3, 2021 ("Double J Lease").

4.7 Disapproved Title Matters. Except for Permitted Exceptions, Seller may disapprove of title exceptions ("Disapproved Matter") by delivering written notice of objection to Greeley 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 Greeley 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 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 Greeley's expense; (ii) by obtaining title insurance insuring against the effect of the Disapproved Matter; or (iii) by any other means acceptable to Seller (each a "Cure"). Within ten (10) days after Greeley's receipt of Seller's notice of a Disapproved Matter, Greeley shall notify Seller in writing whether Greeley elects to Cure such Disapproved Matter and, if it elects to do so, the method or means of the Cure. If Greeley elects, but fails or is unable to Cure a Disapproved Matter prior to the Closing Date, then Seller may, on the date of Closing, deliver written notice to Greeley that it objects to the Land 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 Section 6.1.C. If Seller does not exercise its rights pursuant to this Section 4.7, then Seller 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.

4.8 Title Insurance for the Land. The Title Company shall commit at Closing that, as soon as reasonably practical after the Closing, the Title Company shall issue to Seller an ALTA owner's form of title insurance policy, insuring that title to the Land is vested in Seller, subject to the Permitted Exceptions ("Title Policy").

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 Historic Property (or any other property owned by Seller that is irrigated with the ROFR Water Rights) at all reasonable times, to perform such tests or inspections, as Greeley deems desirable, to allow Greeley to evaluate the Water Rights and the ROFR 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 and the ROFR 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 the ROFR Water Rights and other Company shares obtained or to be 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 and the ROFR 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 such Inspections. Seller 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 Historic Property (or any other property owned by Seller that is irrigated with the ROFR Water Rights); (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 Historic Property (or any other property owned by Seller that is irrigated with the ROFR Water Rights) by reason of the exercise of its rights hereunder; and (vi) shall restore the Historic Property (or any other property owned by Seller that is irrigated with the ROFR Water Rights) as nearly as practicable to substantially the same condition in which the Historic Property 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 Historic Property (or any other property owned by Seller that is irrigated with the ROFR Water Rights) without Seller’s prior written consent, which consent may be withheld in Seller’s sole discretion.

C. Seller’s Inspections and Conditions of Access. During the Inspection Period, and any extension thereof, Seller and its authorized agents, representatives and consultants shall be entitled to enter upon the Land at all reasonable times, to perform such tests or inspections, as Seller deems desirable, to allow Seller to evaluate the condition and use of the Land (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 Seller’s direction. Notwithstanding the foregoing, Seller acknowledges that the Land is currently subject to those leases described under Section 4.6 above. As such, Greeley agrees to assist Seller in obtaining access to the Land to conduct such Diligence subject to the terms of the applicable lease, and Seller agrees to abide by the same when accessing the Land.

D. Conditions of Seller's Access. Seller 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 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 Land; (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 Diligence activities were undertaken. Notwithstanding anything in this Agreement to the contrary, Seller shall not be permitted to perform any invasive tests on the Land without Greeley's prior written consent, which consent may be withheld in Greeley's sole discretion.

5.2 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 Property or its Inspections relating thereto, 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. If Greeley's written notice of termination is not delivered to Seller prior to the expiration of the Inspection Period, the Deposit shall not be refunded to 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.

5.3 Seller's Objections. If during the Inspection Period, Seller shall, for any reason, in Seller's sole discretion, judgment and opinion, disapprove or be dissatisfied with any aspect of the Land or its Diligence relating thereto, Seller may deliver written notice to Greeley that it objects to the Land in accordance with the terms and conditions of Section 6.1.C. If Seller does not exercise its rights pursuant to this Section 5.3 prior to the expiration of the Inspection Period, then Seller shall be deemed to have accepted the Land and the Parties shall proceed to Closing, subject to the provisions of this Agreement, without any change to the Purchase Price or other remedy.

5.4 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	Seller's Title Documents	Fourteen (14) days following the Effective Date
§ 4.1	Seller's Off-Record Documents	Fourteen (14) days following the Effective Date
§ 4.4	Greeley's Title Documents	Fourteen (14) days following the Effective Date
§ 4.4	Greeley's Off-Record Documents	Fourteen (14) days following the Effective Date
§ 5.1	Inspection Period	Sixty-three (63) days 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	Governing Body Approvals	Twenty-eight (28) days after the expiration of the Inspection Period
§ 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

ARTICLE 6

CLOSING

CLOSING CONTINGENCIES; CLOSING

6.1 Closing Contingencies. Sections 6.1.A and 6.1.B are collectively referred to as the “Governing Body Approvals.”

A. Governing Body Approval. Greeley’s obligation to close on the Property is contingent upon (i) the Board’s authorization to close on the Property within twenty-eight (28) days after the expiration of the Inspection Period (“Governmental Approval Period”) and (ii) the Council’s appropriation of funds for the Purchase Price on or before the expiration of the Governmental Approval Period. In the event that the Board has not authorized Closing on the Property or the Council fails to appropriate funds for the Purchase Price prior to the expiration of the Governmental Approval Period, then, in such event, upon Greeley’s written notice 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.

B. Authorization to Convey Land. Greeley’s obligation to convey title to the Land is subject to the Council’s authorization to convey the Land to Seller on or before the expiration of the Governmental Approval Period. In the event the Council does not authorize the conveyance, then, in such event, upon Greeley’s written notice to Seller, the Parties shall (i) amend this Agreement to exclude (x) conveyance of the Land (together with the Improvements and the Ancillary Interests) to Seller and (y) one (1) share of Ditch Company Stock, and the corresponding Lateral Right, from the description of the Water Rights and (ii) extend the Closing Date in order to accomplish the same. All other terms shall remain the same, including but not limited to the Purchase Price.

C. Acceptance of the Land. Seller’s obligation to accept title to the Land (together with the Improvements and the Ancillary Interests) is subject to Seller’s satisfaction of the Land as provided herein. In the event Seller exercises its right to object to the Land in accordance with Section 4.7 or Section 5.3, then, in such event, upon Seller’s written notice to Greeley, the Parties shall (i) amend this Agreement to exclude (x) conveyance of the Land (together with the Improvements and the Ancillary Interests) to Seller and (y) one (1) share of stock from Ditch Company Certificates, and the shares of stock (i.e., one (1) Collins and one (1)

Lone Tree) from the corresponding Lateral Certificates, from the description of the Water Rights and (ii) extend the Closing Date in order to accomplish the same. All other terms shall remain the same, including but not limited to the Purchase Price.

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 K.

(2) The original Ditch Company Certificates and Lateral Certificates.

(3) A stock assignment(s) transferring ownership (or partial ownership where applicable) of the Ditch Company Certificates and the Transferable Lateral Rights, and the proportional Water Rights represented thereby, in the form of Exhibits "M-1", "M-2", and "M-3".

(4) The Covenants in the form of Exhibits H-1, H-2, and H-3.

(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.

(7) A certificate as to Taxpayer Identification Number as required by law.

(8) The Water Leases in the form of Exhibits I-1, I-2, and I-3.

(9) The ROFR Agreement in the form of Exhibit G.

(10) Assignment of the Augmentation Plans.

(11) A closing statement executed by Seller.

(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) 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) A special warranty deed(s) conveying the Land free and clear of all liens and encumbrances in the form of Exhibit L-1 and L-2.

(3) A bargain and sale deed(s) conveying the Transferable Water Rights in the form of Exhibit "N-1" and "N-2".

(4) Assignment and Bill of Sale for the Improvements and Ancillary Interests.

(5) 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.

(6) Copy of written notice to JV Farms, Inc. (i) that the JV Farms Lease shall terminate on December 31, 2021, and (ii) that the second installment of the Annual Lease Amount, as defined therein, shall be due and payable to Seller on December 15, 2021.

(7) Copy of written notice to Double J Farms & Feeding, Inc. (i) that the Double J Farm Lease shall terminate on December 31, 2021 and (ii) that the second installment of the Annual Lease Amount, as defined therein, shall be due and payable to Seller on December 15, 2021.

(8) The Water Leases in the form of Exhibits I-1, I-2, and I-3.

(9) The ROFR Agreement in the form of Exhibit G.

(10) Assignment of the Augmentation Plans.

(11) A closing statement executed by Greeley.

(12) 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 (or lateral or augmentation company) associated with and accruing to the Ditch Company Certificates (or Lateral 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 Lease Payments. Under the JV Farms Lease and the Double J Lease, the Annual Lease Amount (as defined under the applicable lease) for 2021 is due and payable in two installments. The first installment is due and payable on March 31, 2021, and the second

installment is due and payable on December 15, 2021. At Closing, the Annual Lease Amount for 2021 for each lease shall not be prorated. Instead, Greeley shall retain the full amount of the first installment and Seller shall be owed and entitled to retain the full amount of the second installment due and payable on December 15, 2021.

7.3 Closing Costs. Greeley shall pay for the cost of recording of the deed for the Water Rights, the Covenants, water stock transfer fees, the initial basic premium for the Title Policy on the Land, and one-half (1/2) of the Title Company closing costs. Seller shall pay for the cost of recording the deeds for the Land and Transferable Water Rights and one-half (1/2) of the Title Company closing costs and all title insurance endorsements on the Land. 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.

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 and the Historic Property. 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, Seller shall not encumber the Water Rights and the Historic Property or any interest therein 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, or the Historic Property.

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 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 Land. To the best of Greeley's knowledge, the Land is free of any liens, encumbrances and third party claims except those of Seller. From the Effective Date of this Agreement until the Closing, and except for the Permitted Exceptions, Greeley shall not encumber the Land or any interest therein in any way nor grant any property or contract right relating to the Land or any other interests without the prior written consent of Seller.

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 Land or other interests related thereto.

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

D. Status. Greeley has all requisite legal power and authority to own and convey the 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 Land, 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 Land.

Greeley shall provide Seller with a written certification at Closing confirming that the foregoing representations are true and correct as of the Closing Date.

8.3 Water Rights Adjudication. The Parties acknowledge and agree that a change of the 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 8.3 and the covenants and obligations arising therefrom shall survive the Closing and shall not be deemed merged into the closing documents.

8.4 Lease Renewals. The Parties agree that the Water Leases are a material part of the consideration to Seller. Due to the length of the Water Leases' terms, Seller has requested, and Greeley has agreed, that Greeley will be open to discussing new or renewal leases at the end of

the Water Leases' terms, if the water rights leased thereunder are available for continued irrigation use. Seller understands and acknowledges that the representations in this Section 8.4 are non-binding but are intended to represent the Seller's and Greeley's desire to negotiate a new or renewal lease in good faith at the end of the Water Leases' terms. Nothing in this Section 8.4 shall be interpreted to create an obligation to renew the Water Leases upon their expiration or termination.

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 and convey the Land 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 under Section 6.1.
- B. Delivery and execution by Seller of all items and other instruments required to be delivered by Seller to the Closing.
- C. All of the actions by Seller contemplated by this Agreement shall have been taken.
- D. There shall be no uncured default by Seller of any of its obligations under this Agreement.
- E. 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 (i) all funds deposited by Greeley under this Agreement as of such date shall be immediately returned to Greeley and (ii) 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 (i) retain the Deposit as liquidated damages and (ii) 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. 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 SELLER'S DAMAGES WOULD BE DIFFICULT TO DETERMINE AND THAT THE SPECIFIED SUM IS A REASONABLE ESTIMATE OF SELLER'S DAMAGES.

ARTICLE 10 CONDEMNATION

If prior to Closing all or a "Material Part" (defined below) of the Property and/or Historic Property 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 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:

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
e-mail: adam.jokerst@greeleygov.com
cole.gustafson@greeleygov.com

With a copy to:

City of Greeley
Attention: City Attorney
1100 10th Street, Ste. 401
Greeley, CO 80631
Telephone: (970) 350-9757
e-mail: jerrae.swanson@greeleygov.com
dan.biwer@greeleygov.com

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.

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 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, 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. Greeley shall deliver to Seller possession of the

Land, subject to the Permitted Exceptions, on the Closing Date, upon release from escrow of all items to be delivered by Seller to the Closing.

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. 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.

13.15 Seller 1031 Exchange. At the request of the Seller, Greeley will cooperate with the Seller in the achievement of a tax-deferred real estate exchange pursuant to Section 1031 of the Internal Revenue Code and the Treasury Regulations promulgated thereunder. A material part of the consideration to the Seller is Greeley's promise of cooperation. Greeley shall not be required to incur any additional liability or expense in connection with the Seller's tax-deferred exchange transaction nor shall Greeley be required to accept title to any real property other than the Property described hereinabove.

13.16 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 AND SUCH APPROVAL SHALL BE EVIDENCED BY THE SIGNATURE OF THE CHAIRMEN OF THE GREELEY WATER AND SEWER BOARD.

13.17 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.

[Signature Page Follows]

LONGS PEAK DAIRY, a Colorado limited liability company

Date: 5-12-2021

By: Wade Podtburg
Name: Wade Podtburg
Title: Managing Partner

THE CITY OF GREELEY, COLORADO,
a Colorado home rule municipal corporation

Date: _____

By _____
Name: Harold Evans
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

RECOMMENDED:

By _____
Director of Water and Sewer

LONGS PEAK DAIRY, a Colorado limited liability company

Date: _____

By: _____

Name: _____

Title: _____

THE CITY OF GREELEY, COLORADO,
a Colorado home rule municipal corporation

Date: _____

By _____

Name: Harold Evans

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

RECOMMENDED:

By _____
Director of Water and Sewer

EXHIBIT "A" TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

Legal description of the Owl Creek Farm

PARCEL 1:

(Weld County Parcel No. 055135400002) – Lot D of Recorded Exemption No. 0551-35-4 RE-4888, recorded June 22, 2009 at Reception No. 3631749, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135400031) – Lot D of Recorded Exemption No. 0551-35-3 RE-4887, recorded June 22, 2009 at Reception No. 3631748, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135100008) – Lot D of Recorded Exemption No. 0551-35-2 RE-4692, recorded December 6, 2007 at Reception No. 3522044, being part of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135200025) – Lot D of Recorded Exemption No. 0551-35-2 RECX 15-0003, recorded May 14, 2015 at Reception No. 4107116, being part of the N ½ of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado; containing 121.57 acres more or less.

PARCEL 2:

Lots A, B and C of Recorded Exemption No. 0551-35-2 RE-4693 recorded December 6, 2007 at Reception No. 3522045, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

Lot A of Recorded Exemption No. 0551-35-2 RE-4692 recorded December 6, 2007 at Reception No. 3522044, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

Lot A of Amended Recorded Exemption No. 0551-35-4 AmRE-3698 recorded December 6, 2007 at Reception No. 3522043, being a portion of the South Half of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

EXHIBIT “B” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Ditch Company Certificates)

INCORPORATED UNDER THE LAWS OF
THE STATE OF COLORADO

NUMBER **6576** SHARES *** (2) TWO ***

The Water Supply & Storage Company

900 TOTAL AUTHORIZED SHARES COMMON STOCK - PAR VALUE \$100.00

* * LONGS PEAK DAIRY LLC AND PUBLIC TRUSTEE OF WELD COUNTY * *

This Certifies that * * FOR THE USE OF FARM CREDIT SERVICES OF THE MOUNTAIN PLAINS * * is the owner of * * (2) TWO * * Shares

The Water Supply & Storage Company

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed

this 15th day of February A.D. 2011

Dana M. Parker SECRETARY *John J. Mason* PRESIDENT

B102 BARNES CORPORATE SUPPLIES

INCORPORATED UNDER THE LAWS OF
THE STATE OF COLORADO

NUMBER **6581** SHARES *** ONE-HALF ***

The Water Supply & Storage Company

900 TOTAL AUTHORIZED SHARES COMMON STOCK - PAR VALUE \$100.00

* * LONGS PEAK DAIRY LLC AND PUBLIC TRUSTEE OF WELD COUNTY * *

This Certifies that * * FOR THE USE OF FARM CREDIT SERVICES OF THE MOUNTAIN PLAINS * * is the owner of * * (1/2) ONE-HALF * * Shares

The Water Supply & Storage Company

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed

this 8th day of MARCH A.D. 2011

Dana M. Parker SECRETARY *John J. Mason* PRESIDENT

B102 BARNES CORPORATE SUPPLIES

INCORPORATED UNDER THE LAWS OF
THE STATE OF COLORADO



NUMBER **6603** SHARES **5/12**

The Water Supply & Storage Company

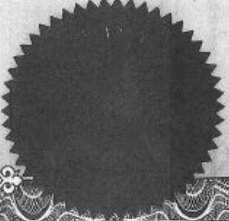
900 TOTAL AUTHORIZED SHARES COMMON STOCK - PAR VALUE \$100.00

This Certifies that Longs Peak Dairy LLC, Public Trustee of Weld County and for the use of Farm Credit Services of the Mountain Plains, PCA, a wholly owned subsidiary of the Mountain Plains, PCA is the owner of 5/12 Shares

The Water Supply & Storage Company
transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed

this 13th day of December A.D., 2011
Heather Thiele SECRETARY John A. Mason PRESIDENT



5102 WATER SUPPLY & STORAGE

INCORPORATED UNDER THE LAWS OF
THE STATE OF COLORADO



NUMBER **6614** SHARES **TWO (2.0)**

The Water Supply & Storage Company

900 TOTAL AUTHORIZED SHARES COMMON STOCK - PAR VALUE \$100.00

This Certifies that LONG'S PEAK DAIRY, LLC and AMERICANAG CREDIT, FLCA is the owner of TWO (2.0) Shares

The Water Supply & Storage Company
transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed

this 12th day of June A.D., 2012
Heather Thiele SECRETARY John A. Mason PRESIDENT



5102 WATER SUPPLY & STORAGE

INCORPORATED UNDER THE LAWS OF	
THE STATE OF COLORADO	
NUMBER 6617	SHARES 1/4
The Water Supply & Storage Company	
900 TOTAL AUTHORIZED SHARES COMMON STOCK - PAR VALUE \$100.00	
This Certifies that LONG'S PEAK DAIRY, LLC AND AMERICANAG CREDIT, FICA is the owner of 1/4 (ONE QUARTER) Shares	
The Water Supply & Storage Company transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.	
In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed	
this 27th day of June A.D. 2012	
Heather Thiele SECRETARY	
[Signature]	

8102 BNSH COMPANY SUPPLY, INC.

EXHIBIT “C” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Lateral Certificates)

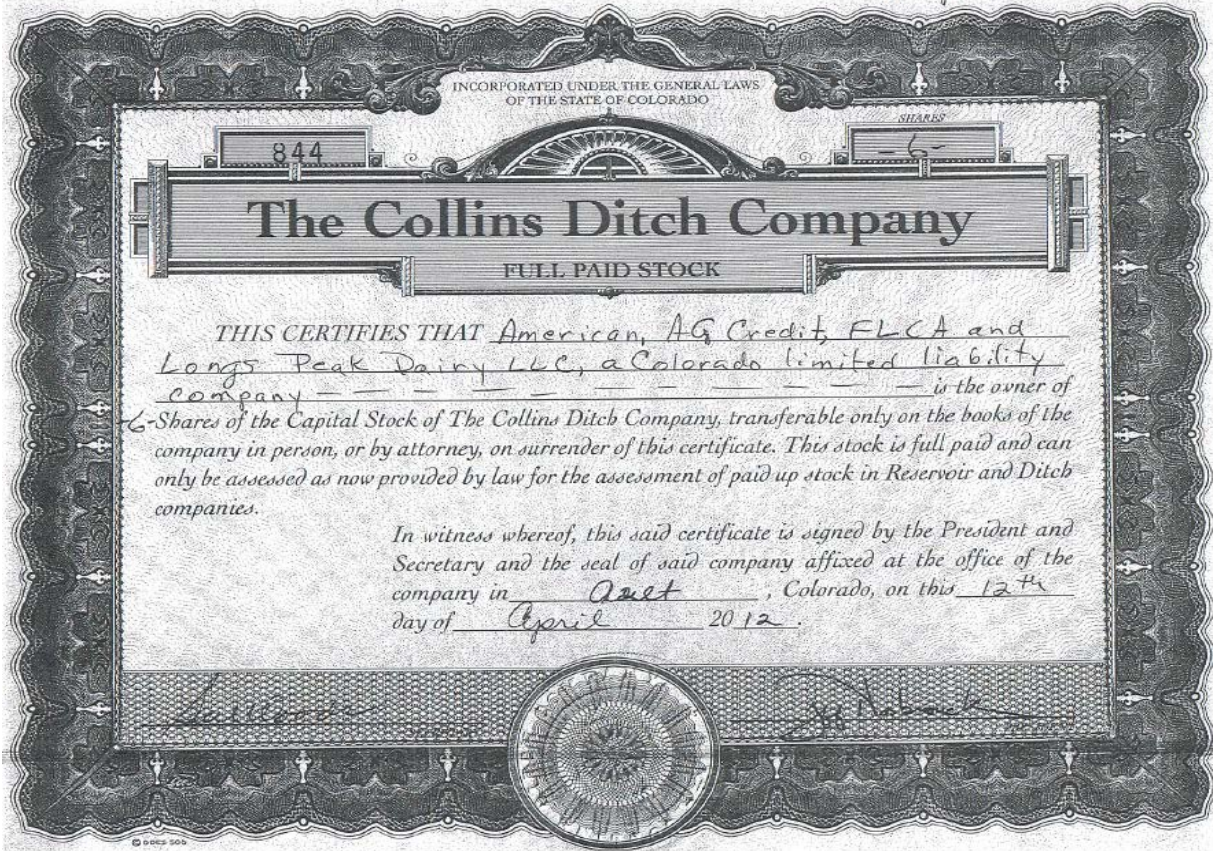


EXHIBIT “D” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See Attached WSSC Water Rights (i.e., Exhibit B from 07CW190))

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 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 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 B
Water Supply Storage Company Water Rights

<u>Name</u>	<u>Amount</u>		<u>Source</u>	<u>Location</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	10 40 160 Sec Twn Rge 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 “E” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached copies of the ROFR Certificates)

006473 INCORPORATED UNDER THE LAWS OF THE STATE OF COLORADO * FOUR * SHARE (4)

The Water Supply & Storage Co.

CAPITAL STOCK, \$60,000 SHARES, \$100.00 EACH

This is to certify That *The Public Trustee of Weld County, for the use of Farm Credit Services of the Mountain Plains, FLCA, a wholly owned subsidiary of Farm Credit Services of the Mountain Plains, ACA, as lienholder, and Longs Peak Dairy, LLC, Equity Owners * is the owner of Four (4) Shares of the Capital Stock of The Water Supply & Storage Company, transferable only on the books of said Company, in person or by attorney, on surrender of this Certificate properly endorsed.

IN WITNESS WHEREOF, the said Company has caused this Certificate to be signed by its President and Secretary and the corporate seal to be affixed, at Fort Collins, Colorado, this 7th day of February 2007

Diana M. Parker Secretary Thomas L. Man President

INCORPORATED UNDER THE LAWS OF THE STATE OF COLORADO

NUMBER 6588 SHARES *** 1/4 ***

The Water Supply & Storage Company

900 TOTAL AUTHORIZED SHARES COMMON STOCK - PAR VALUE \$100.00

***LONGS PEAK DAIRY, LLC and PUBLIC TRUSTEE OF WELD COUNTY for the use of FARM CREDIT SERVICES OF THE MOUNTAIN PLAINS, PCA, a wholly owned subsidiary of THE MOUNTAIN PLAINS, ACA. *** is the

Certifies that ONE & ONE FOURTH Shares of The Water Supply & Storage Company transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed this 31st day of MAY A.D. 2011

Heather A. Thiele SECRETARY John R. Man PRESIDENT

INCORPORATED UNDER THE LAWS OF
THE STATE OF COLORADO



NUMBER **6589** SHARES *** ONE-FOURTH ***
(1/4)

The Water Supply & Storage Company

900 TOTAL AUTHORIZED SHARES COMMON STOCK - PAR VALUE \$100.00

This Certifies that Longs Peak Dairy, LLC and Public Trustee of Weld County for the use of Farm Credit Services of the Mountain Plains, PCA, a wholly owned subsidiary of the Mountain Plains, ACA is the owner of ***** One-Fourth (1/4) ***** Shares

The Water Supply & Storage Company

transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed

this 22nd day of June A.D. 2011

Heather Thiele [Signature]
SECRETARY PRESIDENT

 8102 WATER SUPPLY & STORAGE COMPANY

INCORPORATED UNDER THE LAWS OF
THE STATE OF COLORADO



NUMBER **6611** SHARES **** 1 1/2 ****

The Water Supply & Storage Company

900 TOTAL AUTHORIZED SHARES COMMON STOCK - PAR VALUE \$100.00

This Certifies that ** LONGS PEAK DAIRY, LLC and AMERICAN AgCREDIT, FLCA ** is the owner of ***** ONE and ONE HALF (1 1/2) ***** Shares

The Water Supply & Storage Company

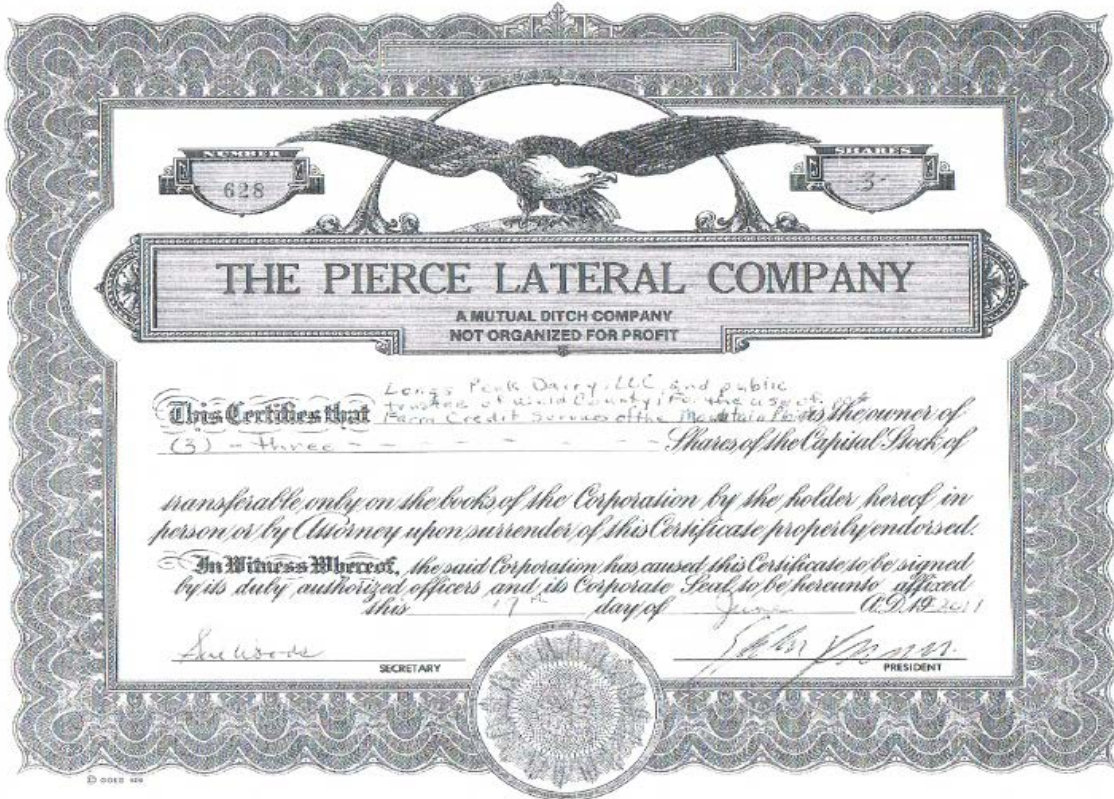
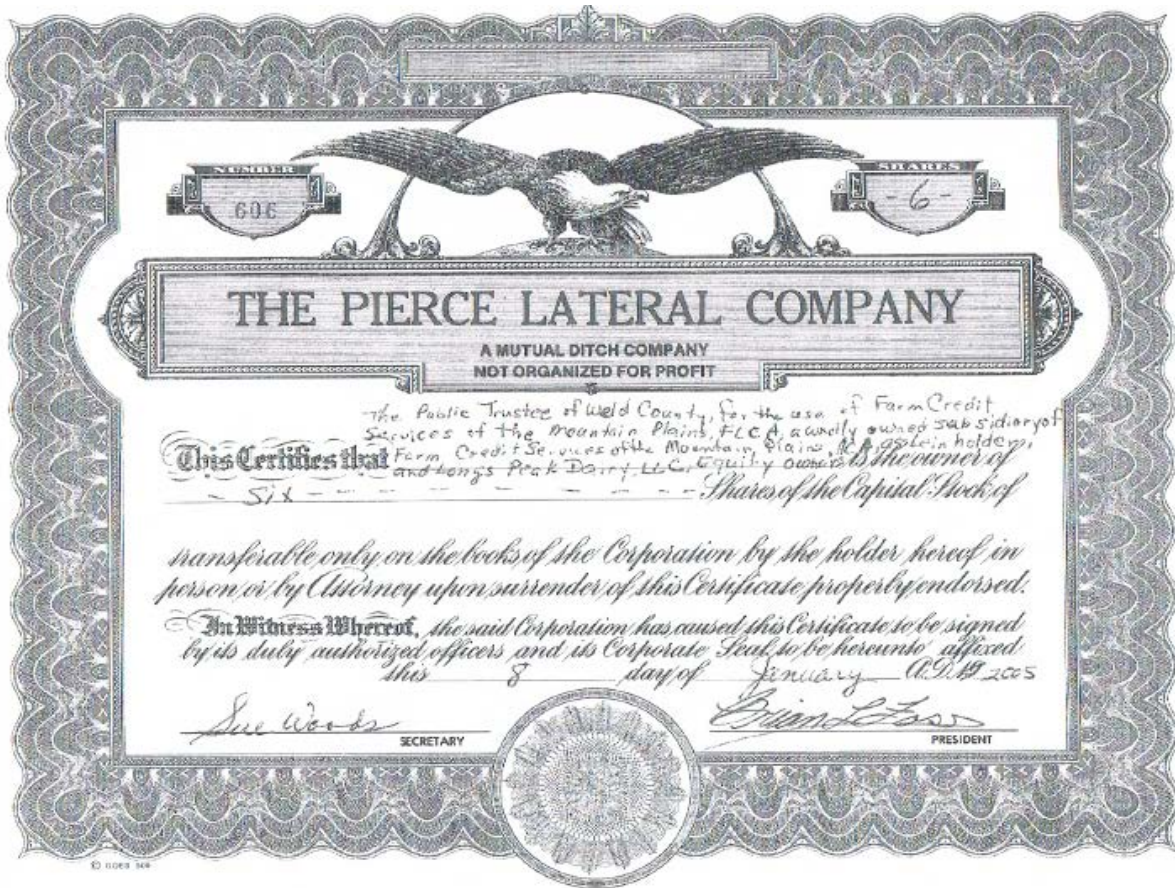
transferable only on the books of the Corporation by the holder hereof in person or by Attorney upon surrender of this Certificate properly endorsed.

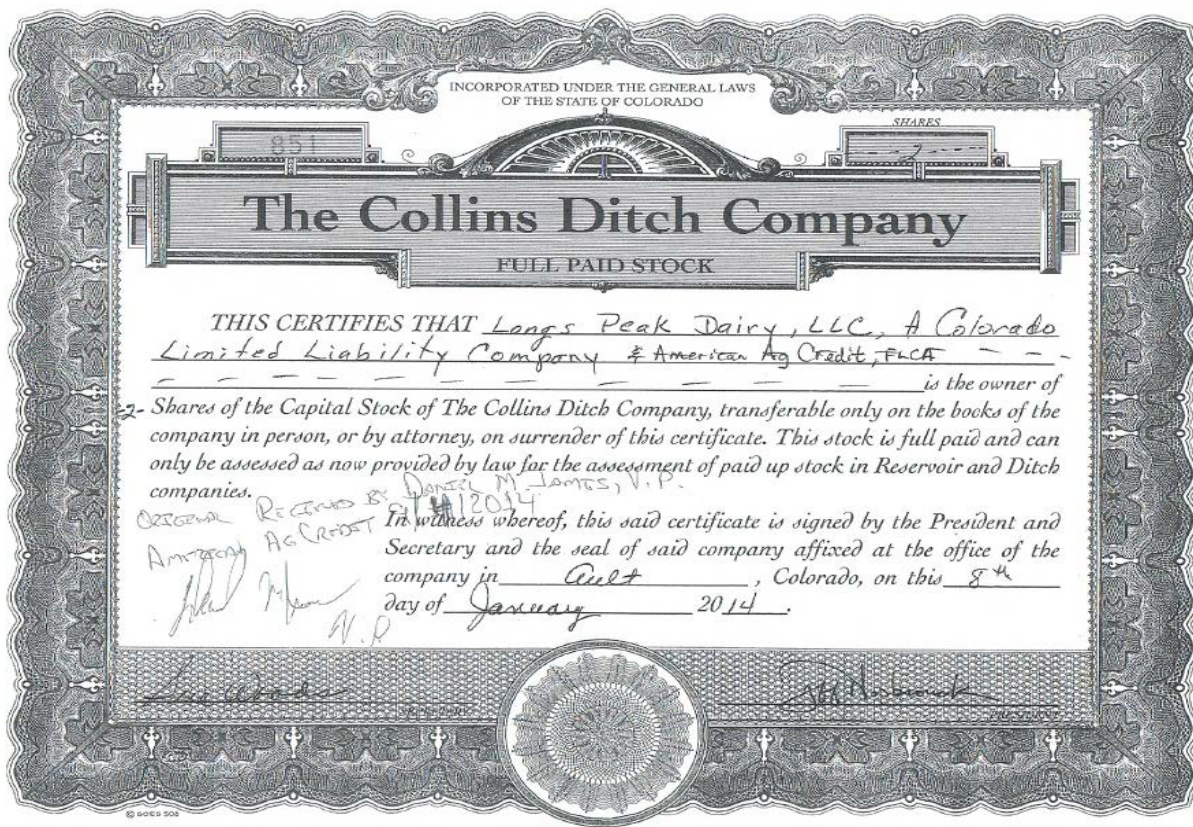
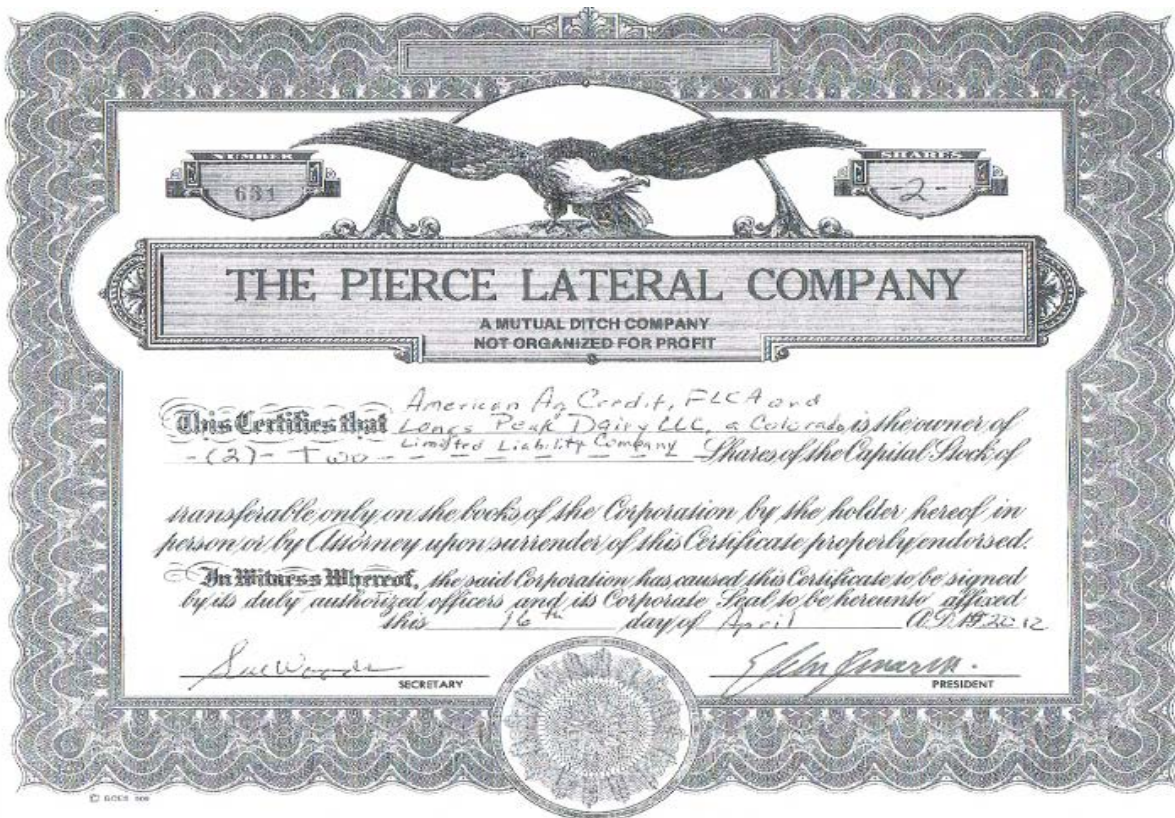
In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and its Corporate Seal to be hereunto affixed

this 6th day of April A.D. 2012

Heather Thiele [Signature]
SECRETARY PRESIDENT

 8102 WATER SUPPLY & STORAGE COMPANY





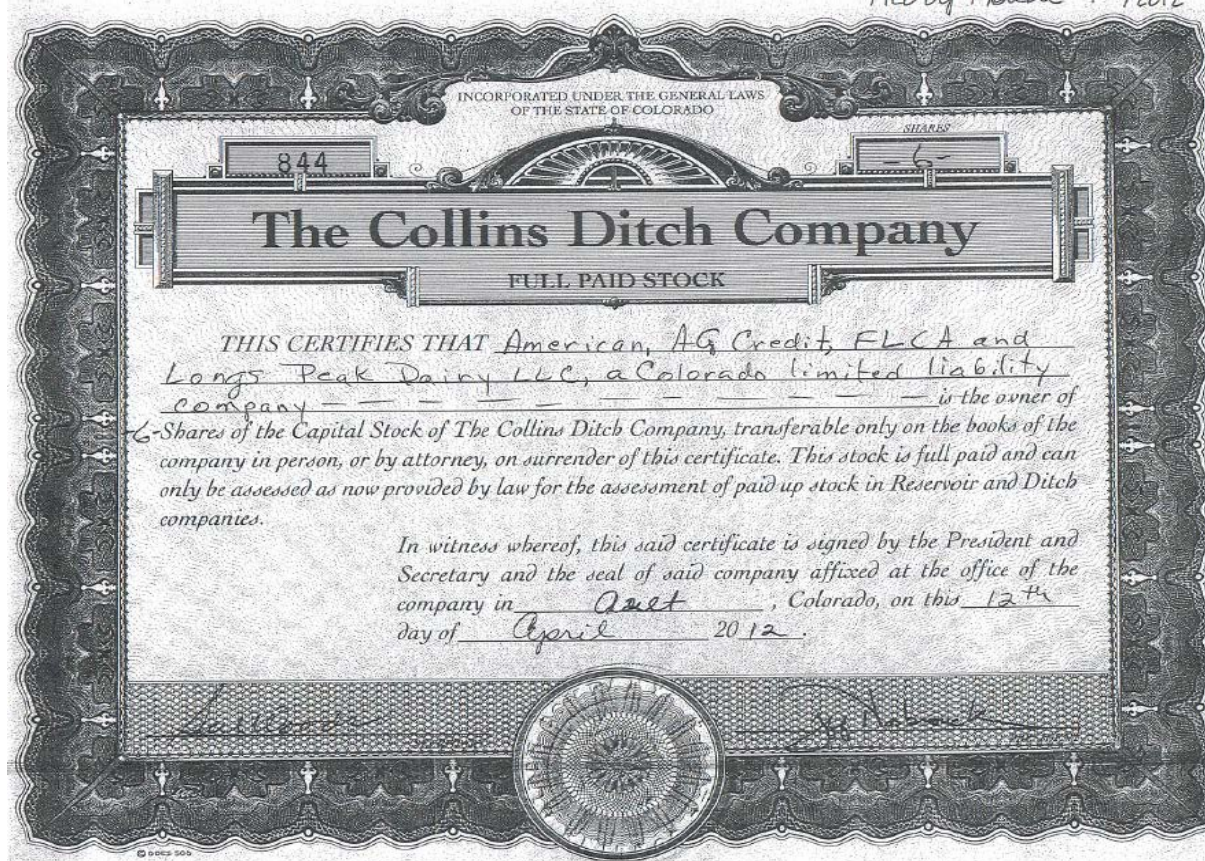
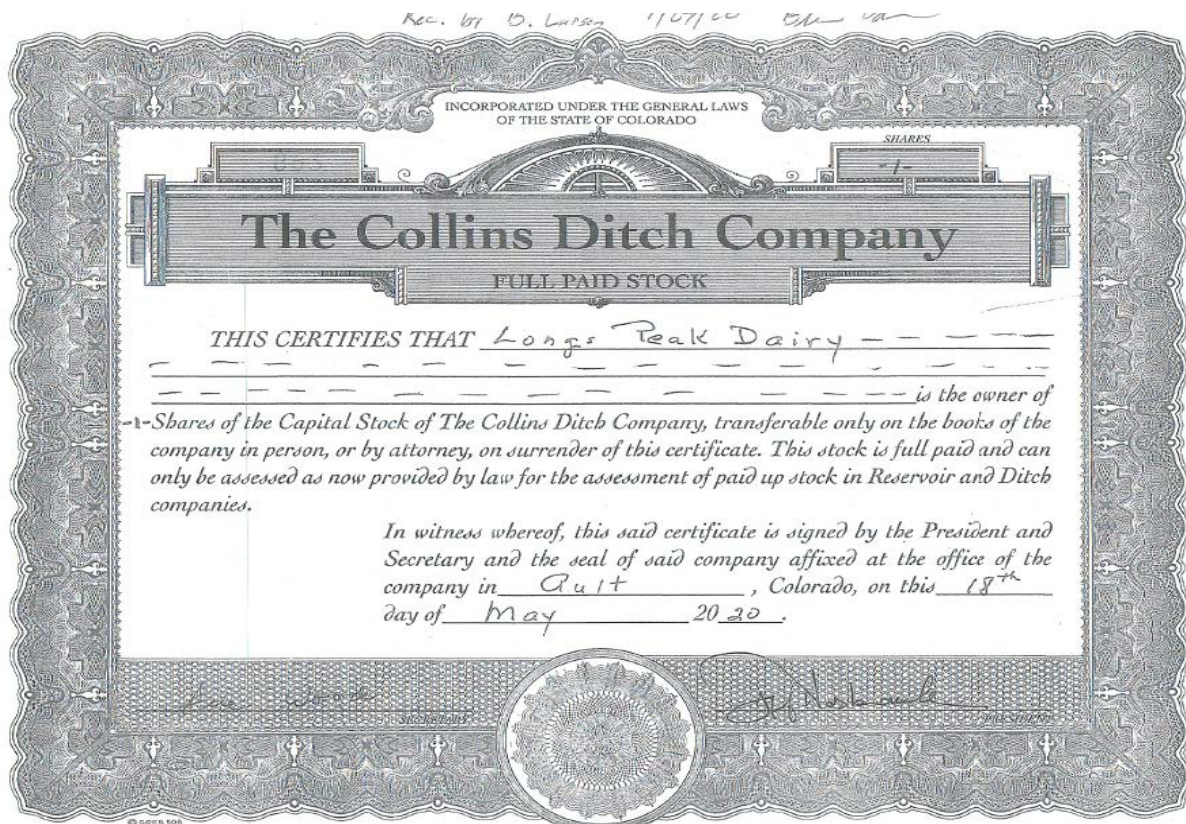




EXHIBIT "F-1" TO PURCHASE AND SALE AGREEMENT

(SELLER)

Legal description of the Varra Farm

The NE ¼ of Section 28, Township 28 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, EXCEPT that portion described in Deed Recorded April 11, 1910 in Book 270 at Page 543.

EXHIBIT "F-2" TO PURCHASE AND SALE AGREEMENT
(Longs Peak Dairy)

Legal description of the Hasbrouck Farm

PARCEL 1

The East 1/3 of the Northwest ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, being 52.631 acres more or less; and

PARCEL 2

Lot B of Recorded Exemption No. 0551-22-4-RE 620, recorded June 15, 1983 in Book 999 at Reception No. 01930309, being a part of the Southeast ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, being 151.967 acres more or less; and

PARCEL 3

Lot B of Amended Recorded Exemption No. 0551-22-3-AMRE 1907, recorded February 26, 2001 at Reception No. 2827884, being a part of the East ½ of the Southwest ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado;

Also described as: The East Half of the Southwest Quarter of Section 22, Township 8 North, Range 65 West of the 6th Principal Meridian, County of Weld, State of Colorado, EXCEPT that parcel described as Lot A of Amended Recorded Exception No. 0551-22-3-AMRE 1907 recorded February 26, 2001 at Reception No. 2827884, being a part of the E ½ of the SW ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., and EXCEPT that parcel described as Subdivision Exemption No. 593, recorded July 10, 1996 in Book 1555 at Reception No. 2500336, County of Weld, State of Colorado. Said described parcel being 75.623 acres, more or less.

EXHIBIT "G" TO PURCHASE AND SALE AGREEMENT
(Longs Peak Dairy)

(See attached ROFR Agreement)

AGREEMENT FOR RIGHTS OF FIRST REFUSAL

This AGREEMENT FOR RIGHTS OF FIRST REFUSAL ("Agreement") is entered into this ____ day of _____ 2021, 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 shares of capital stock in The Water Supply and Storage Company and the associated lateral companies, pursuant to the Purchase and Sale Agreement executed by and between the parties on _____, 2021 ("Purchase Agreement"); and

WHEREAS, among those water rights acquired by Greeley pursuant to the Purchase Agreement are those certain rights represented by five and one-sixth (5-1/6) shares of capital stock in the Collins Ditch Company (previously evidenced by Stock Certificate No. 844, for five and one-sixth (5-1/6) shares of the total represented six (6) shares) (collectively "Longs Peak ROFR Lateral Rights"); and

WHEREAS, in addition to those water rights conveyed to Greeley pursuant to the Purchase Agreement, Longs Peak also owns those certain water rights represented by seven (7) shares of capital stock in The Water Supply and Storage Company (evidenced by Stock Certificate No. 6473 (for four (4) shares), Stock Certificate No. 6588 (for one and one-fourth (1-1/4) shares), Stock Certificate No. 6589 (for one-fourth (1/4) share), and Stock Certificate No. 6611 (for one and one-half (1-1/2) shares)); eleven (11) shares of capital stock in The Pierce Lateral Company (evidenced by Stock Certificate No. 606 (for six (6) shares), Stock Certificate No. 628 (for three (3) shares), and Stock Certificate No. 631 (for two (2) shares)); three and five-sixths (3-5/6) shares of capital stock in the Collins Ditch Company (evidenced by Stock Certificate No. 851 (for (2) shares), and Stock Certificate No. 863 (for one (1) share), together with the balance of Stock Certificate No. 844 (for five-sixth (5/6) of a share)), and one and five-sixths (1-5/6) shares of capital stock in the Lone Tree Lateral Company (evidenced by Stock Certificate No. 255 (for one (1) share), together with the balance of Stock Certificate No. 230 (for five-sixth (5/6) of a share)) (collectively "Greeley ROFR Water Rights"); and

WHEREAS, Greeley and Longs Peak agreed, as is more particularly described in the Purchase Agreement, to execute an agreement by which Longs Peak would grant to Greeley a right of first refusal to purchase the Greeley ROFR Water Rights and Greeley would grant to Longs Peak a right of first refusal to purchase the Longs Peak ROFR Lateral Rights; and

WHEREAS, Greeley and Longs Peak have reached an agreement regarding the mutual grants of the rights of first refusal described above, and desire to reduce that agreement to writing; and

WHEREAS, Greeley and Longs Peak agree that the bargained-for exchange of rights of first refusal described herein imposes mutual obligations on the parties to this Agreement, and constitutes good and valuable consideration independent of the consideration for the Purchase Agreement; and

NOW THEREFORE, for such 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 rights of first refusal granted herein have been exhausted by Greeley and Longs Peak against the Greeley ROFR Water Rights and the Longs Peak ROFR Lateral 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 Greeley ROFR Water Rights upon the receipt by Longs Peak of any written bona fide purchase offer for the 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 Greeley ROFR Water Rights, Greeley shall have a vested option to purchase the subject Greeley ROFR Water Rights, and respond in writing within thirty-five (35) days to indicate whether it will purchase the 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. Longs Peak Dairy Right of First Refusal. Greeley hereby grants to Longs Peak a right of first refusal to purchase the Longs Peak ROFR Lateral Rights upon the receipt by Greeley of any written bona fide purchase offer for the Longs Peak ROFR Lateral Rights. Upon its receipt of such an offer, Greeley shall notify Longs Peak of the offer within seven (7) days. Greeley shall provide such notice in writing and include a copy of the offer with the notice. Upon receipt of notice from Greeley that it received such an offer to purchase the Longs Peak ROFR Lateral Rights, Longs Peak shall have a vested option to purchase the subject Longs Peaks ROFR Lateral Rights, and respond in writing within thirty-five (35) days to indicate whether it will purchase the Longs Peak ROFR Lateral Rights on the terms of the offer received. The failure of Longs Peak to respond within thirty-five (35) days shall be deemed an election not to exercise its right of first refusal.

5. Scope of Rights of First Refusal. Greeley and Longs Peak acknowledge that the rights of first refusal granted by this Agreement are intended to apply to all or any portion of the Greeley ROFR Water Rights and the Longs Peak ROFR Lateral Rights, and that the rights of first refusal may be triggered and exercised on multiple occasions if separate offers are received for portions of either the Greeley ROFR Water Rights or the Longs Peak ROFR Lateral Rights. The failure by either party to exercise a right of first refusal as to a portion of the Greeley ROFR Water Rights or the Longs Peak ROFR Lateral Rights does not constitute a precedent nor a waiver of any future right of first refusal as to any other portion of the Greeley ROFR Water Rights or the Longs Peak ROFR Lateral Rights.

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 11th Avenue, 2nd Floor
Greeley, Colorado 80631
Telephone: (970) 350-9812
Email: WSAdmin@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: CityAttorney@greeleygov.com

If to Longs Peak Dairy, LLC: 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

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 7 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 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 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 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. Default by Greeley; Remedies. In the event that Greeley fails to comply with paragraph 4 above, such failure constitutes a default of this Agreement and Longs Peak shall be entitled to, in its sole discretion:

(a) Purchase all remaining Longs Peak ROFR Lateral Rights not conveyed by Greeley in the defaulting transaction, at one-half (½) of the price per share agreed to by Greeley in the defaulting transaction; 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 Greeley conveys all remaining Longs Peak ROFR Lateral 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 Longs Peak ROFR Lateral 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.

12. 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.

13. 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.

14. 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.

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

16. 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. 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 Agreement for Rights 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: _____
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 _____ 2021
by _____, as _____ of Longs Peak Dairy, LLC.

Witness my hand and official seal.

Notary Public
My commission expires: _____

EXHIBIT "A" TO RIGHT OF FIRST REFUSAL AGREEMENT

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:

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.

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

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

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:

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.

(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.

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

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

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

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:

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.

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.

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: _____

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 “A-1” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

EXHIBIT “A-2” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY

(SELLER)

(See attached Survey of the Land)

EXHIBIT “B” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

(See attached Restrictive Covenant – No Irrigation and Revegetation)

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

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 “1” TO RESTRICTIVE COVENANT (NO IRRIGATION AND REVEGETATION)
(Description of the Water Rights)

EXHIBIT “2” TO RESTRICTIVE COVENANT (NO IRRIGATION AND REVEGETATION)
(Description of the Land)

EXHIBIT “C” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

(See attached Historical Use Affidavit and Questionnaire)

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: _____

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: _____
_____.

- 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: _____

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 “D” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

[See attached Special Warranty Deed]

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.

My commission expires: _____

EXHIBIT “E” TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY
(SELLER)

[See attached Stock Assignments]

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 “H-1” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Restrictive Covenant – No Irrigation and Revegetation – Owl Creek Farm)

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, thereafter Declarant and Declarant's successors in interest shall not irrigate the Land. 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 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 _____ 2021.

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 _____ 2021 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 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 five and one-sixths (5-1/6) shares of capital stock in The Water Supply and Storage Company, evidenced by Stock Certificate No. 6576 (for two (2) shares), (Stock Certificate No. 6581 (for one-half (1/2) of a share), Stock Certificate No. 6603 (for five-twelfths (5/12) of a share), Stock Certificate No. 6614 (for two (2) shares), and Stock Certificate No. 6617 (for one-fourth (1/4) of a share).

EXHIBIT 2
RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

(Description of the Land)

PARCEL 1:

(Weld County Parcel No. 055135400002) – Lot D of Recorded Exemption No. 0551-35-4 RE-4888, recorded June 22, 2009 at Reception No. 3631749, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135400031) – Lot D of Recorded Exemption No. 0551-35-3 RE-4887, recorded June 22, 2009 at Reception No. 3631748, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135100008) – Lot D of Recorded Exemption No. 0551-35-2 RE-4692, recorded December 6, 2007 at Reception No. 3522044, being part of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135200025) – Lot D of Recorded Exemption No. 0551-35-2 RECX 15-0003, recorded May 14, 2015 at Reception No. 4107116, being part of the N ½ of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado; containing 121.57 acres more or less.

PARCEL 2:

Lots A, B and C of Recorded Exemption No. 0551-35-2 RE-4693 recorded December 6, 2007 at Reception No. 3522045, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

Lot A of Recorded Exemption No. 0551-35-2 RE-4692 recorded December 6, 2007 at Reception No. 3522044, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

Lot A of Amended Recorded Exemption No. 0551-35-4 AmRE-3698 recorded December 6, 2007 at Reception No. 3522043, being a portion of the South Half of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

EXHIBIT "H-2" TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Restrictive Covenant – No Irrigation and Revegetation – Varra Farm)

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, thereafter Declarant and Declarant's successors in interest shall not irrigate the Land. 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 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 _____ 2021.

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 _____ 2021 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 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. 6721.

EXHIBIT 2
RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

(Description of the Land)

The NE ¼ of Section 28, Township 28 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, EXCEPT that portion described in Deed Recorded April 11, 1910 in Book 270 at Page 543.

EXHIBIT "H-3" TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Restrictive Covenant – No Irrigation and Revegetation – Hasbrouck Farm)

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, thereafter Declarant and Declarant's successors in interest shall not irrigate the Land. 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 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 _____ 2021.

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 _____ 2021 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 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 and one-quarter (2.25) shares of capital stock in The Water Supply and Storage Company, evidenced by Stock Certificate No. 6698.

EXHIBIT 2
RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

(Description of the Land)

PARCEL 1

The East 1/3 of the Northwest ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, being 52.631 acres more or less.¹ With regard to Parcel 1 of the Land, Declarant is subject to a Dry-Up Covenant granted by his predecessor-in-interest to the City of Thornton dated Aug. 1, 2008 and recorded at Reception No. 7372054 of the Weld County Clerk and Recorder's office; and

PARCEL 2

Lot B of Recorded Exemption No. 0551-22-4-RE 620, recorded June 15, 1983 in Book 999 at Reception No. 01930309, being a part of the Southeast ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, being 151.967 acres more or less; and

PARCEL 3

Lot B of Amended Recorded Exemption No. 0551-22-3-AMRE 1907, recorded February 26, 2001 at Reception No. 2827884, being a part of the East ½ of the Southwest ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado;

Also described as: The East Half of the Southwest Quarter of Section 22, Township 8 North, Range 65 West of the 6th Principal Meridian, County of Weld, State of Colorado, EXCEPT that parcel described as Lot A of Amended Recorded Exception No. 0551-22-3-AMRE 1907 recorded February 26, 2001 at Reception No. 2827884, being a part of the E ½ of the SW ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., and EXCEPT that parcel described as Subdivision Exemption No. 593, recorded July 10, 1996 in Book 1555 at Reception No. 2500336, County of Weld, State of Colorado. Said described parcel being 75.623 acres, more or less.

¹ Parcel 1 and 10 acres in Parcel 2 are subject to a dry up covenant dated August 1, 2008 granted to the City of Thornton by Hasbrouck Holdings, LLC and recorded in the Weld County Clerk and Recorder's Office at Reception No. 7372054 ("Thornton Dry-Up Covenant"). At the time the City gives notice to the Declarant to cease irrigation, the Declarant shall cease irrigation on all land described herein, including, if applicable, those lands subject to the Thornton Dry-Up Covenant. However, the City shall not claim the lands subject to the Thornton Dry-Up Covenant in any future water court application to change the subject Water Rights.

EXHIBIT “I-1” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached 20 – Year Water Rights Leaseback for Shares Associated with the Owl Creek Farm)

IRRIGATION WATER LEASE AGREEMENT
(Owl Creek Farm WSSC Rights)

This IRRIGATION WATER LEASE AGREEMENT ("Agreement") is entered into this ____ day of _____ 2021, 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 five and one-sixths (5-1/6) shares of capital stock in The Water Supply and Storage Company, previously evidenced by (i) Stock Certificate No. 6576 (for two (2) shares), (ii) Stock Certificate No. 6581 (for one-half (1/2) of a share), (iii) Stock Certificate No. 6603 (for five-twelfths (5/12) of a share), (vi) Stock Certificate No. 6614 (for two (2) shares), and (v) Stock Certificate No. 6617 (for one-fourth (1/4) of a share); five and one-sixth (5-1/6) shares of capital stock in The Lone Tree Lateral Company, previously evidenced by Stock Certificate No. 230 (for five and one-sixth (5-1/6) shares of the total represented six (6) shares); and five and one-sixth (5-1/6) shares of stock in The Collins Ditch Company, previously evidenced by Stock Certificate No. 844 (for five and one-sixth (5-1/6) shares of the total represented six (6) shares) (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 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 14 (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 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 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: _____

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 _____ 2021
by _____, as _____ of the Lessee, Longs Peak Dairy, LLC.

Witness my hand and official seal.

Notary Public
My commission expires: _____

EXHIBIT A
IRRIGATION WATER LEASE AGREEMENT
(Description of the Property)

Owl Creek Farm

PARCEL 1:

(Weld County Parcel No. 055135400002) – Lot D of Recorded Exemption No. 0551-35-4 RE-4888, recorded June 22, 2009 at Reception No. 3631749, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135400031) – Lot D of Recorded Exemption No. 0551-35-3 RE-4887, recorded June 22, 2009 at Reception No. 3631748, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135100008) – Lot D of Recorded Exemption No. 0551-35-2 RE-4692, recorded December 6, 2007 at Reception No. 3522044, being part of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

(Weld County Parcel No. 055135200025) – Lot D of Recorded Exemption No. 0551-35-2 RECX 15-0003, recorded May 14, 2015 at Reception No. 4107116, being part of the N ½ of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado; containing 121.57 acres more or less.

PARCEL 2:

Lots A, B and C of Recorded Exemption No. 0551-35-2 RE-4693 recorded December 6, 2007 at Reception No. 3522045, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

Lot A of Recorded Exemption No. 0551-35-2 RE-4692 recorded December 6, 2007 at Reception No. 3522044, being a portion of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

Lot A of Amended Recorded Exemption No. 0551-35-4 AmRE-3698 recorded December 6, 2007 at Reception No. 3522043, being a portion of the South Half of Section 35, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado.

ANNUAL AFFIDAVIT OF BENEFICIAL USE OF WATER RIGHTS

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: _____

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: _____.
- 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: _____
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 "I-2" TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Leaseback for Shares Associated with the Varra Farm)

IRRIGATION WATER LEASE AGREEMENT
(Varra Farm WSSC Rights)

This IRRIGATION WATER LEASE AGREEMENT ("Agreement") is entered into this ____ day of _____ 2021, 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 represented by two (2) shares of capital stock in The Water Supply and Storage Company ("WSSC") (Stock Certificate No. 6721), two (2) shares of capital stock in the Collins Ditch Company (Stock Certificate No. 858), and two (2) shares of capital stock in the Lone Tree Lateral Company (Stock Certificate No. 252) (collectively "Water Rights"); and

WHEREAS, Lessee desires to lease the Water Rights from Greeley for agricultural irrigation on a parcel of real property consisting of approximately 156 acres and more particularly described as:

The NE ¼ of Section 28, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, EXCEPT that portion described in Deed recorded April 11, 1910 in Book 270 at Page 543 ("Property"); and

WHEREAS, Greeley is willing to lease the Water Rights to Lessee for agricultural irrigation on the Property;

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 native component of the above-described Water Rights for the purpose of agricultural irrigation on the Property.

2. Term of Lease. The term of this Agreement begins on the date of mutual execution and ends after a period of ten (10) 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. Additionally, refer to Section 12 for provisions relating to termination for cause.

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. The Annual Lease Amount shall not be reduced to reflect rebates or other credits attributable to 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. 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 14 (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 A. 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 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 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. 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.

15. 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 recover from the defaulting party reasonable costs and attorneys' fees incurred during the course of such legal action.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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: _____
Name: _____
Title: _____

Date: _____

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 _____ 2021
by _____, as _____ of the Lessee, Longs Peak Dairy, LLC.

Witness my hand and official seal.

Notary Public
My commission expires: _____

EXHIBIT A
IRRIGATION WATER LEASE AGREEMENT
(Beneficial Use Affidavit and Questionnaire)

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
_____.

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: _____.
- 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: _____ |
| 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 "I-3" TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Leaseback for Shares Associated with the Hasbrouck Farm)

IRRIGATION WATER LEASE AGREEMENT
(Hasbrouck Farm WSSC Rights)

This IRRIGATION WATER LEASE AGREEMENT ("Agreement") is entered into this ____ day of _____ 2021, 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 represented by two and one-quarter (2.25) shares of capital stock in The Water Supply and Storage Company ("WSSC") (Stock Certificate No. 6698), two (2) shares of capital stock in the Collins Ditch Company (Stock Certificate No. 855), and two (2) shares of capital stock in the Lone Tree Lateral Company (Stock Certificate No. 251) (collectively "Water Rights"); and

WHEREAS, Lessee desires to lease the Water Rights from Greeley for agricultural irrigation on a parcel of real property consisting of approximately 270 acres and more particularly described on Exhibit A, attached hereto and incorporated herein by reference ("Property"); and

WHEREAS, Greeley is willing to lease the Water Rights to Lessee for agricultural irrigation on the Property;

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 native component of the above-described Water Rights for the purpose of agricultural irrigation on the Property.

2. **Term of Lease.** The term of this Agreement begins on the date of mutual execution and ends after a period of ten (10) 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. Additionally, refer to Section 12 for provisions relating to termination for cause.

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. The Annual Lease Amount shall not be reduced to reflect rebates or other credits attributable to 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. 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 without prior written consent from Greeley. Lessee shall request such consent from Greeley prior to using the Water Rights on any other property by advance written notice of at least thirty days. Such consent may be given or withheld in the sole discretion of Greeley. 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 14 (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 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 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. 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.

15. 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 recover from the defaulting party reasonable costs and attorneys' fees incurred during the course of such legal action.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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: _____
Name: _____
Title: _____

Date: _____

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 _____ 2021
by _____, as _____ of the Lessee, Longs Peak Dairy, LLC.

Witness my hand and official seal.

Notary Public
My commission expires: _____

EXHIBIT A
IRRIGATION WATER LEASE AGREEMENT
(Description of the Property)

PARCEL 1

The East 1/3 of the Northwest ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, being 52.631 acres more or less; and

PARCEL 2

Lot B of Recorded Exemption No. 0551-22-4-RE 620, recorded June 15, 1983 in Book 999 at Reception No. 01930309, being a part of the Southeast ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, being 151.967 acres more or less; and

PARCEL 3

Lot B of Amended Recorded Exemption No. 0551-22-3-AMRE 1907, recorded February 26, 2001 at Reception No. 2827884, being a part of the East ½ of the Southwest ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado;

Also described as: The East Half of the Southwest Quarter of Section 22, Township 8 North, Range 65 West of the 6th Principal Meridian, County of Weld, State of Colorado, EXCEPT that parcel described as Lot A of Amended Recorded Exception No. 0551-22-3-AMRE 1907 recorded February 26, 2001 at Reception No. 2827884, being a part of the E ½ of the SW ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., and EXCEPT that parcel described as Subdivision Exemption No.593, recorded July 10, 1996 in Book 1555 at Reception No. 2500336, County of Weld, State of Colorado. Said described parcel being 75.623 acres, more or less.

ANNUAL AFFIDAVIT OF BENEFICIAL USE OF WATER RIGHTS

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: _____

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: _____
_____.
- 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: _____
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 “J-1” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Historical Use Affidavit and Questionnaire – Owl Creek Farm)

AFFIDAVIT OF HISTORICAL USE OF WATER RIGHTS

DESCRIPTION OF WATER RIGHTS:

Ditch or Reservoir Company: The Water Supply and Storage Company

Shares or Interest: (i) Stock Certificate Nos. 6576 (for two (2) shares), (ii) Stock Certificate No. 6581 (for one-half (1/2) of a share), (iii) Stock Certificate Nos 6603 (for five-twelfths (5/12) of a share), (vi) Stock Certificate No. 6614 (for two (2) shares), and (v) Stock Certificate No. 6617 (for one-fourth (1/4) of a share)

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: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

 The foregoing Affidavit of Historical Use of Water Rights was acknowledged before me this
_____ day of _____, 20__ by _____.

 Witness my hand and official seal.

My commission expires: _____

Notary Public

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: _____.
- 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: _____ |
| 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 “J-2” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Historical Use Affidavit and Questionnaire – ROFR Rights)

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: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Affidavit of Historical Use of Water Rights was acknowledged before me this _____ day of _____, 20__ by _____.

Witness my hand and official seal.

My commission expires: _____

Notary Public

QUESTIONNAIRE REGARDING USE OF WATER SHARES

The person completing this questionnaire must have personal knowledge of the information provided

17. Name: _____
Mailing Address: _____

Telephone: _____
Facsimile: _____
Email Address: _____

18. 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: _____

19. The information in this questionnaire relates to my use of the Shares from _____ to _____ ("Ownership Period").

20. Do you still own the farm or parcel irrigated by these Shares? _____

21. Was your use of the Shares during the Ownership Period consistent with the bylaws, rules, regulations, and policies of the ditch company? _____

22. What is the legal description of the farm or parcel on which these Shares were used?

23. What is the total size of the farm or parcel? _____ acres.

24. What is the size of the area(s) on the farm or parcel that was irrigated? _____ acres.

25. What is the size of the area(s) on the farm or parcel that was irrigated using water from the Shares? _____ acres.

26. 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: _____.
- How was water applied during the Ownership Period? Sprinkler ____ Furrow ____ Flood ____
- Other/Combination (Describe): _____.

27. 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: _____

_____.

28. 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: _____

29. Describe how the water has been used, including the estimated percentage of the total irrigation supply provided by such water: _____

_____.

30. During the Period of Ownership, 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: _____ |
| 6. Crop: _____ | Percentage: _____ | Location: _____ |

31. Were the lands on which the Shares were used subirrigated? Yes ____ No ____

32. 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 “K” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Special Warranty Deed – Water Rights)

DRAFT - DO NOT EXECUTE

Exempt from State Documentary Fee

C.R.S. § 39-13-104(a)

Consideration - \$_____

SPECIAL WARRANTY DEED **(Water Rights)**

This SPECIAL WARRANTY DEED is made this ____ day of _____ 2021, by and between LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80650 ("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 and Grantee's heirs and assigns forever all of the water rights described in (a) and (b) below (collectively "Water Rights"):

- (a) The water rights represented by five and one-sixths (5-1/6) shares of capital stock in The Water Supply and Storage Company, evidenced by Stock Certificate No. 6576 (for two (2) shares), (Stock Certificate No. 6581 (for one-half (1/2) of a share), Stock Certificate No. 6603 (for five-twelfths (5/12) of a share), Stock Certificate No. 6614 (for two (2) shares), and Stock Certificate No. 6617 (for one-fourth (1/4) of a share); five and one-sixth (5-1/6) shares of stock in The Collins Ditch Company, evidenced by Stock Certificate No. 844 (for five and one-sixth (5-1/6) shares of the total represented six (6) shares); and five and one-sixth (5-1/6) shares of stock in The Lone Tree Lateral Company, evidenced by Stock Certificate No. 230 (for five and one-sixth (5-1/6) shares of the total represented six (6) shares) (collectively "Shares"), and the water derived therefrom; and
- (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 Water Supply and Storage Company, The Collins Lateral Company, and The Lone Tree Lateral 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 and the Grantee's heirs and assigns forever. And the Grantor, for the Grantor and its 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, and 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.

IN WITNESS WHEREOF, the Grantor has executed this deed on this ____ day of _____ 2021.

GRANTOR
Longs Peak Dairy, LLC, a Colorado limited liability company

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 2021 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 “L-1” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Special Warranty Deed – Varra Farm)

DRAFT - DO NOT EXECUTE

Exempt from State Documentary Fee

C.R.S. § 39-13-104(a)

Consideration - \$_____

SPECIAL WARRANTY DEED

(C.R.S. 38-30-113(1)(b))

THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, whose street address is 1000 10th Street, Greeley, Colorado 80631 ("Grantor"), for the consideration of ***Ten and 00/100*** dollars (\$10.00) in hand paid, hereby sells and conveys to LONGS PEAK DAIRY, LLC, a Colorado limited liability company, whose address is 45490 County Road 39, Pierce, Colorado 80650, the following real property in the County of Weld and State of Colorado, to wit:

The NE ¼ of Section 28, Township 28 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, EXCEPT that portion described in Deed Recorded April 11, 1910 in Book 270 at Page 543 ("Property");

TOGETHER with the appurtenances and warrants title to the same against all persons claiming under the Grantor, but subject to the Statutory Exceptions attached hereto as Exhibit A, EXPRESSLY EXCLUDING AND RESERVING TO THE GRANTOR all water, water rights, ditches, ditch rights, wells, well rights, reservoirs, and reservoir rights, including any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection therewith, represented by two (2) shares of stock in The Water Supply and Storage Company, evidenced by Stock Certificate Number 6721, two (2) shares of stock in The Collins Ditch Company, evidenced by Stock Certificate Number 858, and two (2) shares of stock in The Lone Tree Lateral Company, evidenced by Stock Certificate Number 251, all issued to and in the name of Grantor.

Dated this ____ day of _____ 2021.

THE CITY OF GREELEY, COLORADO
a Colorado home rule municipal corporation

ATTEST:

By: _____

Mayor

By: _____

City Clerk

ACKNOWLEDGMENT

STATE OF COLORADO }
COUNTY OF WELD } ss

The foregoing instrument was acknowledged before me this ____ day of _____ 2021, by John Gates as Mayor of The City of Greeley, Colorado, a Colorado home rule municipal corporation, whose signature appears above.

Witness my hand and official seal.

Notary Public

My commission expires: _____

When recorded return to:

Longs Peak Dairy, LLC,
a Colorado limited liability company
45490 County Road 39
Pierce, Colorado 80524

EXHIBIT A
Exceptions

EXHIBIT "L-2" TO PURCHASE AND SALE AGREEMENT
(Longs Peak Dairy)

(See attached Special Warranty Deed – Hasbrouck Farm)

DRAFT - DO NOT EXECUTE

Exempt from State Documentary Fee

C.R.S. § 39-13-104(a)

Consideration - \$_____

SPECIAL WARRANTY DEED

(C.R.S. 38-30-113(1)(b))

THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, whose street address is 1000 10th Street, Greeley, Colorado 80631 ("Grantor"), for the consideration of ***Ten and 00/100*** dollars (\$10.00) in hand paid, hereby sells and conveys to LONGS PEAK DAIRY, LLC, a Colorado limited liability company, whose address is 45490 County Road 39, Pierce, Colorado 80650, the three parcels of real property in the County of Weld and State of Colorado legally described on Exhibit A, attached hereto and incorporated herein by reference (collectively "Property");

TOGETHER with the appurtenances and warrants title to the same against all persons claiming under the Grantor, but subject to the Statutory Exceptions attached hereto as Exhibit B, EXPRESSLY EXCLUDING AND RESERVING TO THE GRANTOR all water, water rights, ditches, ditch rights, wells, well rights, reservoirs, and reservoir rights, including any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection therewith, represented by two and one-fourth (2-1/4) shares of stock in The Water Supply and Storage Company, evidenced by Stock Certificate Number 6698, two (2) shares of stock in The Collins Ditch Company, evidenced by Stock Certificate Number 855, and three (3) shares of stock in The Lone Tree Lateral Company, evidenced by Stock Certificate Number 251, all issued to and in the name of Grantor.

Dated this ____ day of _____ 2021.

THE CITY OF GREELEY, COLORADO
a Colorado home rule municipal corporation

ATTEST:

By: _____

Mayor

By: _____

City Clerk

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this ____ day of _____ 2021, by John Gates as Mayor of The City of Greeley, Colorado, a Colorado home rule municipal corporation, whose signature appears above.

Witness my hand and official seal.

Notary Public
My commission expires: _____

When recorded return to:

Longs Peak Dairy, LLC,
a Colorado limited liability company
45490 County Road 39
Pierce, Colorado 80524

EXHIBIT A
Legal Description of the Property

PARCEL 1

The East 1/3 of the Northwest ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, being 52.631 acres more or less; and

PARCEL 2

Lot B of Recorded Exemption No. 0551-22-4-RE 620, recorded June 15, 1983 in Book 999 at Reception No. 01930309, being a part of the Southeast ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, being 151.967 acres more or less; and

PARCEL 3

Lot B of Amended Recorded Exemption No. 0551-22-3-AMRE 1907, recorded February 26, 2001 at Reception No. 2827884, being a part of the East ½ of the Southwest ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado;

Also described as: The East Half of the Southwest Quarter of Section 22, Township 8 North, Range 65 West of the 6th Principal Meridian, County of Weld, State of Colorado, EXCEPT that parcel described as Lot A of Amended Recorded Exception No. 0551-22-3-AMRE 1907 recorded February 26, 2001 at Reception No. 2827884, being a part of the E ½ of the SW ¼ of Section 22, Township 8 North, Range 65 West of the 6th P.M., and EXCEPT that parcel described as Subdivision Exemption No. 593, recorded July 10, 1996 in Book 1555 at Reception No. 2500336, County of Weld, State of Colorado. Said described parcel being 75.623 acres, more or less.

EXHIBIT B
Exceptions

EXHIBIT “M-1” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Stock Assignment – WSSC Shares)

DRAFT - 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, [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 “M-2” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Stock Assignment – Collins Shares)

DRAFT - 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, [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 “M-3” TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Stock Assignment – Lone Tree Shares)

DRAFT - 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, [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 "N-1" TO PURCHASE AND SALE AGREEMENT

(Longs Peak Dairy)

(See attached Bargain and Sale Deed – Varra Farm Wells)

DRAFT - DO NOT EXECUTE

Exempt from State Documentary Fee

C.R.S. § 39-13-104(a)

Consideration - \$_____

BARGAIN AND SALE DEED FOR WATER RIGHTS

(C.R.S. § 38-30-115)

THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, whose street address is 1000 10th Street, Greeley, Colorado 80631, for the consideration of Ten and 00/100 dollars (\$10.00) in hand paid, hereby sells and conveys to LONGS PEAK DAIRY, LLC, a Colorado limited liability company, whose address is 45490 County Road 39, Pierce, Colorado 80650, the following groundwater wells and associated water rights and interests located in the NE 1/4 of Section 28, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, as represented by the following court decrees and Well Permits from the Colorado Division of Water Resources:

- a. Varra Well #1: Permit No #0101, together with the rights to tributary groundwater decreed on May 2, 1974, as Varra Well #1 - #0101, in Case No. W-4530, District Court, Water Division No. 1, Colorado, with an appropriation date of May 31, 1940, for irrigation in the amount of .769 cubic feet per second; and
- b. Varra Well #2: Permit No #04188-F, together with the rights to tributary groundwater decreed on May 2, 1974, as Varra Well #2 - #04188-F, in Case No. W-4530, District Court, Water Division No. 1, Colorado, with an appropriation date of May 15, 1963, for irrigation in the amount of .466 cubic feet per second; and
- c. Varra Well #3: Permit No #04313 - F, together with the rights to tributary groundwater decreed on May 2, 1974, as Varra Well #3 - #04313-F, in Case No. W-4530, District Court, Water Division No. 1, Colorado, with an appropriation date of May 15, 1963, for irrigation in the amount of .308 cubic feet per second; and
- d. Varra Well #4: Permit No #5167 - F, together with the rights to tributary groundwater decreed on May 2, 1974, as Varra Well #4 - #5167-F, in Case No. W-4530, District Court, Water Division No. 1, Colorado, with an appropriation date of March 15, 1964, for irrigation in the amount of .466 cubic feet per second.

And any and all other water rights and related ditches, pipelines, fixtures, easements, appurtenances and other rights and interests associated with such water rights.

Dated this ____ day of _____ 2021.

THE CITY OF GREELEY, COLORADO
a Colorado home rule municipal corporation

ATTEST:

By: _____

Mayor

By: _____

City Clerk

ACKNOWLEDGMENT

STATE OF COLORADO)
COUNTY OF WELD) ss

The foregoing instrument was acknowledged before me this ____ day of _____ 2021, by John Gates as Mayor of The City of Greeley, Colorado, a Colorado home rule municipal corporation, whose signature appears above.

Witness my hand and official seal.

Notary Public
My commission expires: _____

When recorded return to:

Longs Peak Dairy, LLC,
a Colorado limited liability company
45490 County Road 39
Pierce, Colorado 80524

EXHIBIT "N-2" TO PURCHASE AND SALE AGREEMENT
(Longs Peak Dairy)

(See attached Bargain and Sale Deed – Hasbrouck Farm Wells)

DRAFT - DO NOT EXECUTE

Exempt from State Documentary Fee

C.R.S. § 39-13-104(a)

Consideration - \$_____

BARGAIN AND SALE DEED FOR WATER RIGHTS

(C.R.S. § 38-30-115)

THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, whose street address is 1000 10th Street, Greeley, Colorado 80631, for the consideration of ***Ten and 00/100*** dollars (\$10.00) in hand paid, hereby sells and conveys to LONGS PEAK DAIRY, LLC, a Colorado limited liability company, whose address is 45490 County Road 39, Pierce, Colorado 80650, the following groundwater wells and associated water rights and interests located in Section 22, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado, as represented by the following court decrees and well permits from the Colorado Division of Water Resources:

- a. Roseberry Well No. 1-11260, together with the rights to tributary groundwater decreed on July 28, 1976, as Roseberry Well No. 1-11260 in Case No. W-2109, District Court, Water Division No. 1, Colorado, with an appropriation date of April 30, 1936, for irrigation in the amount of 1.01 cubic feet per second;
- b. Roseberry Well No. 2-11261, together with the rights to tributary groundwater decreed on July 28, 1976, as Roseberry Well No. 2-11261 in Case No. W-2109, District Court, Water Division No. 1, Colorado, with an appropriation date of April 30, 1930, for irrigation in the amount of 0.444 cubic feet per second; and,
- c. Roseberry Well No. 3-11262, together with the rights to tributary groundwater decreed on July 28, 1976, as Roseberry Well No. 3-11262 in Case No. W-2109, District Court, Water Division No. 1, Colorado, with an appropriation date of April 30, 1950, for irrigation in the amount of 0.70 cubic feet per second.
- d. Dill Well No. 1-9303F, together with the rights to tributary groundwater decreed on December 23, 1975, as Dill Well No. 1-9303F in Case No. W-4379, District Court, Water Division No. 1, Colorado, with an appropriation date of April 27, 1965, for irrigation in the amount of 0.222 cubic feet per second;
- e. Dill Well No. 2-9304F, together with the rights to tributary groundwater decreed on December 23, 1975, as Dill Well No. 2-9304F in Case No. W-4379, District Court, Water Division No. 1, Colorado, with an appropriation date of April 28, 1965, for irrigation in the amount of 0.222 cubic feet per second;
- f. Dill Well No. 3-9305F, together with the rights to tributary groundwater decreed on December 23, 1975, as Dill Well No. 3-9305F in Case No. W-4379, District Court, Water Division No. 1, Colorado, with an appropriation date of April 30, 1965, for irrigation in the amount of 0.433 cubic feet per second;
- g. Dill Well No. 4-9306-F, together with the rights to tributary groundwater decreed on December 23, 1975, as Dill Well No. 4-9306-F in Case No. W-4379, District Court, Water

Division No. 1, Colorado, with an appropriation date of April 29, 1965, for irrigation in the amount of 0.433 cubic feet per second;

- h. Dill Well No. 5, together with the rights to tributary groundwater decreed on December 23, 1975, as Dill Well No. 5 in Case No. W-4379, District Court, Water Division No. 1, Colorado, with an appropriation date of December 31, 1944, for irrigation in the amount of 0.222 cubic feet per second;
- i. Dill Well No. 6, together with the rights to tributary groundwater decreed on December 23, 1975, as Dill Well No. 6 in Case No. W-4379, District Court, Water Division No. 1, Colorado, with an appropriation date of December 31, 1944, for irrigation in the amount of 0.222 cubic feet per second;
- j. Henry Dill Pumping System Plant No. 1, together with the rights to tributary groundwater decreed on September 10, 1953, as Henry Dill Pumping System Plant No. 1 (15361R) in Case No. CA11217, District Court, Water Division No. 1, Colorado, with an appropriation date of December 31, 1945, for irrigation in the amount of 1.12 cubic feet per second; and
- k. Henry Dill Pumping System Plant No. 2, together with the rights to tributary groundwater decreed on September 10, 1953, as Henry Dill Pumping System Plant No. 2 (15362R) in Case No. CA11217, District Court, Water Division No. 1, Colorado, with an appropriation date of December 31, 1925, for irrigation in the amount of 0.55 cubic feet per second; and
- l. Henry Dill Pumping System Plant No. 3, together with the rights to tributary groundwater decreed on September 10, 1953, as Henry Dill Pumping System Plant No. 3 (15363R) in Case No. CA11217, District Court, Water Division No. 1, Colorado, with an appropriation date of June 30, 1951, for irrigation in the amount of 0.77 cubic feet per second.

And any and all other water rights and related ditches, pipelines, fixtures, easements, appurtenances and other rights and interests associated with such water rights.

Dated this ____ day of _____ 2021.

THE CITY OF GREELEY, COLORADO
a Colorado home rule municipal corporation

ATTEST:

By: _____
Mayor

By: _____
City Clerk

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this ____ day of _____ 2021, by John Gates as Mayor of The City of Greeley, Colorado, a Colorado home rule municipal corporation, whose signature appears above.

Witness my hand and official seal.

Notary Public

My commission expires: _____

When recorded return to:

Longs Peak Dairy, LLC,
a Colorado limited liability company
45490 County Road 39
Pierce, Colorado 80524

Water Rights Acquisition:
Longs Peak Dairy
Water Supply and Storage

May 19th, 2021



Purchase & Sale Overview

- Water Only Purchase
 - 5 1/6 shares of Water Supply and Storage Company (WSSC)
 - 5 1/6 share of The Collins Ditch Company
 - 5 1/6 share of The Lone Tree Lateral Company
 - Potable supply
- Right of First Refusal (ROFR) for sellers 7 remaining shares of WSSC along with running rights
- Dry-up and revegetation covenants included

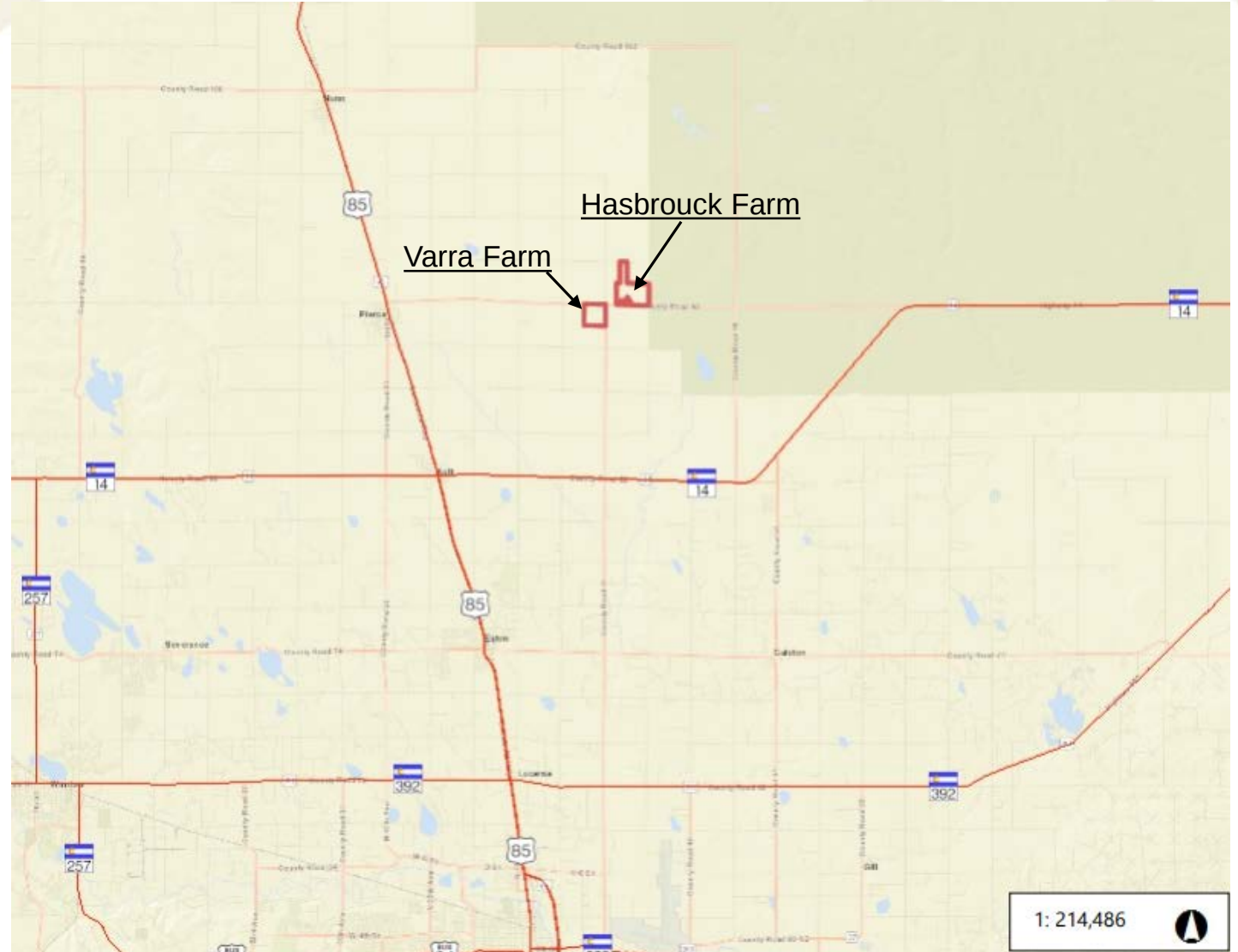


Purchase & Sale Overview

- Purchase price of \$10,900,000 plus exchange of two Greeley-owned farms (Hasbrouck and Varra Farms)
 - Farms purchased in 2016 for WSSC water; exchange will be for dry land and water lease
 - Farm value: \$2,000,000
- Total compensation - \$12,900,000
- 20 year primary lease back of the 5 1/6 shares
 - Lease may be extended for up to 5, 1-year terms by mutual agreement

Hasbrouck & Varra Farms

- Hasbrouck Farm:
 - 282 +/- acres
 - \$1,100,000
- Varra Farm:
 - 160 +/- acres
 - \$900,000



Farm Divestment

- Longs Peak Dairy will continue to use the farms for agriculture
- Buyer Pays for diligence on water rights only, no brokerage
- City obtains dry-up and revegetation covenants
- Leaseback for both farms
 - 10-year primary lease of water rights
 - Lease may be extended for up to 5, 1-year terms
 - Buyer will honor the current leases for the 2021 crop year



Due Diligence & Path Forward

- 60 days due diligence
- Closing on or before 90 days of mutual execution of contract
- Longs Peak Dairy will inspect farms, Greeley will inspect water rights (including shares covered under right of first refusal)
 - Title review
 - Confirmation of dry-up adequacy
 - Historical consumptive use analysis



Recommendation

W&S staff recommend the acquisition of 5 1/6 shares of WSSC along with the divestment of the Varra Farm and the Hasbrouck Farms in accordance with the water acquisition strategies set forth in the Department's Master Plan and Future Water Account Plan





Questions?



WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 9

TITLE: NON-POTABLE DEVELOPMENT POLICY
UPDATE

RECOMMENDATION: INFORMATIONAL ONLY

ADDITIONAL INFORMATION:

Greeley has a long history of utilizing non-potable water to irrigate turfed areas using the extensive ditch systems within the City. Meeting Greeley's long-term water resource needs will require further expansion of non-potable use. Staff are finalizing a Non-Potable Master Plan that outlines the significant capital investment needed to build out its non-potable system. The proposed non-potable policy will require the installation of non-potable infrastructure in new development in most cases. Board feedback is requested on this proposal before staff begins communicating the policy with other stakeholders.



Non-Potable Water Supply

Program Policies

May, 2021

Non-Potable Supply Required

For residential developments only, the development shall use non-potable water for irrigation of:

- Common spaces unless the residential development has less than 2 acres of irrigated common space
- Individual lots unless the average lot size of the residential development is less than 0.33 acres

For commercial or industrial developments only, the development shall use non-potable water for irrigation unless the commercial or industrial development has less than 2 acres of common space irrigation

For developments that are not feasible to immediately connect to the City's non-potable system, but that the City has identified as being feasible for non-potable service with 5 years, land will be identified and set aside for the installation of non-potable infrastructure when the City deems it feasible.

Special consideration may be made for development projects where engineering limitations make including infrastructure for non-potable water infeasible. The evaluation and all calculations must be provided to the City of Greeley for approval in order to waive the requirement.

Cash-In-Lieu (CIL)

Non-potable CIL is equal to potable CIL.

- New single-family residential non-potable requirements are calculated on the pervious area of the lot and the lot size minus the footprint of the house and other impervious areas. The development HOA or Metro District will be served by master meters as determined by the City of Greeley.

Credit for Irrigation Company Shares

Non-potable credits for dedicated shares on land that has been historically irrigated are:

- Greeley Loveland Irrigation Company: 12 AF/share
- Loveland and Greeley Reservoir Company: 40 AF/share
- Seven Lakes Reservoir Company: 20 AF/share
- Greeley Irrigation Company: 10.3 AF/share (With Dry up Covenant/Agreement)

Cost of Connection & Cost Sharing

The cost of developing non-potable infrastructure shall be borne by the developer.

- Furthermore, the City, at the discretion of the Water and Sewer Director, shall pay to upsize non-potable facilities in cases when the non-potable system can be used to serve more areas than a single development.
- No non-potable Plant Investment Fees (PIF) will be charged
- Potable PIFs will be reduced by 30% if non-potable is used for irrigated common areas
- Potable PIFs will be reduced by 50% if non-potable is used for house to house irrigation and irrigated common areas

Water Budget

All newly installed non-potable accounts shall be assigned a Water Budget.

Drought Restrictions

During times of drought declaration, non-potable developments will be subject to the same watering restrictions and surcharges as potable, Water Budget accounts.

Public Ownership of Non-Potable Systems

No private ownership of non-potable systems in new development is allowed south of the Poudre River.

Private non-potable systems north of the Poudre River will be allowed if the City chooses not to be the non-potable provider, however the non-potable system shall be constructed according to City of Greeley construction standards. The City, at the discretion of the Water and Sewer Director, shall become the owner and operator of the non-potable system when financially prudent and desirable to do so.

Shoulder Season Taps

The City shall furnish, without raw water fees or PIFs, potable water taps to supply the non-potable irrigation system during times when the non-potable supply is unavailable (i.e., early spring and late fall shoulder seasons). Shoulder taps will be removed or retired from service if the non-potable system is expanded to serve shoulder seasons. Shoulder season taps are generally provided for parks, large HOAs, and large commercial customers. It is not intended for residential use.

- If potable water is used during periods when non-potable supplies are available, the potable supplies will be subject to the potable raw water surcharge.

Water Rates

Each non-potable system is provided a tiered annual water budget. (Implemented when new utility billing software is live.)

- Water tier volumes for non-potable systems will be the same as the potable water budget program.
 - o Water Budget tier = up to 100% of water budget
 - o Inefficient Use tier = 101%-130% of water budget
 - o Excessive Use tier = 131%-150% of water budget
 - o Unsustainable Use tier = >150% of water budget
- Tiered rates for use of non-potable water supplies will be 70% of the residential water budget rates, which are determined annually by the Water & Sewer Board.

Raw Water Dedication

Type of Water Use*	Vegetation Type
High Water Use	Bluegrass, Turf, Annuals, Willow Trees, etc.
Medium Water Use	Drip Irrigation, Fruit Trees, Common Ornamentals, etc.
Low Water Use	Native Plants, Succulents, Drought Tolerant Plants, etc.
*Refer to water use information for plant watering needs from "Greeley WaterWise Landscaping Criteria"	

Type of Water Use	Dedication Requirement
High Water Use	3.0 acre feet/acre
Medium Water Use	2.3 acre feet/acre
Low Water Use	1.6 acre feet/acre

- A service commitment will be recorded with the Weld County Clerk and Recorder that specifies the volume of raw water dedicated (or paid through cash-in-lieu) for the non-potable water use.
 - o Because the establishment of landscaping may require extra watering, exceeding the service commitment during the first full calendar year of water service for the new non-potable customer will not be considered as an overage and no raw water surcharge payment will be due.
- If water use for a new non-potable customer exceeds its service commitment in any calendar year, the owner will be required to pay a raw water surcharge for the volume of water exceeding the service commitment.
- If water use in a new non-potable customer exceeds its service commitment in any two consecutive years, the owner will be required to purchase additional water through a Cash-in-Lieu payment.
 - o The Cash-in-Lieu payment will be for the two-year average volume of water used above the service commitment.
 - o Service commitment pricing is based on the current Cash-in-Lieu of water prices for Greeley.



Non-Potable Development Policy

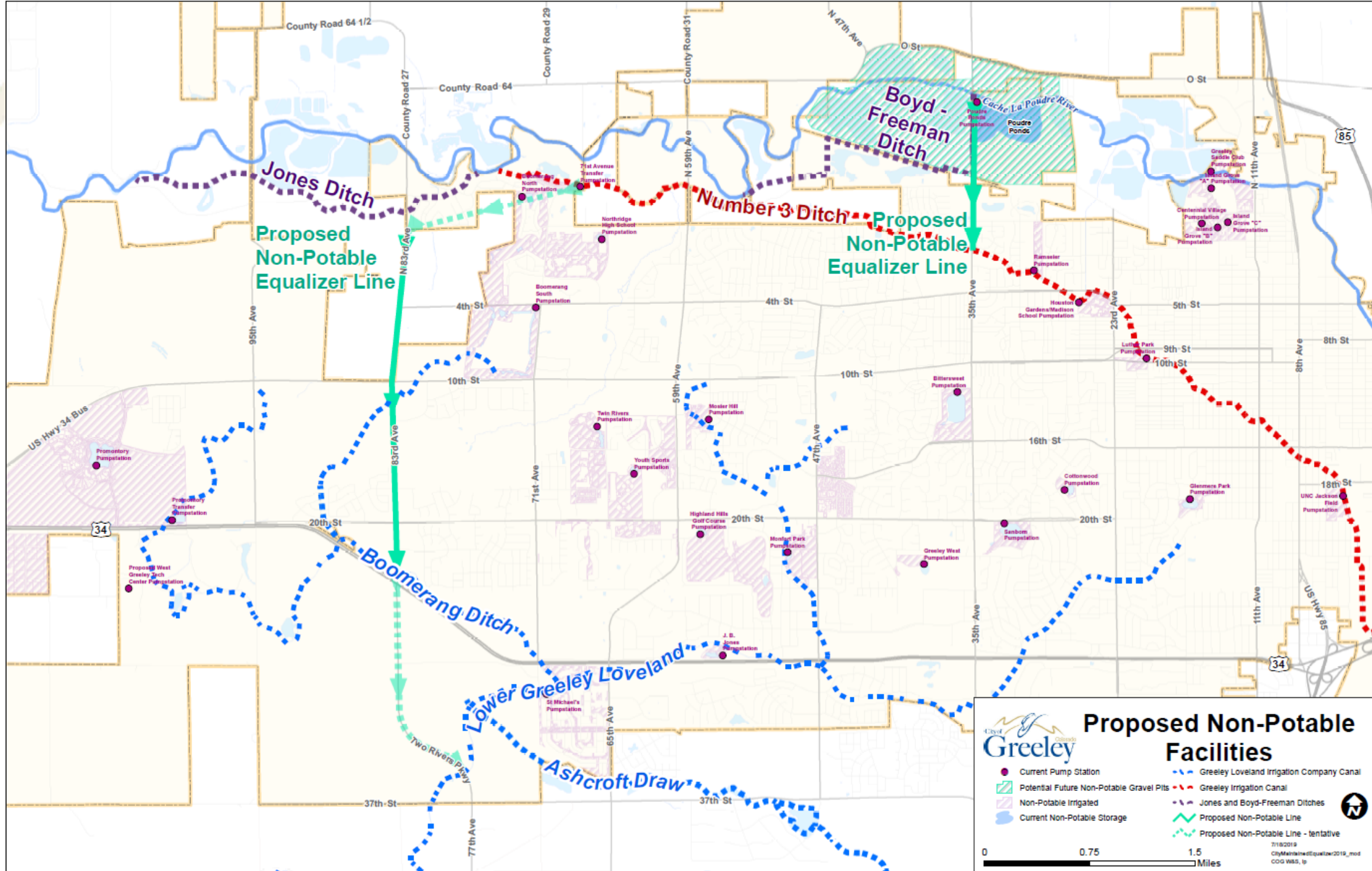
Water and Sewer Board| May 19, 2021



Background and Need

- Current non-potable system
 - 40 pump stations and 9 miles of pipeline
 - Primarily serves city-owned properties (parks, golf courses, and cemeteries), with some adjacent private customers
 - Constructed by city to reduce peak treatment demands in late 1990s and 2000s
 - No new non-potable systems build 2008-2019
- Sources of supply: GIC, GLIC, exchanged wastewater effluent, Poudre Ponds





Background and Need

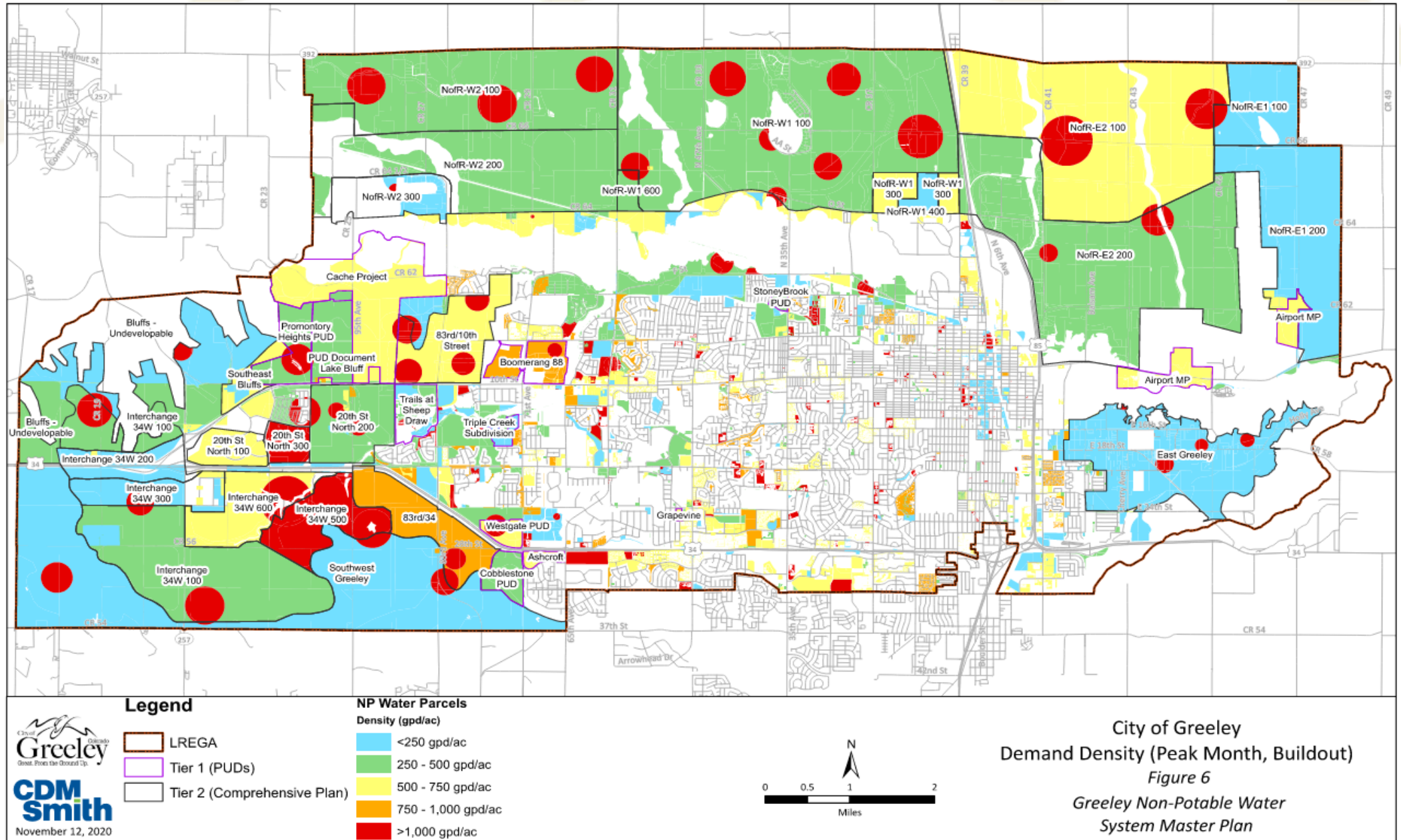
- Potable water prices are rapidly escalating. Non-potable water sources are \$25,000 to \$40,000 cheaper per acre-foot
- Expanding the non-potable system is far more cost effective than purchasing new potable sources to serve irrigation demands
- Non-potable is used (required) elsewhere in Northern Colorado because the economics work
- Need non-potable supply to meet Greeley's long term water demand
 - Current NP demand: 2,500 AF
 - Master Plan volume: 9,000 AF
- **New policy needed to expand non-potable adoption**



Non-Potable Development Policy Goals

- Cost-effectively facilitate the expansion of the non-potable system as development occurs
 - Allows use of sources currently impracticable to treat for potable use (e.g lower Poudre rights, wastewater effluent)
 - Installing non-potable infrastructure during development cheaper and more effective than retrofitting
 - Rate payers will benefit from less potable infrastructure investment and less potable supplies purchased
 - Non-potable customers pay lower rates for their use
 - Developers benefit from less raw water and plant investment fee cost escalation

New Non-Potable Potential



City Non-Potable Infrastructure Costs

- 20 year projection ~ \$150 million (net present value)
 - Reflects the backbone infrastructure and projected city contributions to oversizing or new development incentives
 - *The proposed policy would reduce the City's non-potable infrastructure commitments in the CIP*
 - Does **not** reflect the cost for converting developed areas identified in the master plan to non-potable



Development Non-Potable Costs

- Likely additional costs for developers
 - Pump station – biggest additional cost
 - On-site water storage
 - Possible additional piping



FOR RAIN INFORMATION, COORD. BOX UNDER POSSIBLE VALVE BOX COVERS) SHALL BE FLUSH WITH FINISH GRADE, TYP.

OSIPEE

TO PREVENT RUNOFF, ADJUST ANY OVERSPRAY ON HEADS AS NEEDED TO APPROPRIATE SIZE OF LANDSCAPE BED, TYP.

APPROX. LOCATION OF CONTROLLER. VERIFY LOCATION WITH OWNER'S REPRESENTATIVE PRIOR TO INSTALL. COORDINATE ELECTRICAL CONDUIT SWEEP UNDER ANY WALKWAYS, PAVED SURFACES AND THROUGH ANY ADJACENT PLANTERS, TYP.

PROVIDE ELECTRICAL CONDUIT AND ELEVATION AS NOTED TO CONTROLLER AS NEEDED THROUGH LANDSCAPE BEDS AND ANY ADJACENT HARDSCAPES. COORDINATE LOCATION WITH OWNER AND GENERAL CONTRACTOR ENGINEER, TYP.

RAIN DETECTION DEVICE. APPROX. LOCATION. ADVISE ELECTRICAL CONTRACTOR TO COORDINATE ELECTRICAL CONDUIT SWEEP TO CONTROLLER THROUGH ADJACENT PLANTERS WITH GENERAL CONTRACTOR AND OWNER. SEE NOTES AND DETAILS FOR ALL OTHER INFORMATION, TYP.

LAWN AREA, TYP.

STREET TREES ALONG STH TO BE IRRIGATED AND INCLUDED UNDER THIS AUTOMATIC IRRIGATION SYSTEM, TYP.

SYRING BEDS AREA, TYP.

NATIVE MEADOW SEED. MK, PROVIDE TEMPORARY IRRIGATION AS NEEDED, TYP.

PE SIZING SCHEDULE

	PIPE SIZE
1	3/4"
5	1"
24	1-1/4"
35	1-1/2"

GENERAL IRRIGATION NOTES

SEE SHEET L25 FOR IRRIGATION DETAILS. RAY HEAD BOXES SHALL BE AS FOLLOWS:

SPRAY HEADS IN LAWN/SEED AREAS SHALL BE ON RAINBIRD 1804-SAM-PRS (4" POP UP) (UNLESS OTHERWISE NOTED ON PLANS)

SPRAY HEADS IN SHRUB BEDS SHALL BE ON RAINBIRD 1812-SAM-PRS (12" POP UP) (UNLESS OTHERWISE NOTED ON PLANS)

INSTALL A RAIN DETECTION DEVICE IN THE P.D.C./METER AREA. DEVICE SHALL BE INSTALLED AS NOTED (OR IF IN CONFLICT SOMEWHERE ON THE SOUTH SIDE OF THE STREET, THE DEVICE SHALL BE INSTALLED ON THE NORTH SIDE OF THE STREET).

PROVIDE IRRIGATION AS NEEDED FOR NEWLY PLANTED TREES THROUGH INSTALLED AUTOMATIC IRRIGATION SYSTEM, TYP.

- 4 acres of landscaping
 - Under new policy would be required to install non-potable
- After initial agreement, developer refused to install non-potable
- Under current policies, City cannot force non-potable installation

Previous Proposal

- Non-potable expansion mandatory for new development if cost neutral or positive for developers
 - Would require financial analysis comparing potable only vs. dual systems with every development review process
 - Every development site is different – proved challenging when trying to model how this would work with current examples



New Policy Details

- Non-Potable is mandatory
 - For all developments with > 2 acres of irrigated common area
 - House to house if lot size > 0.33 acre
- No non-potable plant investment fees
- Increased yield for dedicating certain water shares
- Greeley Irrigation Company shares can only be dedicated for non-potable
- Acceptance of other water sources historically used to irrigate developed area



Proposal Options

- Option 1 – ***Not the preferred option***
 - Developer pays for 1/2 of the pump station costs for their development
 - City pays remaining 1/2 plus any oversizing costs
 - Developer installs all non-potable piping
 - Developer contributes land for pond, if needed
 - Should the developer's cost be capped? If so, at what?

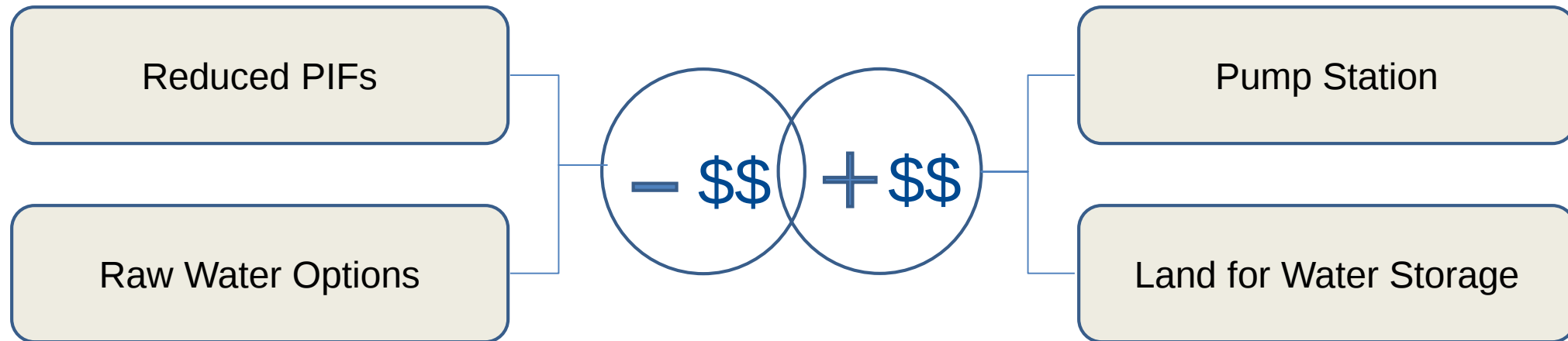


Proposal Options

- Option 2 - **Preferred**
 - Developer pays for all non-potable infrastructure
 - Reduce potable plant investment fees by either 30% (only common areas) or 50% (house to house) for new taps in the development
 - Most common solution in the region
 - Windsor, ELCO, North Weld, Evans, and Brighton all reduce potable PIFs (varying percentages) if a non-potable system is installed

	2016	2017	2018	2019	2020	Total
PIFs Collected	\$4,669,958	\$2,563,714	\$6,027,277	\$4,450,604	\$1,903,192	\$19,614,745
50% Reduction	\$2,334,979	\$1,281,857	\$3,013,639	\$2,225,302	\$951,596	\$9,807,373
30% Reduction	\$3,269,971	\$1,794,600	\$4,219,094	\$3,115,423	\$1,332,234	\$13,730,322

Savings & Costs For Development

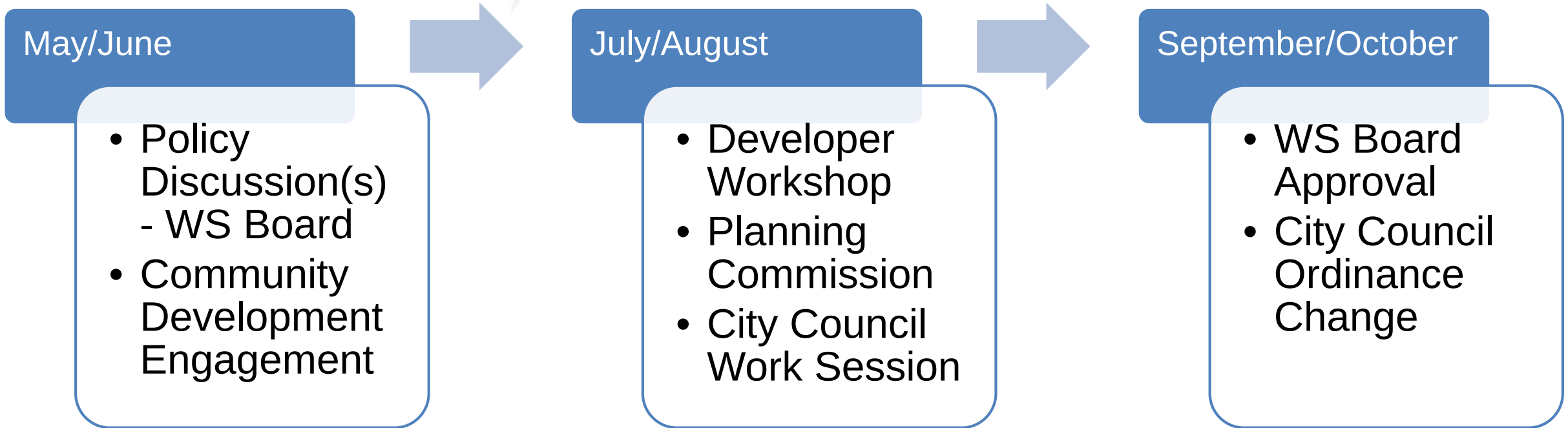


Water Development Policy Refinement

- Non-potable policy changes a part of the ongoing effort to “right size” fees and requirements related to water
 - Changed raw water dedication requirements to exclude non-irrigated outlots (2016)
 - Changed the calculation for cash-in-lieu to water portfolio value & storage (2018)
 - Changed the multi-family PIF to be based on meter size rather than units (2018)
 - Changed the yields of Greeley Loveland Irrigation Company, 7 Lakes, and Lake Loveland shares to firm yields rather than average (2019)
 - Revised raw water requirements for multi-family and non-residential (2019)
 - Only accept Greeley Irrigation Company shares for non-potable (2020)



Process Forward



Non-Potable Conversion Policy

- When the City brings non-potable lines to a developed area
 - The landowner can convert their irrigation system to non-potable and they can realize the full reduction in rates (70% of potable)
 - The landowner can allow the City to hire a contractor to convert their irrigation system to non-potable and they will realize half of the reduction of rates (85% of potable)





Questions?



WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 10

TITLE: UTILITY RATE AFFORDABILITY PROGRAM
UPDATE

RECOMMENDATION: INFORMATIONAL ONLY

ADDITIONAL INFORMATION:

In late 2020, staff presented background material relating to the need and potential options for creating a utility bill assistance program. Staff has built a pilot program proposal that will build upon Greeley's Food Tax rebate program. Staff will present the proposal that will be a supplemental request for the 2022 operating budget.



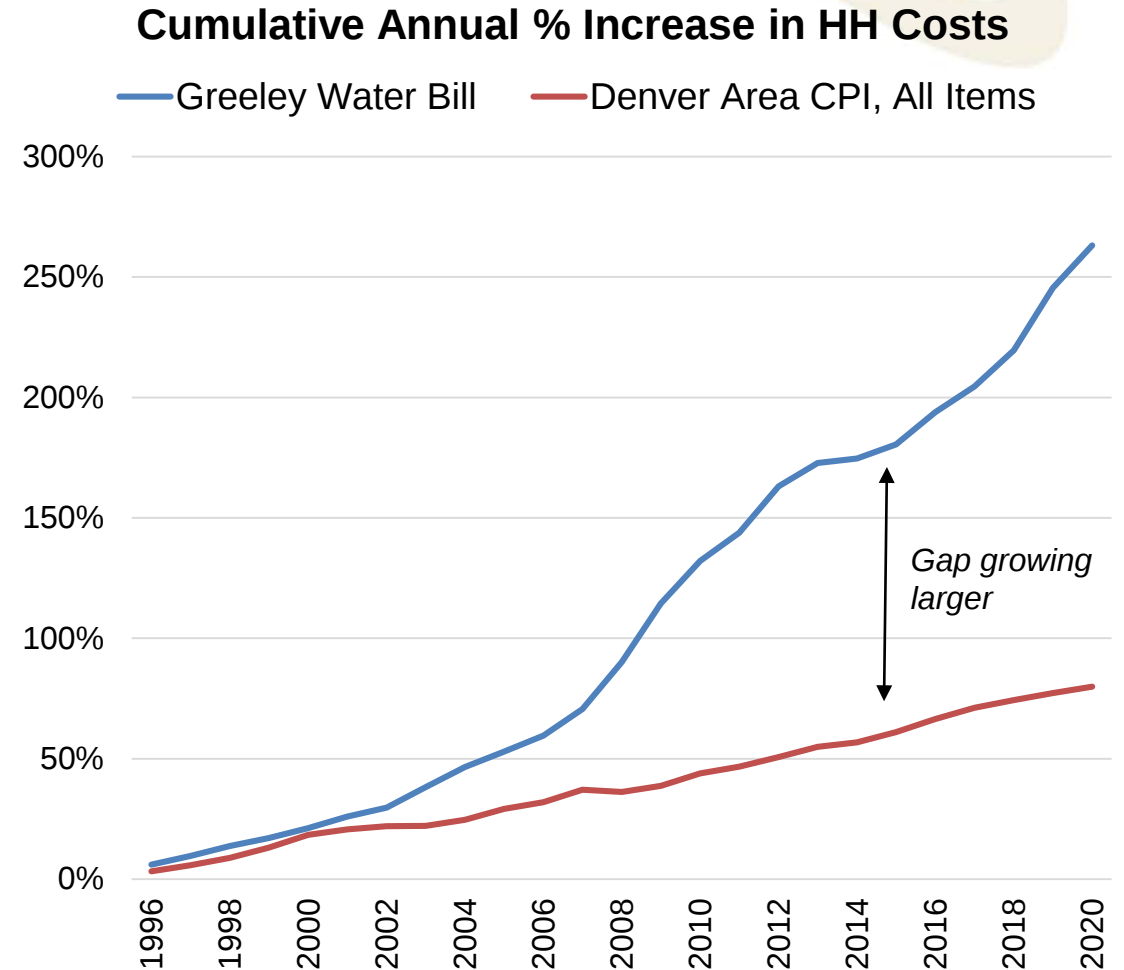
Utility Bill Affordability Proposed Pilot Program

Water & Sewer Board | May 19, 2021



Recap: Why Create a Utility Assistance Program?

- W&S rates rising faster than inflation (see chart →)
- Few assistance options for low-income W&S customers in need
- Ratings agencies consideration
- Emerging Fed and State funding opportunities
 - ❑ Recent legislation set to establish LIHWAP
 - ❑ Having a program in place allows Greeley to quickly convey grant dollars to those in need



Greeley's Existing Programs

Payment Assistance

- Payment extensions
- Payment arrangements
 - Customer must pay half of past-due amount to start the arrangement

Food Tax Rebate

- \$65 per family member per year
- Eligibility: Income $\leq$ 50% of HUD's median family income
- Applications accepted March-June
- Temporary employee hired each year to process applications

Food Tax Rebate Income Criteria	
Family Members	2020 Income Limits
1	\$29,550
4	\$42,150
8	\$55,650

Proposed Pilot Program 2022-2024

Add-on to existing rebate program:

- Income eligibility = same as food tax rebate
- \$45 credit applied to utility bills in June/July
- 2022 budget commitment = \$50,000



Benefits of this model:

- Establishes a utility bill assistance framework that future Fed/State funding can be added to
- Builds upon an existing administrative process
- Starting small allows for easy adjustments and incremental, sustainable growth of the program

Known Challenges:

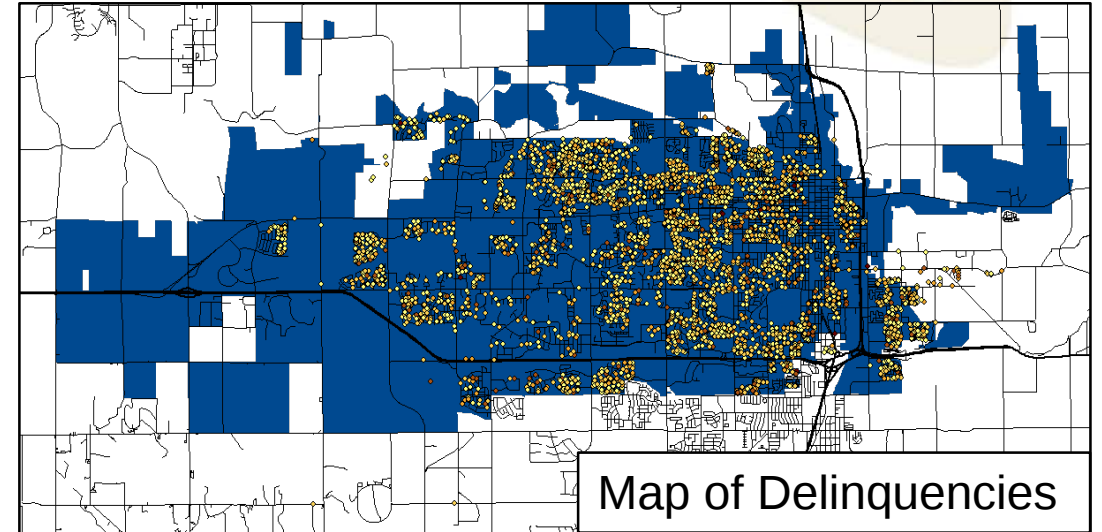
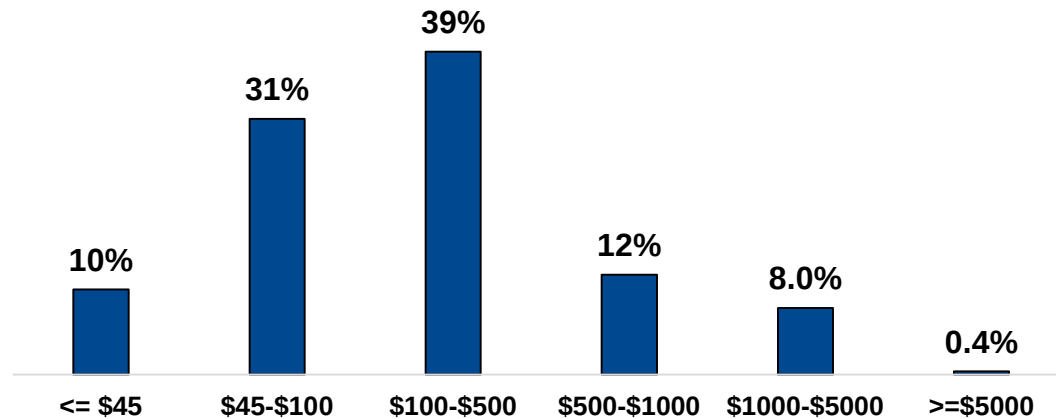
- Application timeframe won't always align with customer need
 - Following year one, staff will explore the feasibility of year-round applications with credits issued on a rolling schedule.
- Exclusively targets those named on the utility bill, missing renters in need
 - This is a known challenge among utility providers and policy groups. Staff will continue exploring how best to reach multi-family customers.

A Look at Delinquency

Greeley's Residential Delinquency Stats:

Total Accounts with a delinquent balance	3,333
Percentage of residential customer base	13%
Average past due balance	\$344

Distribution of Delinquent Amount



- The proposed water rebate will mitigate delinquency for those who meet the income qualification.
- Delinquency status is not part of the eligibility criteria being proposed.

Next Steps: 2021 Work Plan

- Submit a \$50,000 supplemental request for the Pilot Program
- Develop business processes
 - Marketing/outreach
 - Application materials and procedures
 - Utility billing coordination and staff training
- Partner with Conservation team to plan for targeted programming towards those who utilize the water rebate.
- Remain engaged with legislation around Low Income Water Assistance Program (LIHWAP)
- Continue to recognize the need for a 5th water tier “lifeline rate” with the City’s new Customer Information System (est. implementation 2023)

Board Discussion & Questions

Water & Sewer Board | May 19, 2021





WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 11

TITLE: LEGAL REPORT

RECOMMENDATION:

ADDITIONAL INFORMATION:



Legal Report
Greeley Water and Sewer Board Meeting
May 19, 2021

- I. **Statement of Opposition:** Based on a review of the March, 2021 Water Court Resume, staff and water counsel recommend that the Board file a statement of opposition in the following case:
 - a. Case Number: **21CW3023:** Application of the Town of Berthoud for a change of water rights for 34 shares (out of 100) in the Ryan Gulch Reservoir Company for municipal uses. Ryan Gulch Reservoir releases water to the Big Thompson River. This application also includes two exchange rights on the Big Thompson River in the same stream reach as Greeley's exchanges. Staff and counsel recommend that Greeley file a statement of opposition to ensure that Applicant's claims do not cause injury to Greeley's Big Thompson River water rights and exchanges.
- II. **Proposed Motion Language:** "I move that the Board authorize the filing of a statement of opposition in Case No. 21CW3023 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."



WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE _____ NO ENCLOSURE X

ITEM NUMBER: 12

TITLE: DIRECTOR'S REPORT

RECOMMENDATION: INFORMATIONAL ONLY

ADDITIONAL INFORMATION:

- Windy Gap Firing Project Activity Update
- Wildfire Mitigation Update



WATER & SEWER BOARD AGENDA MAY 19, 2021

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 13

TITLE: SUCH OTHER BUSINESS AS NECESSARY

RECOMMENDATION:

ADDITIONAL INFORMATION:

