

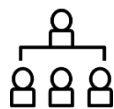
# Water and Sewer Board

Regular Meeting

City Council Chambers – City Center South

1001 11<sup>th</sup> Avenue – Greeley, Colorado

June 15, 2022 at 2:00 p.m.



Regular meetings of the Water and Sewer Board are held **in person** on the 3rd Wednesday of each month in the City Council Chambers, 1001 11<sup>th</sup> Avenue, Greeley, Colorado.



Members of the public may attend and provide comment during public hearings.



Written comments may be submitted by US mail or dropped off at the Water and Sewer office located at 1001 11<sup>th</sup> Avenue, 2nd Floor, Greeley, CO 80631 or emailed to [wsadmin@greeleygov.com](mailto:wsadmin@greeleygov.com). All written



comments must be received by 10:00 a.m. on the date of the meeting.

Meeting agendas and minutes are available on the City's meeting portal at [Greeley-co.municodemeetings.com/](https://greeley-co.municodemeetings.com/)

## IMPORTANT – PLEASE NOTE

This meeting is scheduled as an **in-person session only**. If COVID, weather, or other conditions beyond the control of the City dictate, the meeting will be conducted virtually and notice will be posted on the City's MuniCode meeting portal by 10:00 a.m. on the date of the meeting (<https://greeley-co.municodemeetings.com/>).

In the event it becomes necessary for a meeting to be held virtually, use the link below to join the meeting. Virtual meetings are also livestreamed on YouTube at <https://www.youtube.com/CityofGreeley>.

For more information about this meeting or to request reasonable accommodations, contact the administrative team at 970-350-9801 or by email at [wsadmin@greeleygov.com](mailto:wsadmin@greeleygov.com)





# Water & Sewer Board Meeting

**June 15, 2022 at 2:00 PM**

**1001 11th Avenue, City Center South, Greeley, CO 80631**

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## Agenda

1. Roll Call:      \_\_\_\_\_ Chairman Harold Evans      \_\_\_\_\_ Vice Chairman Mick Todd  
                         \_\_\_\_\_ Ms. Cheri Witt-Brown      \_\_\_\_\_ Mr. Fred Otis  
                         \_\_\_\_\_ Mr. Joe Murphy      \_\_\_\_\_ Mr. Tony Miller  
                         \_\_\_\_\_ Mr. Manuel Sisneros      \_\_\_\_\_ Mayor John Gates  
                         \_\_\_\_\_ Mr. Raymond Lee      \_\_\_\_\_ Mr. John Karner
2. Approval of Minutes
3. Approval of the Agenda
4. Welcome New Employees and Promotions
5. Preliminary 2023 Capital Budget
6. Approve and Recommend to Council Divestment of the Thayer Farm
7. Approve and Recommend to Council West Fort Collins Water District Customer Transfer and Interconnect IGA
8. Executive Session
9. Legal Report
10. Director's Report
11. Such Other Business That May Be Brought Before the Board Added to This Agenda by Motion of the Board.
12. Adjournment



*If, to effectively and fully participate in this meeting, you require an auxiliary aid or other assistance related to a disability, please contact the Water and Sewer Department administrative staff at 970-350-9801 or [wsadmin@greeleygov.com](mailto:wsadmin@greeleygov.com)*

**City of Greeley  
Water and Sewer Board  
Minutes of May 18, 2022  
Regular Board Meeting**

Chairman Harold Evans called the Water and Sewer Board meeting to order at 2:01 p.m. on Wednesday May 18, 2022.

**1. Roll Call**

The Clerk called the roll and those present included:

**Board Members:**

Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Joe Murphy, Cheri Witt-Brown, Tony Miller, Manuel Sisneros, Assistant to the City Manager Lindsay Kuntz, Finance Director John Karner

**Water and Sewer Department staff:**

Director Sean Chambers, Deputy Director Adam Jokerst, Utility Finance Manager Erik Dial, Water Resources Manager Jen Petrzelka, Water Resource Planning Manager Kelen Dowdy, Water Resources Administrator II Alex Tennant, Water Resources Administrator III Leah Hubbard, Water Resource Administrator I Megan Kramer, Senior Administrative Assistant Crystal Sanchez and Interim Office Manager Gigi Allen

**Legal Counsel:**

Counsel to Water & Sewer Board Attorney Jim Noble, Environmental and Water Resources Attorney II Dan Biwer, Senior Attorney Michael Axelrad

**Guests:**

Emeritus Board Member Robert Ruyle

**2. Approval of Minutes**

Ms. Witt-Brown made a motion, seconded by Mr. Otis, to approve the April 20, 2022, Water and Sewer Board meeting minutes. The motion carried 7-0.

**3. Approval of and/or Additions to Agenda**

Item 6 was changed from a resolution to a motion.

**4. Welcome New Employees and Promotions**

Mr. Chambers provided an introduction of new Water and Sewer Department employees starting this month and recognized the departures of Adam Jokerst and Jennifer Dial.

**5. Tri Annual Water Court Update**

Leah Hubbard discussed that The City of Greeley Water and Sewer Department is active in numerous Water Court matters to develop additional water supply and to protect existing water rights. In the first three months of 2022, Greeley filed 4 Statements of Opposition and settled in four cases. Greeley is currently an opposer in 30 cases. Expenses in this period totaled \$202,778 as of May 3, 2022. The memorandum and presentation presented summarized significant activities over the past trimester.

**6. Conveyance of Easements on City Property at Boyd Lake Water Treatment Plant**

Sean Chambers gave a presentation on the draft City Council ordinance authorizing the conveyance of two (2) recreational trail easements across a portion of the Boyd Lake Water Treatment Plant property to allow the City of Loveland to construct its proposed Centerra Trail Project.

The City of Greeley's ("Greeley") Boyd Lake Treatment Plant, located along the south side of Boyd Lake in Loveland, provides for the seasonal and back up treatment of water resources for drinking water for Greeley water customers. Treatment functions at the Boyd Lake facility supplements the Bellvue Water Treatment Plant by providing additional water in times of high demand or backup for disruptions to Bellvue WTP.

The City of Loveland ("Loveland") has planned a trail expansion project to construct a hard-surface trail between Denver Avenue and Boyd Lake Avenue along the south shore of Boyd Lake, west of Centerra. A portion of the trail is designed to cross the northern boundary of the property owned by Greeley as shown in Attachment 1.

Site meetings have been held with Greeley Water & Sewer staff to review the proposed trail location and request adjustments, as needed. Water & Sewer staff have reviewed and approved a final alignment of the trail, ensuring that the planned location does not interfere with current or future property needs by Greeley.

To construct the trail, Loveland needs to acquire two (2) permanent recreational trail easements on Greeley's property. An appraisal has been completed for the value of

the easements and Loveland will compensate Greeley \$131,800 for the easement interests.

Department Staff have been in coordination with Loveland staff and consultants and set certain requirements for signage, safety and security.

Vice Chairman Todd moved the Board find that the proposed easements are not being used nor held for a governmental purpose, recommend that City Council authorize conveyance of the easements by adoption of an ordinance in the form enclosed, and authorize City staff to make minor revisions to the easements before their execution, provided that the material substance of the easements remains unchanged. Mr. Miller seconded the motion. The motion carried 7-0.

Crystal Sanchez, Gigi Allen, Kelen Dowdy, Jen Dial, Erik Dial, Megan Kramer, Alex Tennant, left the meeting at 2:19 p.m.

## **7. Executive Session**

Chairman Evans moved that the Board hold an executive session to address the following matter as provided by C.R.S. §24-6-402(4)(b), C.R.S., and Greeley Municipal Code Sec. 2-151:

For the purposes of providing the Board with an update of The City of Greeley v. The Taylor & Gill Ditch Company, et al., Larimer District Court Case No. 2021CV30881, and for providing legal advice as to the current situation regarding negotiations and options for moving forward with the litigation concerning a Right of First Refusal Agreement for carriage rights of excess capacity in the Taylor and Gill ditch. Seconded by Mr. Otis.

The motion carried 7-0.

Present at the Executive Session, starting at 2:20 pm were:

Chairman Harold Evans, Vice Chairman Mick Todd, Manual Sisneros, Tony Miller, Cheri Witt-Brown, Fred Otis, Joe Murphy, Director Sean Chambers, Deputy Director Water Resources Adam Jokerst, Water Resources Admin. III Leah Hubbard, Assistant to the City Manager Lindsay Kuntz, Senior Attorney Michael Axelrad, Environmental and Water Resources Attorney Dan Biwer, Attorney Jim Noble.

Guest: Emeritus Board Member Robert Ruyle

Executive Session ended at 2:48 p.m.

Gigi Allen and Crystal Sanchez returned to the meeting at 2:49 p.m.

**8. Approval of Excess Capacity Carriage Agreement with Taylor & Gill Ditch Company and Stipulation and Settlement Agreement with The Taylor & Gill Ditch Company, William and Paulette Seaworth, and HF2M, Inc.**

Adam Jokerst presented that in 2014, Greeley purchased from the Taylor & Gill Ditch Company ("Company") a right of first refusal ("ROFR") for "excess capacity" in the Taylor & Gill Ditch Ditch ("Ditch"). Excess capacity is defined as the unused physical space within the ditch. In December 2018, the Company entered into a contract with William and Paulette Seaworth for use of excess capacity in the ditch, contrary to the terms of Greeley's ROFR agreement. Greeley subsequently filed a complaint with the Larimer County District Court in 2021. That lawsuit culminated in the enclosed Stipulation and Settlement Agreement ("Settlement Agreement"). The Settlement Agreement provides Greeley rights to make use of the ditch's excess capacity, as documented in the Excess Capacity Carriage Agreement ("Carriage Agreement"), in exchange for dismissing the lawsuit.

Key terms of the proposed Carriage Agreement are:

- Greeley has senior rights to excess capacity in the ditch, up to 13.8 cfs.
- Greeley has 30 years to begin using the excess capacity and the term will be 20 years after beginning use.
- The agreement may be extended, and such extension shall not unreasonably be withheld.
- Greeley pays an upfront consideration of \$12,000.
- Greeley pays a "running charge" of \$13.50 for every acre-foot of water delivered under the agreement. The running charge escalates 3% per year, compounded annually.

Vice Chairman Todd moved that the Board approve the Excess Capacity Carriage Agreement with The Taylor & Gill Ditch Company and the Stipulation and Settlement Agreement with The Taylor & Gill Ditch Company, William and Paulette Seaworth, and HF2M, Inc. in the forms enclosed, and delegate authority to the Director of Water and Sewer to approve minor revisions to the agreements before their execution, provided that the material substance of the agreements remains unchanged. Mr. Murphy seconded the motion. The motion carried 7-0.

**9. Legal Report**

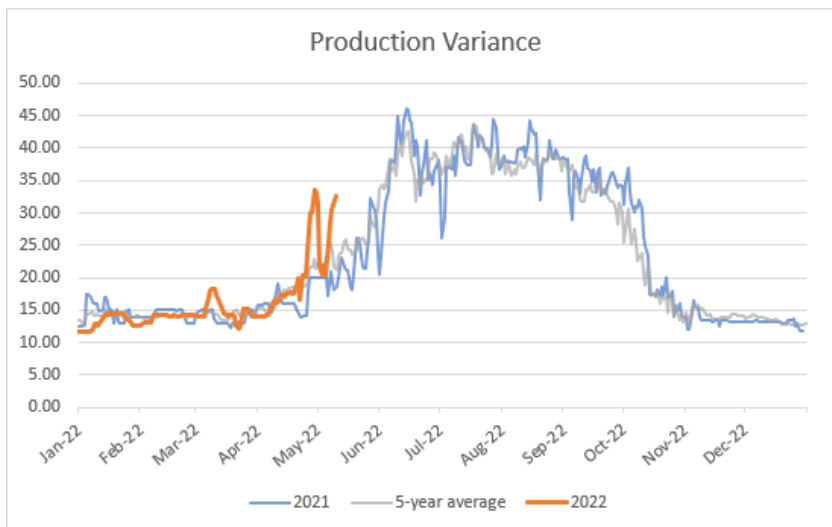
Jim Noble provided the legal report for this month which covers a single water court case, 22CW3039. Mr. Noble recommended that the Board authorize filing a statement of opposition to this case, which involves an application for diligence and to make a conditional storage water right partially absolute for Milliken Reservoir. Although this reservoir takes its supply from the South Platte River, it is used as a source for exchanges on the Cache la Poudre River.

Vice Chairman Todd moved that the Board authorize the filing of a statement of opposition in Case No. 22CW3039, 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. Mr. Miller seconded the motion. The motion carried 7-0.

## 10. Director's Report

Sean Chambers provided a summary or update on additional items of Board interest:

- Water Treatment Facilities operations update
  - Bellvue North Filter Plant back online and operating after maintenance, valve replacement and sampling.
  - Boyd WTP running at low end of its output capacity ~ 8 MGD
  - Treated water production variance plot through 5/10/22



- TB Concrete Repair Phase 1 Work Complete
- Request for Council authorization to initiate legal action to project the city and its Water Enterprise from the damages arising from TB-1 Concrete



**11. 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 3:12 p.m.

\*\*\*\*\*

\_\_\_\_\_  
Harold Evans, Chairman

\_\_\_\_\_  
Raymond Lee, Board Secretary

# Water & Sewer Agenda Summary

June 15, 2022

Key Staff Contact: Sean Chambers, Water & Sewer Director

**Title:** Welcome New Water & Sewer Employees and Recognize Department Promotions

**Summary:** New Hires: Jake Gross, Plant Operator A at Bellvue Water Treatment Plant

**Promotions:** Joe Mellinger promoted to Meter Shop Supervisor  
Tim Miller promoted to Maintenance Tech I – Reservoirs

**Recommended Action:** Information only

**Attachments:** None

# Water & Sewer Agenda Summary

Date: June 15, 2022

Key Staff Contact: Erik Dial, Utility Finance and Business Manager

## Title:

Preliminary Water and Sewer Enterprise Budgets

## Summary:

This will be an informational presentation to the Water and Sewer Board covering the challenges and opportunities the department is facing when preparing the 2023 capital and operating budgets. Our current environment is characterized by challenging inflation conditions, regulatory compliance obligation, investments that assure us all of resiliency and continuity of operations. The presentation will update the Board on the city budget process, Department work to refine the changes and additions proposed for the 2023 enterprise budgets, and preliminary rate model outputs.

## Recommended Action:

No action, informational only

## Attachments:

PowerPoint presentation

# **Water and Sewer Preliminary 2023 Budget Discussion**

Water and Sewer Board  
June 15, 2022

# 2023 Budget Themes

- Inflation is back, with a vengeance
  - Capital program adjusted
  - O&M impacted
- Continued regulatory required capital investments in sewer treatment
  - These required investments have shaped our rate change strategy
- Operational challenges and updates

# Operational Challenges and Opportunities

- “Great Resignation” impacting Water and Sewer
  - Refilling positions difficult in current hiring market
- Inflation – both supplies and competing organization’s salaries
- Utility billing services transitioning to W&S in 2023
  - Organizational assessment will be completed by early fall to determine the needs for this function
  - Placeholder additional funding request will be submitted

# Big Picture – Capital Program Planning & Funding

- W&S issued \$120.5M in water debt and \$25M in sewer debt in the last 9 months to fund near term capital projects
  - \$60.5M of the water debt was for Chimney Hollow Reservoir construction
  - Debt is issued every 2-4 years, depending on the cash flow needs
- Plant investment fees (PIF) and rates are the primary non-debt funding sources for capital funding
- Sudden inflationary increases impacted near term cash flow projections

# Water Capital Highlights

- Advanced Metering Infrastructure
  - Moved funding to purchase meters into 2022, however...
  - Supply chain challenges
    - Struggling to receive the meters
- Boyd WTP Process Improvements
  - Ongoing 2022 construction continuing (chemical tank building, flocculation replacement, etc)
  - Planned 2023 work delayed to 2027 due to cost escalation
- W&S Facility: design in 2024, construction in 2027
  - Still uncertainty regarding cost and other departmental participation





# Water Capital Highlights

- Non-Potable Expansion
  - Reduced future budgets from \$5M/annually to \$3M/annually
- Utility Billing Replacement
  - Project was on hold, slowly restarting
- Water Acquisition
  - Reduced future budgets to the Put/Call obligation related to Terry Ranch (~\$5M/annually)



# Terry Ranch Water Supply Project



- **Terry Ranch Phase 1 Project Plan**
  - 1<sup>st</sup> 6 miles of the pipeline design with construction starting in fall or winter



# Sewer Capital Highlights

- Continued Wastewater Treatment and Reclamation Facility (WTRF) investments
  - Nitrification Ph. 2 is ongoing (\$35M)
- WTRF Generator replacement pricing double amount budgeted - \$3M to \$6M (2022 project)
- Estimates for WTRF Primary Treatment Ph 2 project required one year delay for design and early equipment purchases – 2023 to 2024 (\$43M)



# Sewer Capital Highlights

- North Greeley Sewer Ph 2 – 2024
  - First portion of this project was constructed in 2018
  - Project needs to be completed for any significant growth to occur north of the Poudre River
- Poudre Trunk Line – 2022 project
  - Developer built trunk line that Greeley is paying to oversize - \$1.8M
  - Will allow development north of 10<sup>th</sup> St and west of 83<sup>rd</sup> Ave



# Preliminary 2023 Rate Model Projections

Fund	System Rate Increase
Water	3%
Sewer	18%

# Questions?

Water and Sewer Board  
June 15, 2022

# Water & Sewer Agenda Summary

Date: June 15, 2022

Key Staff Contact: Cole Gustafson, Water Resource Administrator III

## Title:

APPROVE AND RECOMMEND TO CITY COUNCIL DIVESTMENT OF THE THAYER FARM PROPERTY

## Summary:

In 2020, the City of Greeley purchased a 131 +/- acre farm in Weld County, known internally as the “Thayer Farm”, along with three shares of the Larimer and Weld Irrigation Company (LWIC) and four shares of the Windsor Reservoir and Canal Company (WRCC). Since 2020, the City has leased the Thayer Farm, along with the LWIC and WRCC Water Rights, to a tenant farmer in order to maintain the use of the Water Rights on the historically irrigated land. In 2022, City staff negotiated an offer of \$1,400,000 to purchase the Thayer Farm. A dry-up covenant, revegetation covenant, and leaseback of the three shares of LWIC and four shares of WRCC to the buyer are part of the agreement. Staff recommends the divestment of the Thayer Farm to the potential buyer. Additional details will be presented at the Water and Sewer Board Meeting.

## Recommended Action:

APPROVE AND RECOMMEND TO CITY COUNCIL DIVESTMENT OF THE THAYER FARM

## Recommended Motion:

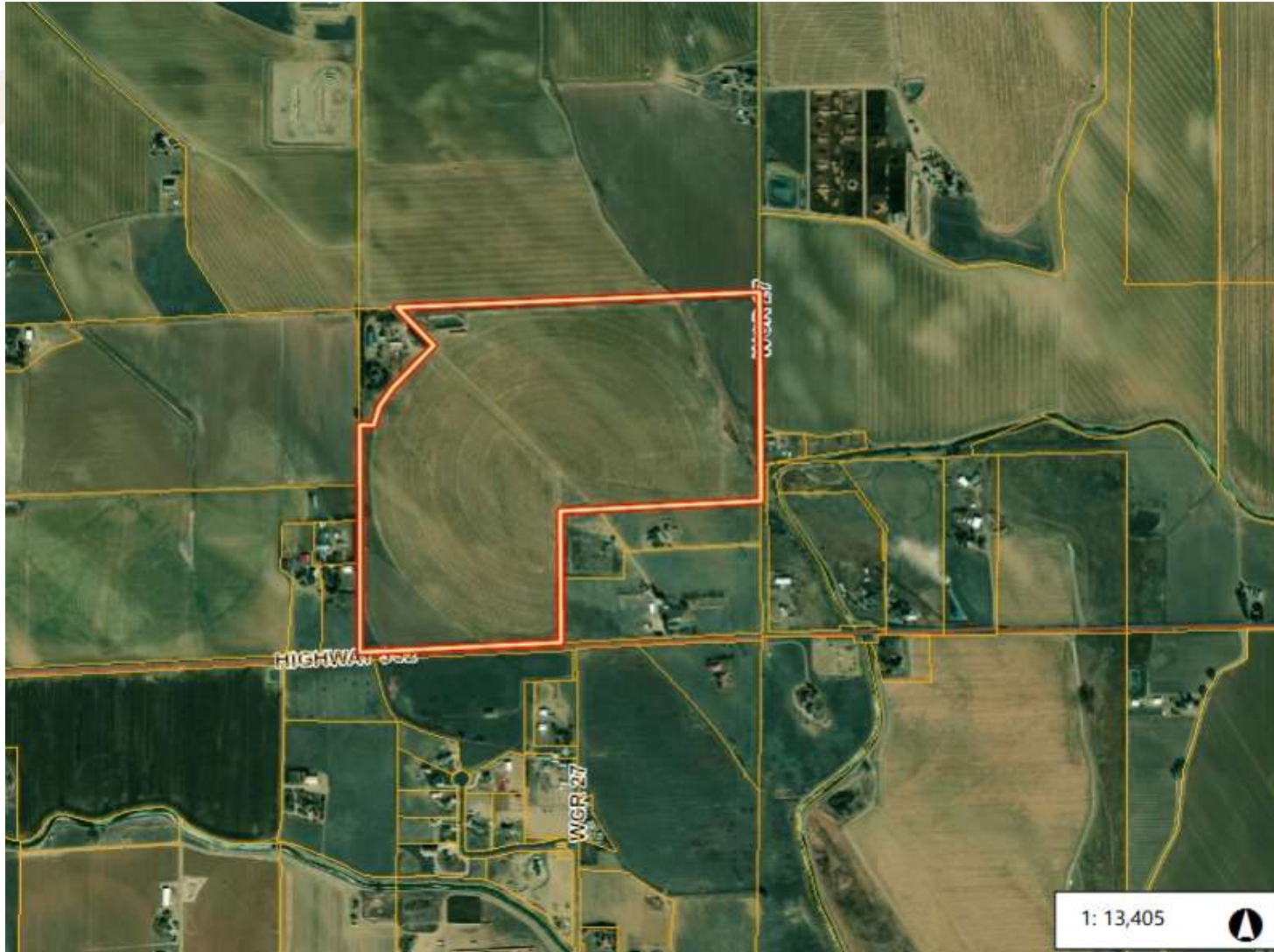
“I move that the Board make a finding that the Thayer Farm is not currently being used nor held for a governmental purpose, authorize the proposed divestment of real property, approve the Contract to Buy and Sell Real Estate and exhibits in the forms enclosed, delegate authority to the Director of Water and Sewer or his designee (i) to make minor amendments to the documents, including, but not limited to, corrections to property descriptions and contract extensions, and (ii) to undertake all necessary and appropriate action to close on the divestment, and recommend that City Council authorize the same.”

## Attachments:

Presentation, purchase contract, exhibits, and draft City Council Ordinance.



# Thayer Farm Property Divestment





# Thayer Farm Property Divestment

- Greeley acquired the 131 +/- acres Thayer Farm in early 2020. Purchase included 3 shares of LWIC and 4 shares of WRCC
- Total Purchase price was \$2,770,000
  - In 2019 127acres +/- acres plus water rights appraised for \$2,530,000
  - Water appraised for \$1,320,000
  - Land appraised for \$1,206,500 (\$9,500 per acre)
- Paid above appraisal due to rapidly escalating water and land values. The water rights had an estimated value of around \$1,550,000 by March of 2020
- Current offer for dry land only – \$1,400,000 (\$10,600 per acre)

# Thayer Farm Property Divestment

- Offer aligns with dry land values in that area
- Buyer is acquiring the property as an investment
- \$15,000 earnest money
- 5% brokerage commission
- Buyer pays for most diligence, Greeley pays for title commitment
- City obtains dry-up and revegetation covenants
- Leaseback (3 shares of LWIC and 4 shares of WRCC)
  - One year lease, with option to renew annually for four additional years

# Recommendation

- Benefits of divestment:
  - Reduces maintenance overhead
  - Could seek to re-appropriate sale proceeds for additional water acquisition
- Staff recommends the Water and Sewer Board approve and recommend to City Council the Thayer Farm divestment



Questions?

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.  
(CBS4-6-21) (Mandatory 1-22)

**THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.**

**CONTRACT TO BUY AND SELL REAL ESTATE  
(LAND)  
(☒ Property with No Residences)  
(☐ Property with Residences-Residential Addendum Attached)**

Date: \_\_\_\_\_

**AGREEMENT**

**1. AGREEMENT.** Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set forth in this contract (Contract).

**2. PARTIES AND PROPERTY.**

**2.1. Buyer.** LTS Performance Horses LLC (Buyer) will take title to the Property described below as ☐ ~~Joint Tenants~~ ☐ ~~Tenants In Common~~ ☒ ~~Other~~ Entity.

**2.2. No Assignability.** This Contract **IS NOT** assignable by Buyer unless otherwise specified in **Additional Provisions**.

**2.3. Seller.** The City of Greeley, Colorado (Seller) is the current owner of the Property described below.

**2.4. Property.** The Property is the following legally described real estate in the County of Weld, Colorado (insert legal description):

**Lot B, Amended Recorded Exemption No. 0805-18-4 2AMRECX 19-01-2877, according to the plat recorded December 18, 2019 at Reception No. 4551466, being part of the Southeast Quarter of Section 18, Township 6 North, Range 66 West of the 6th P.M.**

known as: N/A  
Street Address City State Zip

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

**2.5. Inclusions.** The Purchase Price includes the following items (Inclusions):

**2.5.1. Inclusions.** The following items, whether fixtures or personal property, are included in the Purchase Price unless excluded under **Exclusions**:

**One (1) Valley - brand center-pivot irrigation sprinkler system and all associated pumps, motors, pipes, and fuel injection systems located on the Property as of the date this contract is executed.**

If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

~~**2.5.2. Encumbered Inclusions.** Any Inclusions owned by Seller (i.e., owned solar panels) must be conveyed at Closing by Seller free and clear of all taxes (except personal property and general real estate taxes for the year of Closing), liens and encumbrances, except:~~

~~**2.5.3. Personal Property Conveyance.** Conveyance of all personal property will be by bill of sale or other applicable legal instrument.~~

~~**2.5.4. Leased Items.** The following personal property is currently leased to Seller which will be transferred to Buyer at Closing (Leased Items):~~

**2.6. Exclusions.** The following items are excluded (Exclusions):

2.6.1 - Any and all rights, title, and interest of the Seller in and to any water and water rights, ditches and ditch rights, reservoirs and reservoir rights, and lateral rights associated with the Property, including, without limitation, those rights represented by shares of stock in The Larimer and Weld Irrigation Company, Windsor Reservoir and Canal Company, and Roullard Lateral Company.

2.6.2 - Any equipment or personal property located on the Property and owned by or belonging to the tenant occupying the Property pursuant to that certain Farm Lease Agreement dated April 28, 2020.

**2.7. ~~Water Rights, Well Rights, Water and Sewer Taps.~~**

☐ **2.7.1. ~~Deeded Water Rights.~~** The following legally described water rights:

~~Any deeded water rights will be conveyed by a good and sufficient \_\_\_\_\_ deed at Closing.~~

☐ **2.7.2. ~~Other Rights Relating to Water.~~** The following rights relating to water not included in §§ 2.7.1., 2.7.3., 2.7.4. and 2.7.5., will be transferred to Buyer at Closing:

☐ **2.7.3. ~~Well Rights.~~** Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is \_\_\_\_\_.

☐ **2.7.4. ~~Water Stock Certificates.~~** The water stock certificates to be transferred at Closing are as follows:

**2.7.5. ~~Water and Sewer Taps.~~** The parties agree that water and sewer taps listed below for the Property are being conveyed as part of the Purchase Price as follows:

~~If any water or sewer taps are included in the sale, Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be paid, if any, time and other restrictions for transfer and use of the taps.~~

**2.7.6. ~~Conveyance.~~** If Buyer is to receive any rights to water pursuant to § 2.7.2. (Other Rights Relating to Water), § 2.7.3. (Well Rights), § 2.7.4. (Water Stock Certificates), or § 2.7.5. (Water and Sewer Taps), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.

**2.7.7. ~~Water Rights Review.~~** Buyer ☐ **Does** ☐ **Does Not** have a Right to Terminate if examination of the Water Rights is unsatisfactory to Buyer on or before the **Water Rights Examination Deadline**.

**2.8. Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows:

Any growing crops existing on the Property at the time of Closing shall remain the property of the tenant occupying the Property pursuant to that certain Farm Lease Agreement with Bartmann Complete Hay Services, Inc. dated April 28, 2020.

**3. DATES, DEADLINES AND APPLICABILITY.****3.1. Dates and Deadlines.**

Item No.	Reference	Event	Date or Deadline
1	§ 3	<del>Time of Day Deadline</del>	N/A
2	§ 4	Alternative Earnest Money Deadline	3 days after MEC
		Title	
3	§ 8	Record Title Deadline (and Tax Certificate)	14 days after MEC
4	§ 8	Record Title Objection Deadline	28 days after MEC

5	§ 8	Off-Record Title Deadline	14 days after MEC
6	§ 8	Off-Record Title Objection Deadline	28 days after MEC
7	§ 8	Title Resolution Deadline	42 days after MEC
8	§ 8	Third Party Right to Purchase/Approve Deadline	N/A
		<b>Owners' Association</b>	
9	§ 7	Association Documents Deadline	N/A
10	§ 7	Association Documents Termination Deadline	N/A
		<b>Seller's Disclosures</b>	
11	§ 10	Seller's Property Disclosure Deadline	14 days after MEC
12	§ 10	Lead-Based Paint Disclosure Deadline (if Residential Addendum attached)	N/A
		<b>Loan and Credit</b>	
13	§ 5	New Loan Application Deadline	N/A
14	§ 5	New Loan Terms Deadline	N/A
15	§ 5	New Loan Availability Deadline	N/A
16	§ 5	Buyer's Credit Information Deadline	N/A
17	§ 5	Disapproval of Buyer's Credit Information Deadline	N/A
18	§ 5	Existing Loan Deadline	N/A
19	§ 5	Existing Loan Termination Deadline	N/A
20	§ 5	Loan Transfer Approval Deadline	N/A
21	§ 4	Seller or Private Financing Deadline	N/A
		<b>Appraisal</b>	
22	§ 6	Appraisal Deadline	21 days after MEC
23	§ 6	Appraisal Objection Deadline	28 days after MEC
24	§ 6	Appraisal Resolution Deadline	42 days after MEC
		<b>Survey</b>	
25	§ 9	New ILC or New Survey Deadline	21 days after MEC
26	§ 9	New ILC or New Survey Objection Deadline	28 days after MEC
27	§ 9	New ILC or New Survey Resolution Deadline	42 days after MEC
		<b>Inspection and Due Diligence</b>	
28	§ 2	Water Rights Examination Deadline	N/A
29	§ 8	Mineral Rights Examination Deadline	N/A
30	§ 10	Inspection Termination Deadline	52 days after MEC
31	§ 10	Inspection Objection Deadline	45 days after MEC
32	§ 10	Inspection Resolution Deadline	52 days after MEC
33	§ 10	Property Insurance Termination Deadline	45 days after MEC
34	§ 10	Due Diligence Documents Delivery Deadline	14 days after MEC
35	§ 10	Due Diligence Documents Objection Deadline	28 days after MEC
36	§ 10	Due Diligence Documents Resolution Deadline	42 days after MEC
37	§ 10	Environmental Inspection Termination Deadline	45 days after MEC
38	§ 10	ADA Evaluation Termination Deadline	45 days after MEC
39	§ 10	Conditional Sale Deadline	N/A
40	§ 10	Lead-Based Paint Termination Deadline (if Residential Addendum attached)	N/A
41	§ 11	Estoppel Statements Deadline	28 days after MEC
42	§ 11	Estoppel Statements Termination Deadline	45 days after MEC
		<b>Closing and Possession</b>	
43	§ 12	Closing Date	60 days after MEC or by mutual agreement
44	§ 17	Possession Date	Closing Date
45	§ 17	Possession Time	5:00 p.m. U.S. Mountain Time
46	§ 27	Acceptance Deadline Date	N/A
47	§ 27	Acceptance Deadline Time	N/A

105 **3.2. Applicability of Terms.** If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or completed with "N/A",  
106 or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. Any box



checked in this Contract means the corresponding provision applies. If no box is checked in a provision that contains a selection of “None”, such provision means that “None” applies.

The abbreviation “MEC” (mutual execution of this Contract) means the date upon which both parties have signed this Contract. The abbreviation “N/A” as used in this Contract means not applicable.

### 3.3. Day; Computation of Period of Days; Deadlines.

**3.3.1. Day.** As used in this Contract, the term “day” means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of Day Deadline** is specified in § 3.1. (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines, Examination Deadlines and Termination Deadlines will end on the specified deadline date at the time of day specified in the **Time of Day Deadline**, United States Mountain Time. If **Time of Day Deadline** is left blank or “N/A” the deadlines will expire at 11:59 p.m., United States Mountain Time.

**3.3.2. Computation of Period of Days.** In computing a period of days (e.g., three days after MEC), when the ending date is not specified, the first day is excluded and the last day is included.

**3.3.3. Deadlines.** If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline ☒ **Will** ☐ **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

## 4. PURCHASE PRICE AND TERMS.

**4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1.	Purchase Price	\$ 1,400,000.00	
2	§ 4.3.	Earnest Money		\$ 15,000.00
3	<del>§ 4.5.</del>	<del>New Loan</del>		\$ N/A
4	<del>§ 4.6.</del>	<del>Assumption Balance</del>		\$ N/A
5	<del>§ 4.7.</del>	<del>Private Financing</del>		\$ N/A
6	<del>§ 4.7.</del>	<del>Seller Financing</del>		\$ N/A
7				
8				
9	§ 4.4.	Cash at Closing		\$ 1,385,000.00
10		<b>TOTAL</b>	\$ 1,400,000.00	\$ 1,385,000.00

~~**4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$ \_\_\_\_\_ (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer’s lender and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer’s closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.~~

**4.3. Earnest Money.** The Earnest Money set forth in this Section, in the form of a check, wire transfer, or other Good Funds, will be payable to and held by Land Title Guarantee Company, 4617 West 20th Street, Suite B, Greeley, Colorado 80634 (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

**4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

**4.3.2. Disposition of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 24 and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller’s receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in § 23 (Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an Earnest Money Release form, Buyer agrees to execute and return to Seller or Broker working with Seller, written mutual instructions (e.g., Earnest Money Release form), within three days of Buyer’s receipt.

**4.3.2.1. Seller Failure to Timely Return Earnest Money.** If Seller fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Seller is in default and liable to Buyer as set forth in “**If Seller is in Default**”, § 20.2. and § 21, unless Seller is entitled to the Earnest Money due to a Buyer default.



**4.3.2.2. Buyer Failure to Timely Release Earnest Money.** If Buyer fails to timely execute and return the Earnest Money Release Form, or other written mutual instructions, Buyer is in default and liable to Seller as set forth in “**If Buyer is in Default, § 20.1. and § 21**,” unless Buyer is entitled to the Earnest Money due to a Seller Default.

**4.4. Form of Funds; Time of Payment; Available Funds.**

**4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller’s check and cashier’s check (Good Funds).

**4.4.2. Time of Payment.** All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT.**

**4.4.3. Available Funds.** Buyer represents that Buyer, as of the date of this Contract, ☒ **Does** ☐ **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

**4.5. New Loan.**

~~**4.5.1. Buyer to Pay Loan Costs.** Buyer, except as otherwise permitted in § 4.2. (Seller Concession), if applicable, must timely pay Buyer’s loan costs, loan discount points, prepaid items and loan origination fees as required by lender.~~

~~**4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in § 4.5.3. (Loan Limitations) or § 29 (Additional Provisions).~~

~~**4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following types of loans:~~  
~~☐ **Conventional** ☐ **Other** \_\_\_\_\_.~~

~~**4.6. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in § 4.1. (Price and Terms), presently payable at \$ \_\_\_\_\_ per \_\_\_\_\_ including principal and interest presently at the rate of \_\_\_\_\_ % per annum and also including escrow for the following as indicated: ☐ **Real Estate Taxes** ☐ **Property Insurance Premium** and ☐ \_\_\_\_\_.~~

~~Buyer agrees to pay a loan transfer fee not to exceed \$ \_\_\_\_\_. At the time of assumption, the new interest rate will not exceed \_\_\_\_\_ % per annum and the new payment will not exceed \$ \_\_\_\_\_ per \_\_\_\_\_ principal and interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than \$ \_\_\_\_\_, or if any other terms or provisions of the loan change, Buyer has the Right to Terminate under § 24.1. on or before **Closing Date**.~~

~~Seller ☐ **Will** ☐ **Will Not** be released from liability on said loan. If applicable, compliance with the requirements for release from liability will be evidenced by delivery ☐ on or before **Loan Transfer Approval Deadline** ☐ at **Closing** of an appropriate letter of commitment from lender. Any cost payable for release of liability will be paid by \_\_\_\_\_ in an amount not to exceed \$ \_\_\_\_\_.~~

**4.7. Seller or Private Financing.**

~~**WARNING:** Unless the transaction is exempt, federal and state laws impose licensing, other requirements and restrictions on sellers and private financiers. Contract provisions on financing and financing documents, unless exempt, should be prepared by a licensed Colorado attorney or licensed mortgage loan originator. Brokers should not prepare or advise the parties on the specifics of financing, including whether or not a party is exempt from the law.~~

~~**4.7.1. Seller Financing.** If Buyer is to pay all or any portion of the Purchase Price with Seller financing, ☐ **Buyer** ☐ **Seller** will deliver the proposed Seller financing documents to the other party on or before \_\_\_\_\_ days before **Seller or Private Financing Deadline**.~~

~~**4.7.1.1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is conditional upon Seller determining whether such financing is satisfactory to the Seller, including its payments, interest rate, terms, conditions, cost, and compliance with the law. Seller has the Right to Terminate under § 24.1., on or before **Seller or Private Financing Deadline**, if such Seller financing is not satisfactory to Seller, in Seller’s sole subjective discretion.~~

~~**4.7.2. Buyer May Terminate.** If Buyer is to pay all or any portion of the Purchase Price with Seller or private financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions, and cost. Buyer has the Right to Terminate under § 24.1., on or before **Seller or Private Financing Deadline**, if such Seller or private financing is not satisfactory to Buyer, in Buyer’s sole subjective discretion.~~

**TRANSACTION PROVISIONS**

**5. FINANCING CONDITIONS AND OBLIGATIONS.**

~~**5.1. New Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, must make an application verifiable by such lender, on or before **New Loan Application Deadline** and exercise reasonable efforts to obtain such loan or approval.~~

~~**5.2. New Loan Terms; New Loan Availability.**~~

~~5.2.1. **New Loan Terms.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the proposed New Loan's payments, interest rate, conditions and costs or any other loan terms (New Loan Terms) are satisfactory to Buyer. This condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 24.1., on or before **New Loan Terms Deadline**, if the New Loan Terms are not satisfactory to Buyer, in Buyer's sole subjective discretion.~~

~~5.2.2. **New Loan Availability.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional upon Buyer's satisfaction with the availability of the New Loan based on the lender's review and underwriting of Buyer's New Loan Application (New Loan Availability). Buyer has the Right to Terminate under § 24.1., on or before the **New Loan Availability Deadline** if the New Loan Availability is not satisfactory to Buyer. Buyer does not have a Right to Terminate based on the New Loan Availability if the termination is based on the New Loan Terms, Appraised Value (defined below), the Lender Property Requirements (defined below), Insurability (§ 10.5. below) or the Conditional Upon Sale of Property (§ 10.7. below). **IF SELLER IS NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY WILL BE NONREFUNDABLE**, except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).~~

~~5.3. **Credit Information.** If an existing loan is not to be released at Closing, this Contract is conditional (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be in Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by Seller must be held by Seller in confidence and not released to others except to protect Seller's interest in this transaction. If the Cash at Closing is less than as set forth in § 4.1. of this Contract, Seller has the Right to Terminate under § 24.1., on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 24.1., on or before **Disapproval of Buyer's Credit Information Deadline**.~~

~~5.4. **Existing Loan Review.** If an existing loan is not to be released at Closing, Seller must deliver copies of the loan documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer has the Right to Terminate under § 24.1., on or before **Existing Loan Termination Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on such deadline. Seller has the Right to Terminate under § 24.1., on or before Closing, in Seller's sole subjective discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.~~

## 6. APPRAISAL PROVISIONS.

**6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

**6.2. Appraised Value.** The applicable appraisal provision set forth below applies to the respective loan type set forth in § 4.5.3., or if a cash transaction (i.e., no financing), § 6.2.1. applies.

**6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal Objection Deadline**:

**6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated;

or

**6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the Purchase Price (Lender Verification).

**6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination, (i.e., on or before expiration of **Appraisal Resolution Deadline**).

~~**6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements, removals or repairs, including any specified in the Appraisal (Lender Property Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract terminates on the earlier of three days following Seller's receipt of the Lender Property Requirements, or Closing, unless prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Property Requirements; (2) the Lender Property Requirements have been completed; or (3) the satisfaction of the Lender Property Requirements is waived in writing by Buyer.~~

262 **6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by ☒ **Buyer**  
 263 ☐ **Seller.** The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company, lender's  
 264 agent or all three.

265 ~~**7. OWNERS' ASSOCIATIONS.** This Section is applicable if the Property is located within one or more Common Interest~~  
 266 ~~Communities and subject to one or more declarations (Association).~~

267 ~~**7.1. Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A COMMON~~  
 268 ~~INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF~~  
 269 ~~THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE~~  
 270 ~~COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE~~  
 271 ~~ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL~~  
 272 ~~OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS~~  
 273 ~~OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD~~  
 274 ~~PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS~~  
 275 ~~AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING~~  
 276 ~~CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A~~  
 277 ~~COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF~~  
 278 ~~PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL~~  
 279 ~~OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE~~  
 280 ~~DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE~~  
 281 ~~ASSOCIATION.~~

282 ~~**7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association Documents (defined below),~~  
 283 ~~at Seller's expense, on or before Association Documents Deadline. Seller authorizes the Association to provide the Association~~  
 284 ~~Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon Buyer's receipt~~  
 285 ~~of the Association Documents, regardless of who provides such documents.~~

286 ~~**7.3. Association Documents.** Association documents (Association Documents) consist of the following:~~

287 ~~**7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of organization, operating agreements,~~  
 288 ~~rules and regulations, party wall agreements and the Association's responsible governance policies adopted under § 38-33.3-209.5,~~  
 289 ~~C.R.S.;~~

290 ~~**7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive boards' or managers' meetings;~~  
 291 ~~such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. (Annual~~  
 292 ~~Disclosure) and minutes of meetings, if any, subsequent to the minutes disclosed in the Annual Disclosure. If none of the preceding~~  
 293 ~~minutes exist, then the most recent minutes, if any (§§ 7.3.1. and 7.3.2., collectively, Governing Documents); and~~

294 ~~**7.3.3.** List of all Association insurance policies as provided in the Association's last Annual Disclosure, including,~~  
 295 ~~but not limited to, property, general liability, association director and officer professional liability and fidelity policies. The list must~~  
 296 ~~include the company names, policy limits, policy deductibles, additional named insureds and expiration dates of the policies listed~~  
 297 ~~(Association Insurance Documents);~~

298 ~~**7.3.4.** A list by unit type of the Association's assessments, including both regular and special assessments as~~  
 299 ~~disclosed in the Association's last Annual Disclosure;~~

300 ~~**7.3.5.** The Association's most recent financial documents which consist of: (1) the Association's operating budget~~  
 301 ~~for the current fiscal year, (2) the Association's most recent annual financial statements, including any amounts held in reserve for~~  
 302 ~~the fiscal year immediately preceding the Association's last Annual Disclosure, (3) the results of the Association's most recent~~  
 303 ~~available financial audit or review, (4) list of the fees and charges (regardless of name or title of such fees or charges) that the~~  
 304 ~~Association's community association manager or Association will charge in connection with the Closing including, but not limited~~  
 305 ~~to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for~~  
 306 ~~the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents, (5) list of~~  
 307 ~~all assessments required to be paid in advance, reserves or working capital due at Closing and (6) reserve study, if any (§§ 7.3.4. and~~  
 308 ~~7.3.5., collectively, Financial Documents);~~

309 ~~**7.3.6.** Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5,~~  
 310 ~~C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction~~  
 311 ~~Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2.~~  
 312 ~~(Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common~~  
 313 ~~elements or limited common elements of the Association property.~~

314 ~~**7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents. Buyer has the Right to~~  
 315 ~~Terminate under § 24.1., on or before Association Documents Termination Deadline, based on any unsatisfactory provision in~~  
 316 ~~any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after~~  
 317 ~~Association Documents Deadline, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to~~  
 318 ~~Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive~~  
 319 ~~the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after Closing~~



~~Date, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the provisions of § 8.6. (Third Party Right to Purchase/Approve).~~

## 8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.

### 8.1. Evidence of Record Title.

☒ **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price, or if this box is checked, ☐ ~~an Abstract of Title certified to a current date.~~ Seller will cause the title insurance policy to be issued and delivered to Buyer as soon as practicable at or after Closing.

☐ ~~**8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price. If neither box in § 8.1.1. or § 8.1.2. is checked, § 8.1.1. applies.~~

**8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment ☒ **Will** ☐ ~~Will Not~~ contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by ☐ ~~Buyer~~ ☐ ~~Seller~~ ☒ **One-Half by Buyer and One-Half by Seller** ☐ ~~Other~~ \_\_\_\_\_.  
Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.7. (Right to Object to Title, Resolution).

**8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title Documents).

**8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**, copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the party or parties obligated to pay for the owner's title insurance policy.

**8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

**8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1. (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

**8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2. (Record Title) and § 13 (Transfer of Title), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice

to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

**8.4. Special Taxing Districts.** SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.

**8.5. Tax Certificate.** A tax certificate paid for by ☐ Seller ☒ Buyer, for the Property listing any special taxing districts that affect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may terminate, on or before **Record Title Objection Deadline**. Should Buyer receive the Tax Certificate after **Record Title Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Tax Certificate and the inclusion of the Property in a special taxing district, if applicable, as satisfactory and Buyer waives any Right to Terminate under this provision. If Buyer's loan specified in § 4.5.3. (Loan Limitations) prohibits Buyer from paying for the Tax Certificate, the Tax Certificate will be paid for by Seller.

~~**8.6. Third Party Right to Purchase/Approve.** If any third party has a right to purchase the Property (e.g., right of first refusal on the Property, right to purchase the Property under a lease or an option held by a third party to purchase the Property) or a right of a third party to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the third party holder of such right exercises its right this Contract will terminate. If the third party's right to purchase is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly notify Buyer in writing of the foregoing. If the third party right to purchase is exercised or approval of this Contract has not occurred on or before **Third Party Right to Purchase/Approve Deadline**, this Contract will then terminate. Seller will supply to Buyer, in writing, details of any Third Party Right to Purchase the Property on or before the **Record Title Deadline**.~~

**8.7. Right to Object to Title, Resolution.** Buyer has a right to object or terminate, in Buyer's sole subjective discretion, based on any title matters including those matters set forth in § 8.2. (Record Title), § 8.3. (Off-Record Title), § 8.5. (Special Taxing District) and § 13 (Transfer of Title). If Buyer exercises Buyer's rights to object or terminate based on any such title matter, on or before the applicable deadline, Buyer has the following options:

**8.7.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3. (Off-Record Title) the Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

**8.7.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 24.1., on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

**8.8. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property, including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations, unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various laws and governmental regulations concerning land use, development and environmental matters.

**8.8.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**

**8.8.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.**

**8.8.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING FACILITIES.**

**8.8.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.**

**8.8.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be excepted, excluded from, or not covered by the owner's title insurance policy.

~~**8.9. Mineral Rights Review.** Buyer ☐ Does ☐ Does Not have a Right to Terminate if examination of the Mineral Rights is unsatisfactory to Buyer on or before the Mineral Rights Examination Deadline.~~

## **9. NEW ILC, NEW SURVEY.**

**9.1. New ILC or New Survey.** If the box is checked, (1) ☐ ~~New Improvement Location Certificate (New ILC); or, (2) ☒ New Survey~~ in the form of ALTA; is required and the following will apply:

**9.1.1. Ordering of New ILC or New Survey.** ☐ Seller ☒ Buyer will order the New ILC or New Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a date after the date of this Contract.

**9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on or before Closing, by: ☐ Seller ☒ Buyer or:

**9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or the provider of the opinion of title if an Abstract of Title) and \_\_\_\_\_ will receive a New ILC or New Survey on or before **New ILC or New Survey Deadline**.

**9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by the surveyor to all those who are to receive the New ILC or New Survey.

**9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.

**9.3. New ILC or New Survey Objection.** Buyer has the right to review and object based on the New ILC or New Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3. or § 13:

**9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

**9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the New ILC or New Survey Objection before such termination (i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**).

## **DISCLOSURE, INSPECTION AND DUE DILIGENCE**

## **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND SOURCE OF WATER.**

**10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of this Contract.

**10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely



disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "As Is" condition, "Where Is" and "With All Faults."

**10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections (by one or more third parties, personally or both) of the Property, Leased Items, and Inclusions (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions and Leased Items, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g., heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective discretion, Buyer may:

**10.3.1. Inspection Termination.** On or before the **Inspection Termination Deadline**, notify Seller in writing, pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition, provided the Buyer did not previously deliver an Inspection Objection. Buyer's Right to Terminate under this provision expires upon delivery of an Inspection Objection to Seller pursuant to § 10.3.2.; or

**10.3.2. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct.

**10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination (i.e., on or before expiration of **Inspection Resolution Deadline**). Nothing in this provision prohibits the Buyer and the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by executing an Earnest Money Release.

**10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the termination of this Contract. This § 10.4. does not apply to items performed pursuant to an Inspection Resolution.

**10.5. Insurability.** Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and premium for property insurance (Property Insurance) on the Property, in Buyer's sole subjective discretion.

**10.6. Due Diligence.**

**10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery Deadline**: any documents and materials in Seller's possession that are responsive to this Section 10.6.1.

**10.6.1.1. Occupancy Agreements.** All current leases, including any amendments or other occupancy agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases):

Farm Lease Agreement with Bartmann Complete Hay Services, Inc., dated April 28, 2020. Seller agrees to terminate the Farm Lease Agreement with an effective date of December 31, 2022 in advance of Closing. Seller shall assign, and Buyer shall assume, at Closing that portion of the Farm Lease Agreement concerning the Property only. As described above, Seller is reserving for itself any and all water and water rights associated with the Property. However, Seller agrees to continue leasing the Water Rights that historically irrigated the Property to the tenant for irrigation of the Property through December 31, 2022.

~~**10.6.1.2. Leased Items Documents.** If any lease of personal property (§ 2.5.4., Leased Items) will be transferred to Buyer at Closing, Seller agrees to deliver copies of the leases and information pertaining to the personal property to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer ☐ Will ☐ Will Not assume the Seller's obligations under such leases for the Leased Items (§ 2.5.4., Leased Items).~~

~~**10.6.1.3. Encumbered Inclusions Documents.** If any Inclusions owned by Seller are encumbered pursuant to § 2.5.2. (Encumbered Inclusions) above, Seller agrees to deliver copies of the evidence of debt, security and any other documents creating the encumbrance to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer ☐ Will ☐ Will Not assume the debt on the Encumbered Inclusions (§ 2.5.2., Encumbered Inclusions).~~

**10.6.1.4. Other Documents.** If the respective box is checked, Seller agrees to additionally deliver copies of the following:

☐ **10.6.1.4.1.** ~~All contracts relating to the operation, maintenance and management of the Property;~~

☐ **10.6.1.4.2.** ~~Property tax bills for the last \_\_\_\_\_ years;~~

☐ ~~10.6.1.4.3. As-built construction plans to the Property and the tenant improvements, including architectural, electrical, mechanical and structural systems; engineering reports; and permanent Certificates of Occupancy, to the extent now available;~~

☐ ~~10.6.1.4.4. A list of all Inclusions to be conveyed to Buyer;~~

☐ ~~10.6.1.4.5. Operating statements for the past \_\_\_\_\_ years;~~

☐ ~~10.6.1.4.6. A rent roll accurate and correct to the date of this Contract;~~

☐ ~~10.6.1.4.7. A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;~~

☐ ~~10.6.1.4.8. All insurance policies pertaining to the Property and copies of any claims which have been made for the past \_\_\_\_\_ years;~~

☒ **10.6.1.4.9.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3.);

☒ **10.6.1.4.10.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;

☐ ~~10.6.1.4.11. Any Americans with Disabilities Act reports, studies or surveys concerning the compliance of the Property with said Act;~~

☐ ~~10.6.1.4.12. All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and~~

☐ **10.6.1.4.13.** Other:

**10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object based on the Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

**10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated; or

**10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

**10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination (i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**).

**10.6.3. Zoning.** Buyer has the Right to Terminate under § 24.1., on or before **Due Diligence Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

**10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable. ☐ ~~Seller~~ ☒ **Buyer** will order or provide **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or \_\_\_\_\_, at the expense of ☐ ~~Seller~~ ☒ **Buyer** (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business uses of the Property, if any.

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Termination Deadline** will be extended by mutual agreement of the parties days (Extended Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such event, ☐ ~~Seller~~ ☒ **Buyer** must pay the cost for such Phase II Environmental Site Assessment.

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4., Buyer has the Right to Terminate under § 24.1., on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended



Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

Buyer has the Right to Terminate under § 24.1., on or before **ADA Evaluation Termination Deadline**, based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

~~**10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property owned by Buyer and commonly known as \_\_\_\_\_, Buyer has the Right to Terminate under § 24.1. effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.~~

~~**10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer ☐ **Does** ☐ **Does Not** acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for the Property. ☐ **There is No Well.** Buyer ☐ **Does** ☐ **Does Not** acknowledge receipt of a copy of the current well permit. **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**~~

**10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.

~~**10.10. Lead-Based Paint.** [Intentionally Deleted - See Residential Addendum if applicable]~~

~~**10.11. Carbon Monoxide Alarms.** [Intentionally Deleted - See Residential Addendum if applicable]~~

~~**10.12. Methamphetamine Disclosure.** [Intentionally Deleted - See Residential Addendum if applicable]~~

## **11. TENANT ESTOPPEL STATEMENTS.**

**11.1. Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease stating:

**11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;

**11.1.2.** That said Lease is in full force and effect and that there have been no subsequent modifications or amendments;

**11.1.3.** The amount of any advance rentals paid, rent concessions given and deposits paid to Seller;

**11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;

**11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and

**11.1.6.** That the Lease to which the Estoppel Statement is attached is a true, correct and complete copy of the Lease demising the premises it describes.

**11.2. Seller Estoppel Statement.** In the event Seller does not receive from all tenants of the Property a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel Statement setting forth the information and documents required § 11.1. above and deliver the same to Buyer on or before **Estoppel Statements Deadline**.

**11.3. Estoppel Statements Termination.** Buyer has the Right to Terminate under § 24.1., on or before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.

## **CLOSING PROVISIONS**

## **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

**12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing Company, in a timely manner, all required loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or before Closing.

**12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions ☐ **Are** ☒ **Are Not** executed with this Contract.

**12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as the **Closing Date** or by mutual agreement at an earlier date. ~~At Closing, Seller agrees to deliver a set of keys for the Property to Buyer.~~ The hour and place of Closing will be as designated by mutual agreement of the Seller and Buyer.

**12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

**12.5. Assignment of Leases.** Seller must assign to Buyer all Leases at Closing that will continue after Closing and Buyer must assume Seller's obligations under such Leases. Further, Seller must transfer to Buyer all Leased Items and assign to Buyer such leases for the Leased Items accepted by Buyer pursuant to § 2.5.4. (Leased Items).

**13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender of any payment due at Closing, Seller must execute and deliver the following good and sufficient deed to Buyer, at Closing: ☒ special warranty deed ☐ ~~general warranty deed~~ ☐ ~~bargain and sale deed~~ ☐ ~~quit claim deed~~ ☐ ~~personal representative's deed~~ ☐ ~~\_\_\_\_\_ deed.~~ Seller, provided another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer, at Closing.

Unless otherwise specified in § 29 (Additional Provisions), if title will be conveyed using a special warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in §38-30-113(5)(a), C.R.S.

**14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts owed on any liens or encumbrances securing a monetary sum against the Property and Inclusions, including any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not, and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or from any other source.

**15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND WITHHOLDING.**

**15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required to be paid at Closing, except as otherwise provided herein.

**15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by ☐ Buyer ☐ Seller ☒ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~Other \_\_\_\_\_~~.

~~**15.3. Association Fees and Required Disbursements.** At least fourteen days prior to Closing Date, Seller agrees to promptly request that the Closing Company or the Association deliver to Buyer a current Status Letter, if applicable. Any fees associated with or specified in the Status Letter will be paid as follows:~~

~~**15.3.1. Status Letter Fee.** Any fee incident to the issuance of Association's Status Letter must be paid by ☐ Buyer ☐ Seller ☐ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~~~

~~**15.3.2. Record Change Fee.** Any Record Change Fee must be paid by ☐ Buyer ☐ Seller ☐ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~~~

~~**15.3.3. Assessments, Reserves or Working Capital.** All assessments required to be paid in advance (other than Association Assessments as defined in § 16.2. (Association Assessments), reserves or working capital due at Closing must be paid by ☐ Buyer ☐ Seller ☐ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~~~

~~**15.3.4. Other Fees.** Any other fee listed in the Status Letter as required to be paid at Closing will be paid by ☐ Buyer ☐ Seller ☐ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~~~

**15.4. Local Transfer Tax.** Any Local Transfer Tax must be paid at Closing by ☐ Buyer ☐ Seller ☒ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~

**15.5. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by ☒ Buyer ☐ Seller ☐ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~

~~**15.6. Private Transfer Fee.** Any private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by ☐ Buyer ☐ Seller ☐ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~~~

~~**15.7. Water Transfer Fees.** Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed \$\_\_\_\_\_ for:~~

☐ ~~Water Stock/Certificates~~

☐ ~~Water District~~

☐ ~~Augmentation Membership~~

☐ ~~Small Domestic Water Company~~

~~and must be paid at Closing by ☐ Buyer ☐ Seller ☐ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~~~

**15.8. Utility Transfer Fees.** Utility transfer fees can change. Any fees to transfer utilities from Seller to Buyer must be paid by ☒ Buyer ☐ Seller ☐ ~~One-Half by Buyer and One-Half by Seller~~ ☐ ~~N/A.~~

**15.9. FIRPTA and Colorado Withholding.**

**15.9.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller ☐ **IS** a foreign person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign

person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

**15.9.2. Colorado Withholding.** The Colorado Department of Revenue may require a portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

## 16. PRORATIONS AND ASSOCIATION ASSESSMENTS.

**16.1. Prorations.** The following will be prorated to the **Closing Date**, except as otherwise provided:

**16.1.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on ☒ **Taxes for the Calendar Year Immediately Preceding Closing** ☐ **Most Recent Mill Levy and Most Recent Assessed Valuation**, ☐ **Other** \_\_\_\_\_.

**16.1.2. Rents.** Rents based on ☐ **Rents Actually Received** ☒ **Accrued**. At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned to Buyer, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address.

~~**16.1.3. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and \_\_\_\_\_.~~

**16.1.4. Final Settlement.** Unless otherwise specified in Additional Provisions, these prorations are final.

~~**16.2. Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of ☐ **Buyer** ☐ **Seller**. Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller unless otherwise specified in Additional Provisions. Seller represents there are no unpaid regular or special assessments against the Property except the current regular assessments and \_\_\_\_\_.~~ Association Assessments are subject to change as provided in the Governing Documents.

**17. POSSESSION.** Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to the Leases as set forth in § 10.6.1.1.

If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of \$ 50.00 per day (or any part of a day notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered.

## GENERAL PROVISIONS

**18. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

**18.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

**18.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or

replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.

**18.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

**18.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

~~**18.5. Home Warranty. [Intentionally Deleted]**~~

**18.6. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other casualty will be borne by the party entitled to the growing crops as provided in § 2.8. and such party is entitled to such insurance proceeds or benefits for the growing crops.

**19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must be complied with.

**20. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party has the following remedies:

**20.1. If Buyer is in Default:**

☒ **20.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the parties agree the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

~~**20.1.2. Liquidated Damages, Applicable. This § 20.1.2. applies unless the box in § 20.1.1. is checked.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money amount specified in § 4.1. is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4. and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.~~

**20.2. If Seller is in Default:**

**20.2.1. Specific Performance, Damages or Both.** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper. Alternatively, in addition to the per diem in § 17 (Possession) for failure of Seller to timely deliver possession of the Property after Closing occurs, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance or damages, or both.

**20.2.2. Seller's Failure to Perform.** In the event Seller fails to perform Seller's obligations under this Contract, to include, but not limited to, failure to timely disclose Association violations known by Seller, failure to perform any replacements or repairs required under this Contract or failure to timely disclose any known adverse material facts, Seller remains liable for any such failures to perform under this Contract after Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this Contract are reserved and survive Closing.

**21. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

**22. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps



to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that party's last known address (physical or electronic as provided in § 26). Nothing in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This Section will not alter any date in this Contract, unless otherwise agreed.

**23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

#### **24. TERMINATION.**

**24.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate under such provision.

**24.2. Effect of Termination.** In the event this Contract is terminated, and all Earnest Money received hereunder is timely returned to Buyer, the parties are relieved of all obligations hereunder, subject to §§ 10.4. and 21.

**25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a party receives the predecessor's benefits and obligations of this Contract.

#### **26. NOTICE, DELIVERY AND CHOICE OF LAW.**

**26.1. Physical Delivery and Notice.** Any document or notice to Buyer or Seller must be in writing, except as provided in § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

**26.2. Electronic Notice.** As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not Broker or Brokerage Firm) at the electronic address of the recipient by ~~facsimile~~, email or \_\_\_\_\_.

**26.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, ~~or (3) facsimile at the facsimile number (Fax No.) of the recipient.~~

**26.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

**27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 26 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and

880 Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such  
881 copies taken together are deemed to be a full and complete contract between the parties.

882 **28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited  
883 to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations; Title Insurance,**  
884 **Record Title and Off-Record Title; New ILC, New Survey; and Property Disclosure, Inspection, Indemnity, Insurability Due**  
885 **Diligence and Source of Water.**

886 **ADDITIONAL PROVISIONS AND ATTACHMENTS**

887 **29. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate  
888 Commission.)

889 **29.1 - Buyer shall deliver, or cause to be delivered, at or before Closing duly executed and acknowledged copies of the Restrictive Covenants (No**  
890 **Irrigation and Revegetation) in the form attached hereto as Exhibit A and the Irrigation Water Lease in the form attached hereto as Exhibit B. The**  
891 **Restrictive Covenants (No Irrigation and Revegetation) shall be recorded in the real property records of Weld County immediately after the deed**  
892 **conveying the property to Buyer is recorded. The Irrigation Water Lease is not intended to run with the land and shall not be recorded.**

893 **29.2 - The obligations of the Seller herein, including the obligation to convey the Property to Buyer, are expressly subject to the authorization of this**  
894 **divestment of real property by the City of Greeley Water & Sewer Board and the City of Greeley City Council. In the event that the Board and City**  
895 **Council do not approve this agreement and authorize the divestment at least 14 days before Closing, this contract is of no legally binding effect, the**  
896 **Earnest Money shall be returned to the Buyer, and neither party shall have any further obligation to the other regarding the subject matter herein.**

900 **30. OTHER DOCUMENTS.**

901 **30.1. Documents Part of Contract.** The following documents **are a part** of this Contract:

902 Exhibit A - Form of Restrictive Covenants (No Irrigation and Revegetation)

903 Exhibit B - Form of Irrigation Water Lease Agreement

904 **30.2. Documents Not Part of Contract.** The following documents have been provided but are **not** a part of this Contract:

909 **SIGNATURES**

910 Buyer's Name: LTS Performance Horses LLC

~~Buyer's Name:~~ \_\_\_\_\_

DocuSigned by:

*Dakota Rathbun*

6/7/2022

501440485EA8414...  
Buyer's Signature

Date

~~Buyer's Signature~~

~~Date~~

Address: 36401 County Road 43  
Eaton, Colorado 80615

~~Address:~~ \_\_\_\_\_

Phone No.: \_\_\_\_\_

~~Phone No.:~~ \_\_\_\_\_

~~Fax No.:~~ \_\_\_\_\_

~~Fax No.:~~ \_\_\_\_\_

Email Address: \_\_\_\_\_

~~Email Address:~~ \_\_\_\_\_

911 **[NOTE: If this offer is being countered or rejected, do not sign this document.]**

Seller's Name: The City of Greeley, Colorado

~~Seller's Name:~~ \_\_\_\_\_

***[SEE ATTACHED SIGNATURE PAGE]***

~~Seller's Signature~~

~~Date~~

~~Seller's Signature~~

~~Date~~

Address: 1001 11th Avenue, 2nd Floor  
Greeley, Colorado 80631  
 Email Address: daniel.biwer@greeleygov.com  
 Email Address: copy to: cole.gustafson@greeleygov.com  
 Email Address: \_\_\_\_\_

Address: \_\_\_\_\_  
 Phone No.: \_\_\_\_\_  
 Fax No.: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

## END OF CONTRACT TO BUY AND SELL REAL ESTATE

### BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

#### A. Broker Working With Buyer

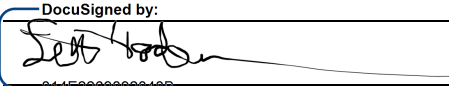
Broker ☐ Does ☒ **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Buyer as a ☐ **Buyer's Agent** ☐ **Transaction-Broker** in this transaction.

☒ **Customer.** Broker has no brokerage relationship with Buyer. See § B for Broker's brokerage relationship with Seller.

Brokerage Firm's compensation or commission is to be paid by ☒ **Listing Brokerage Firm** ☐ **Buyer** ☐ **Other** \_\_\_\_\_.

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: Hayden  
Outdoors Real  
Estate  
 Brokerage Firm's License #: 1000004181  
 Broker's Name: Seth Hayden  
 Broker's License #: EA 100002584  
 DocuSigned by:  6/7/2022  
 814E22090820486...  
 Broker's Signature 501 Main St  
windsor,  
Colorado  
8055074-1990  
970-674-5090  
seth@haydenou  
tdoors.com

#### B. Broker Working with Seller

Broker ☐ Does ☒ **Does Not** acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a ☒ **Seller's Agent** ☐ ~~Transaction-Broker~~ in this transaction.

☐ **Customer.** Broker has no brokerage relationship with Seller. See § A for Broker's brokerage relationship with Buyer.

Brokerage Firm's compensation or commission is to be paid by ☒ **Seller** ☐ **Buyer** ☐ **Other** \_\_\_\_\_.

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: Hayden Outdoors Real Estate

Brokerage Firm's License #: EC. 100004181

Broker's Name: Seth Hayden

Broker's License #: EA. 100003584

Signed by:

Seth Hayden

6/7/2022

Broker's Signature

Date

Address: 501 Main Street

Windsor, Colorado 80550

Phone No.: (970) 674-1990

Fax No.: (970) 674-5090

Email Address: admin@haydenoutdoors.com



**CITY OF GREELEY SIGNATURE PAGE**  
**Contract to Buy and Sell Real Estate**  
**Between LTS Performance Horses LLC (Buyer) and City of Greeley (Seller)**

**THE CITY OF GREELEY, COLORADO**

By: \_\_\_\_\_  
City Manager

Dated: \_\_\_\_\_

**AS TO LEGAL FORM:**

By: \_\_\_\_\_  
City Attorney

**AS TO AVAILABILITY OF FUNDS:**

By: \_\_\_\_\_  
Director of Finance

**AS TO WATER AND SEWER BOARD APPROVAL:**

By: \_\_\_\_\_  
Chairman

**EXHIBIT A****FORM  
DO NOT EXECUTE****RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide THE CITY OF GREELEY, a Colorado home rule municipal corporation ("Greeley"), with the maximum benefit available from the present and future use of water pursuant to the water rights described in Exhibit 1 attached hereto and incorporated herein ("Water Rights"), LTS PERFORMANCE HORSES LLC, a Colorado limited liability company ("Declarant"), agrees, warrants and covenants, and the undersigned leaseholder and lienholder, if any, acknowledges and approves, 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 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 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 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 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 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.

**EXHIBIT A**

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: 36401 County Road 43, Eaton, Colorado 80615.

IN WITNESS WHEREOF, the Declarant has executed this instrument on this \_\_\_\_ day of \_\_\_\_\_, 2022.

Declarant  
LTS PERFORMANCE HORSES LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2022 by \_\_\_\_\_, as an authorized representative of LTS Performance Horses LLC.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

EXHIBIT A

EXHIBIT 1  
RESTRICTIVE COVENANT (NO IRRIGATION AND REVEGETATION)  
(Description of the Water Rights)

Any and all water and water rights, ditches and ditch rights, reservoirs and reservoir rights, and all other rights and interests represented by three (3) shares of capital stock in The Larimer and Weld Irrigation Company represented by Stock Certificate No. 6424; four (4) shares of capital stock in The Windsor Reservoir and Canal Company represented by Stock Certificate Nos. 811 and 812; and one-half (1/2) share of capital stock in The Roullard Lateral Company represented by Stock Certificate No. 418

EXHIBIT A

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

Lot B, Amended Recorded Exemption No. 0805-18-4 2AMRECX 19-01-2877, according to the plat recorded December 18, 2019 at Reception No. 4551466, being part of the Southeast Quarter of Section 18, Township 6 North, Range 66 West of the 6<sup>th</sup> P.M., County of Weld, State of Colorado.

**EXHIBIT B**

# FORM DO NOT EXECUTE

## IRRIGATION WATER LEASE AGREEMENT

This IRRIGATION WATER LEASE AGREEMENT (“Agreement”) is entered into this 1<sup>st</sup> day of January 2023, by and between THE CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11<sup>th</sup> Avenue, Second Floor, Greeley, Colorado 80631 (“Greeley”), and LTS PERFORMANCE HORSES LLC, a Colorado limited liability company whose address is 36401 County Road 43, Eaton, Colorado 80615 (“Lessee”).

### RECITALS

WHEREAS, Greeley owns those certain water rights represented by three (3) shares of capital stock in The Larimer and Weld Irrigation Company represented by Stock Certificate No. 6424; four (4) shares of capital stock in The Windsor Reservoir and Canal Company represented by Stock Certificate Nos. 811 and 812; and one-half (1/2) share of capital stock in The Roullard Lateral Company represented by Stock Certificate No. 418 (collectively “Water Rights”); and

WHEREAS, Lessee desires to lease the Water Rights from the Greeley for agricultural irrigation on a parcel of real property consisting of approximately 132 acres located in Weld County and more particularly described as Lot B, Amended Recorded Exemption No. 0805-18-4 2AMRECX 19-01-2877, according to the plat recorded December 18, 2019 at Reception No. 4551466, being part of the Southeast Quarter of Section 18, Township 6 North, Range 66 West of the 6<sup>th</sup> P.M., County of Weld, State of Colorado; said real property also being known as Parcel No. 080518400004 (“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 the Greeley, 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 expires on December 31, 2023 (“Initial Term”). At the end of this Initial Term, this Agreement shall renew automatically on an annual basis for four (4) 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. 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 Larimer and Weld Irrigation Company, The Windsor Reservoir and Canal Company, and The Roullard Lateral Company. 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

**EXHIBIT B**

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 companies that issued the shares. Lessee shall comply with Title 20 (or any successor section) of the Greeley Municipal Code, and all rules, regulations, and laws of the State of Colorado pertaining to use of the Water Rights. Lessee shall take and use the water delivered pursuant to the Water Rights to the fullest extent possible, and shall undertake no action that could be construed as abandonment of the Water Rights or could cause in part or in whole a reduction in the use of the Water Rights. Lessee shall provide advance written notice to Greeley of at least thirty days if it no longer intends 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 have a pending 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.

**EXHIBIT B**

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 this Agreement or related activities. 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.



**EXHIBIT B**

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. The parties do not intend for any of the rights or obligations set forth in this Agreement to run with the land.

IN WITNESS WHEREOF, the undersigned parties have executed this Irrigation Water Lease Agreement on the date first set forth above.

LESSEE  
LTS PERFORMANCE HORSES LLC

By: \_\_\_\_\_

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 \_\_\_\_\_ 2022 by \_\_\_\_\_, as an authorized representative of Lessee.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**EXHIBIT B**

**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 11<sup>th</sup> 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 \_\_\_\_\_            )

**EXHIBIT B**

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.

**EXHIBIT B**

11. Please provide the following information regarding how the water from these Shares is delivered.

- Location and ID Number of the head gate at the main ditch: \_\_\_\_\_.
- Name and general location of any lateral(s) delivering the water to the land historically irrigated: \_\_\_\_\_.
- Identification of any carrier or lateral ditch stock required to deliver these rights: \_\_\_\_\_.
- Approximate location of pumps, if used: \_\_\_\_\_.
- Approximate location and size of storage ponds or reservoirs, including tail water ponds, if used: \_\_\_\_\_.

12. How was water applied during the Lease Year? Sprinkler \_\_\_\_\_ Furrow \_\_\_\_\_ Flood \_\_\_\_\_  
Other/Combination (Describe): \_\_\_\_\_.

13. What was the irrigation season for the Lease Year? Start Date: \_\_\_\_\_ Stop Date: \_\_\_\_\_

14. During the Lease Year, did you divert and irrigate with all water available under the Shares? \_\_\_\_\_.  
If no, please explain the reason why all water was not taken, approximately how much was not taken, and for how long: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

15. Other than the Shares leased, was any other water (including other shares that are in the same Company as the Shares that are the subject of this questionnaire) used to irrigate the farm or parcel on which the Shares are/were used during the Lease Year? If so, please provide the following information.

- Number of shares: \_\_\_\_\_
- Ditch Company: \_\_\_\_\_
- Number of any Irrigation Wells: \_\_\_\_\_
- Identification and Permit No. of any Irrigation Wells: \_\_\_\_\_.
- Capacity of Irrigation Wells: \_\_\_\_\_
- Approximate location of Irrigation Wells: \_\_\_\_\_.
- Any other water used: \_\_\_\_\_

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

17. During the Lease Year, what crops were grown on the land irrigated by the Shares?

1. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
2. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_

**EXHIBIT B**

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: \_\_\_\_\_

**CITY OF GREELEY, COLORADO**  
**ORDINANCE NO. \_\_, 2022**

**AN ORDINANCE AUTHORIZING THE DIVESTMENT OF CITY-OWNED REAL PROPERTY  
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 6 NORTH, RANGE 66 WEST OF  
THE 6<sup>TH</sup> P.M. IN WELD COUNTY, COLORADO (THAYER FARM)**

WHEREAS, in 2020, the City of Greeley, acting by and through its Water Enterprise, purchased certain real property that has internally been known as the Thayer Farm, and is more particularly described as Lot B, Amended Recorded Exemption No. 0805-18-4 2AMRECX 19-01-2877, being part of the SE¼ of Section 18, Township 6 North, Range 66 West of the 6<sup>th</sup> P.M., County of Weld, State of Colorado; said property is also referred to as Weld County Parcel No. 080518400004 and consists of approximately 131.89 acres, more or less; and

WHEREAS, since acquiring the Thayer Farm, the City has leased the land along with the associated water rights represented by shares in The Larimer and Weld Irrigation Company and The Windsor Reservoir and Canal Company ("LWIC and WRCC Shares"), to a tenant farmer in order to sustain historical use of the water rights; and

WHEREAS, the City recently received an offer to purchase the Thayer Farm, as is described more particularly in the Contract to Buy and Sell Real Estate (Land) and associated exhibits attached hereto as Exhibit A ("Purchase Contract"); and

WHEREAS, the City will retain any and all water and water rights associated with the Thayer Farm, including, without limitation, the LWIC and WRCC Shares described above that have historically irrigated the property; and

WHEREAS, Section 17-4(c) of the Charter for the City of Greeley requires that any sale or exchange of water, water and sewer facilities or land, including the sale of real property previously acquired by the Water and Sewer Department with enterprise funds, be approved by City Council; and

WHEREAS, the City Council may authorize by ordinance the divestment of real property that is not being used or held for a governmental purpose; and

WHEREAS, the Water and Sewer Board on June 15, 2022 made a finding that the Thayer Farm is not currently being used nor held for a governmental purpose, approved the Purchase Contract, and recommended the same action to City Council; and

WHEREAS, the City Council has determined that the sale of the Thayer Farm, as is described more particularly in the Purchase Contract, is in the best interests of the citizens of the City of Greeley.

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

Section 1. The City Council determines that the Thayer Farm is not being used nor held for a governmental purpose, and is surplus property unnecessary to retain for any governmental



purpose.

Section 2. The City Council authorizes the divestment of the Thayer Farm, in accordance with the terms and conditions of the Contract to Buy and Sell Real Estate (Land) and associated exhibits attached hereto as Exhibit A.

Section 3. The City Council authorizes the Director of the Water and Sewer Department, or his designee, to make minor amendments to the Contract to Buy and Sell Real Estate (Land) and associated exhibits, including, without limitation, corrections to property descriptions and contract extensions.

Section 4. Upon the satisfaction of all contract terms and conditions, including any amendments made thereto, the City Council authorizes (i) the Mayor to execute a deed conveying the Thayer Farm, (ii) the Director of the Water and Sewer Department, or his designee, to execute all other documents necessary to complete the transaction contemplated by the Contract to Buy and Sell Real Estate (Land) and associated exhibits, and (iii) the Director of the Water and Sewer Department, or his designee, to undertake all other necessary and appropriate action to complete the transaction.

Section 5. This Ordinance shall take effect immediately after its final publication.

**PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2022.**

**ATTEST**

**CITY OF GREELEY, COLORADO**

\_\_\_\_\_  
**City Clerk**

\_\_\_\_\_  
**Mayor**

# Water & Sewer Agenda Summary

Date: June 15, 2022

Key Staff Contact: Sean Chambers, Director

**Title:** Approve and Recommend to Council West Fort Collins Water District Customer Transfer and Interconnect IGA

**Summary:** The City has long planned, budgeted and strategized on how to make an orderly transition of old outside city customers who have been receiving water off our Bellvue water transmission lines for decades. These transmission taps are a challenge for our operations as they are close to the WTP, a long way from our certified water distribution operators, and they are located on gravity driven pipelines that have significant seasonal fluctuations and periodic maintenance outages. It is difficult to provide such taps with consistent pressure and reliable service, and at times the obligation to serve them increases the complexity of major maintenance activities and costs the City money to ensure they continue to have clean safe water.

Over the past 18 months, Greeley staff and the W. Ft. Collins Water District (District) have been engaged in a discussion on transferring 35 taps from Greeley to the District, along with ample raw water, and in exchange, the District would take on transferring the customers over, improving infrastructure to connect the properties as needed, and coordinating with the customers, all of which live within the District's service area. To offset costs and provide water supply resiliency to the City and the District, Greeley would agree to construct a municipal interconnect between the Greeley and District systems, to be located east of the Bellvue WTP.

The agreement obligates the City and the District to work in cooperation to manage risk, share certain reasonable project expenses and make the transition of transmission customers from Greeley to the District.

This is a capital project that the Water Enterprise budgeted for and considers a high priority for the continued public health of all customers, and for the best-practice operation of our water treatment and transmission infrastructure.

**Recommended Action:** Approve and recommend to City Council the IGA and associated divestment of NPIC water rights.

**Recommended Motion:** "I move that the Board (i) find that the North Poudre Irrigation Company water rights described in the enclosed IGA Concerning Customer Transfer and Interconnect Operation with West Fort Collins Water District are not currently being used nor held for a governmental purpose, (ii) approve the IGA in the form enclosed and authorize the divestment of NPIC water rights described therein, (iii) delegate authority to the Director of Water and Sewer or his designee to make minor amendments to the agreement before execution, provided the material substance remains unchanged, and (iv) recommend the same to City Council."

**Attachments:**

Area Map

IGA executed by West Fort Collins Water District

Exhibit A to the Agreement

# Greeley – West Fort Collins Water District Proposed Intergovernmental Agreement

**For the Purposes of Transfer of Transmission Line Taps and Emergency Interconnect**



**Presented to Greeley  
Water & Sewer Board  
June 15, 2022**

# Emergency Interconnect and Tap Transfer

## Mutually Beneficial Project

- Interconnect provides water system resiliency and emergency operations for both water providers
- Tap transfer greatly reduces operational challenges in serving transmission taps
- Cost of transfers is minimized by Greeley's ownership of pumps and related materials
- Raw water from NPIC units that have limited use





# Deal By the Numbers

**35 Greeley taps transferred off transmission system**

**9 shares of North Poudre Irrigation Co. to WFCWD**

**Tap transfers completed WFCWD by Dec. 31, 2023**

**City's cumulative cost at \$550,000 for emergency interconnection**

**Emergency water treatment billed at cost plus 5%**



# Key Elements of the Proposed IGA

## West Fort Collins and Greeley Agree to:

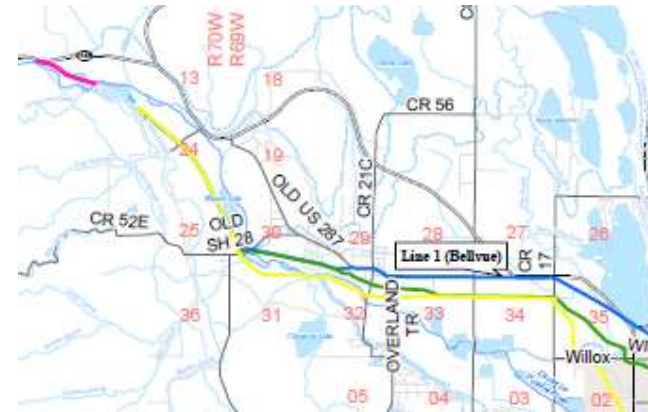
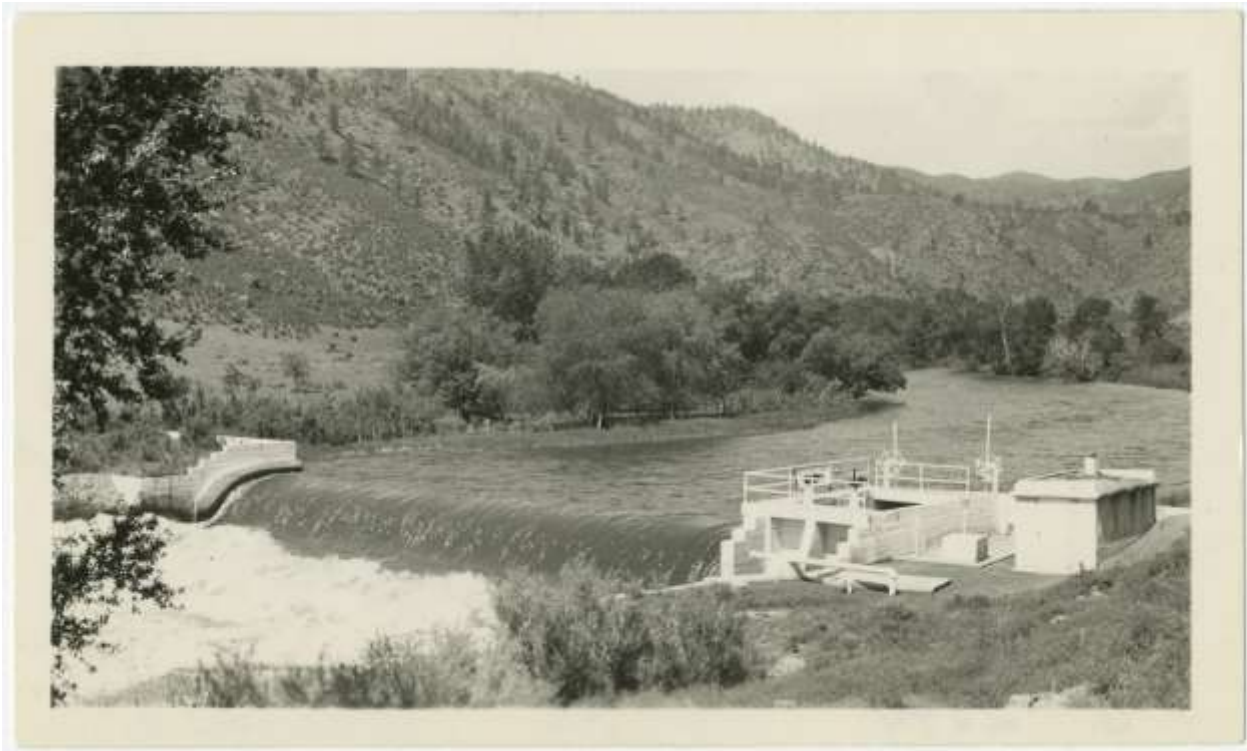
- ☐ Construct a bi-directional interconnect east of Bellvue WTP
  - Pump Station Acquired by Greeley in 2020
  - Share any interconnect expenses beyond \$550,000
- ☐ Transfer of Laport & Bellvue area transmission taps off Greeley lines
  - WFCWD pays transfer construction expenses
- ☐ Greeley to pay raw water by transfer of NPIC shares





# Staff Recommendation

**Staff recommend the Board approve and recommend to City Council the IGA and associated divestment of NPIC water rights**



# Questions?



**INTERGOVERNMENTAL AGREEMENT**  
**CONCERNING CUSTOMER TRANSFER AND INTERCONNECT OPERATIONS**

This INTERGOVERNMENTAL AGREEMENT CONCERNING CUSTOMER TRANSFER AND INTERCONNECT OPERATIONS (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_ 2022, by and between THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation acting by and through its Water Enterprise (“City” or “Greeley”) and WEST FORT COLLINS WATER DISTRICT, a Colorado special district (“WFCWD”).

**Recitals**

WHEREAS, the City has for many years provided extraterritorial potable water service to several customers within Larimer County via taps connected directly to its Bellvue Transmission Line; and

WHEREAS, the WFCWD developed and expanded over the course of time that such water service was being provided by the City, such that thirty-five of such customers in Larimer County served extraterritorially by the City are now located within the service area of WFCWD; and

WHEREAS, the City and WFCWD accordingly desire to facilitate a transfer of these thirty-five customers from the City to WFCWD; and

WHEREAS, the City and WFCWD also have a common and continuing interest in ensuring that their respective customers have access to a safe and reliable supply of potable water into the future; and

WHEREAS, the City and WFCWD accordingly desire to construct and operate interconnect infrastructure between their respective water supply systems to facilitate the future lease or trade of water between the parties as may be convenient or necessary in the event of planned or unplanned water system shut down; and

WHEREAS, WFCWD desires to complete in 2023 repairs to a water pipeline owned by WFCWD and located along Larimer County Road 54E, which pipeline provides water service to WFCWD customers located south and west of the Cache la Poudre River; and

WHEREAS, the City and WFCWD have reached a comprehensive understanding regarding the transfer of customers currently served via the City’s Bellvue Transmission Line, and regarding the construction and operation of interconnect infrastructure between the City and WFCWD water systems, and desire to reduce that understanding to writing;

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the City and WFCWD agree as follows.

**Agreement**

1. **Term of Agreement.** The term of this Agreement commences on the date it is mutually executed by the City and WFCWD, and shall continue for a period of twenty five (25) years from its commencement unless and until terminated by either the City or WFCWD in accordance with Section 8 below.

2. **Transfer of Transmission Tap Customers.** In accordance with the schedule set forth more particularly below, Greeley hereby agrees to transfer the obligation to provide water service, and WFCWD hereby agrees to accept the transfer and assume such obligation, to the parcels of real property and

associated landowner customers described on Exhibit A (“Transmission Tap Customers”). All transfers of Transmission Tap Customers from the City to WFCWD completed pursuant to this Agreement shall be permanent. The City shall not be required under any circumstances to reverse a transfer or reassume the obligation to provide water service to a Transmission Tap Customer if this Agreement expires or is properly terminated after such transfer of the Transmission Tap Customer is completed.

2.1 Plant Investment Fees. WFCWD shall not charge the City nor any of the Transmission Tap Customers any tap or plant investment fees that would otherwise be due and payable by a customer requesting the initiation of water service from WFCWD.

2.2 Costs of Customer Transfer to WFCWD System. WFCWD shall facilitate and bear all of the costs and expenses associated with physically disconnecting the Transmission Tap Customers from the Bellvue Transmission Line and for subsequently connecting such customers to the WFCWD water system.

2.3 Process for Customer Transfer to WFCWD System. WFCWD shall disconnect the Transmission Tap Customers from the Bellvue Transmission Line to the specifications and standards of the City. WFCWD shall notify the City no less than 14 days prior to each instance of disconnecting a tap from the Bellvue Transmission Line, and provide the City with the opportunity to inspect all infrastructure associated with the point of disconnection to the Bellvue Transmission Line before, during, and after WFCWD performs such transfer (i.e., disconnection from the Bellvue Transmission Line and connection to the WFCWD system). WFCWD shall notify all Transmission Tap Customers prior to disconnection and receive all Transmission Tap Customer concerns arising from the transfers. The City and WFCWD shall cooperate and work together in good faith to resolve any such concerns. If WFCWD hires a third-party contractor to complete any work associated with the transfer of Transmission Tap Customers, it shall require that third-party contractor to comply with the obligations of this Section 2.3.

2.4 Raw Water Dedication. In satisfaction of the WFCWD raw water dedication requirements associated with providing water service to the Transmission Tap Customers transferred, the City agrees to convey nine (9) shares of capital stock in the North Poudre Irrigation Company to WFCWD in accordance with the schedule set forth more particularly below. The City shall effect such transfers by (i) execution of a quitclaim deed, and a stock assignment in a form acceptable to the North Poudre Irrigation Company, and (ii) delivery of an original stock certificate representing the shares to be transferred. The City shall pay for any standard fees assessed by the North Poudre Irrigation Company to effect such transfers.

2.5 Schedule of Customer and Raw Water Transfers. WFCWD agrees to complete the transfer of all Transmission Tap Customers no later than December 31, 2023. The City agrees to provide the raw water described in paragraph 2.4 above to WFCWD in two transfers: i) upon, and in exchange for, the completed transfer of the first fifteen (15) Transmission Tap Customers, the City shall transfer four (4) shares of capital stock in the North Poudre Irrigation Company; and ii) upon, and in exchange for, the completed transfer of the remaining twenty (20) Transmission Tap Customers, the City shall transfer an additional five (5) shares of capital stock in the North Poudre Irrigation Company. WFCWD shall notify the City upon completion of such transfers and provide the City with an opportunity to inspect the infrastructure associated with the transfers. Upon verification by the City that the first fifteen (15) transfers have been completed to the to the specifications and standards of the City, the City shall promptly affect the transfer of four (4) shares of capital stock in the North Poudre Irrigation Company to WFCWD. Upon verification by the City that the remaining twenty (20) transfers have been completed to the to the specifications and

standards of the City, the City shall promptly effect the transfer of an additional five (5) shares of capital stock in the North Poudre Irrigation Company to WFCWD.

3. Construction of Interconnect Infrastructure. The City shall design and construct a pump station and the necessary associated facilities to establish an interconnect between the Greeley and WFCWD water supply systems (“Interconnect Infrastructure”), which the parties anticipate to be located immediately along Larimer County Road 54E, approximately 1,700 feet southwest of the intersection of Larimer County Road 54E and Highway 287 and used for the purposes described in this Agreement. It is the intent of the parties that Greeley design all components of the Interconnect Infrastructure and construct all components of the Interconnect Infrastructure, except for that portion of the Interconnect Infrastructure that connects the pump station to the WFCWD water pipelines along Larimer County Road 54E. Thus, the Interconnect Infrastructure may be described as consisting of three parts: i) a pump station facility, which may include, but is not limited to a pump enclosure, pump skid, vault, controls, power facilities, valves, and associated infrastructure (“Pump Station Facility”), ii) infrastructure that connects the City’s Bellvue Transmission Line to the Pump Station Facility (“Greeley Interconnect Infrastructure”), and iii) infrastructure that connects WFCWD’s water pipeline(s) to the Pump Station Facility (“WFCWD Interconnect Infrastructure”). The City shall be solely responsible for the costs of: i) the design of the Interconnect Infrastructure and ii) construction and real property acquisition for the Pump Station Facility, up to a total maximum cost of five hundred and fifty thousand dollars (\$550,000). The City shall also be solely responsible for the costs of construction for the Greeley Interconnect Infrastructure. WFCWD shall be solely responsible for the costs of construction for its WFCWD Interconnect Infrastructure. Costs for the design of the Interconnect Infrastructure and construction of the Pump Station Facility in excess of five-hundred and fifty thousand dollars (\$550,000) shall be divided equally between the City and WFCWD. The City and WFCWD agree to cooperate in good faith, and pursuant to any separate written agreement as necessary, in obtaining any licenses and permits necessary for the construction and installation of the Interconnect Infrastructure. The City shall give WFCWD a reasonable opportunity to review and approve the final design and construction plans for the Interconnect Infrastructure in advance of commencing construction, and shall use reasonable and good faith efforts to complete construction of the Pump Station Facility and Greeley Interconnect Infrastructure by March 31, 2023. The City shall retain sole ownership of the Pump Station Facility and Greeley Interconnect Infrastructure after it is constructed and operational, and WFCWD shall retain sole ownership of the WFCWD Interconnect Infrastructure after it is constructed and operational. The City and WFCWD shall each bear one-half of any ongoing costs and expenses associated with operating, maintaining, and repairing the Pump Station Facility. The City will invoice WFCWD for its share of ongoing costs and expenses associated with the Pump Station Facility on an annual basis, and all such invoices shall be paid by WFCWD within thirty (30) days of receipt.

4. Operation of Interconnect. After the Interconnect Infrastructure is constructed and operational, and subject to the terms and conditions of this Section 4, the City and WFCWD agree to provide each other with a backup supply of potable water in the event of a service disruption, whether such disruption is due to planned maintenance or an unanticipated emergency (“Interconnect Water”).

4.1 Request for Interconnect Water; Anticipated Service Disruption. In the event that either the City or WFCWD needs Interconnect Water during an anticipated service disruption due to maintenance, repairs, or other reasonably foreseeable operational reason, the City or WFCWD shall request the delivery of Interconnect Water from the other party in writing no less than thirty (30) days in advance of the date upon which delivery of such water would commence. The request shall include (i) the desired date upon which deliveries of Interconnect Water would commence, (ii) the volume of Interconnect Water needed daily and any anticipated fluctuations in such daily volume, and (iii) the anticipated period of time that Interconnect Water will be needed. Upon receipt of a request for Interconnect Water due to an anticipated service disruption, the providing party shall confirm within ten (10) days whether it can/will fulfill the request. The City and WFCWD

agree to consider in good faith all requests for delivery of Interconnect Water, but the providing party may grant or deny any such request in its sole discretion.

4.2 Request for Interconnect Water; Emergency Service Disruption. In the event that either the City or WFCWD needs Interconnect Water during an unanticipated service disruption due to emergency, the City or WFCWD may request the delivery of Interconnect Water from the other party either verbally or in writing. The request shall include (i) the desired date on which deliveries of Interconnect Water would commence, (ii) the volume of Interconnect Water needed daily and any anticipated fluctuations in such daily volume, (iii) the anticipated period of time that Interconnect Water will be needed, and (iv) the source of raw water to be made available by the requesting party. Upon the receipt of a request for Interconnect Water due to an emergency service disruption, the providing party shall confirm either verbally or in writing as soon as reasonably practical whether it can and will fulfill the request. The City and WFCWD agree to consider in good faith all requests for delivery of Interconnect Water, but the providing party may grant or deny any such request in its sole discretion. In the event that a request for Interconnect Water during an unanticipated service disruption due to emergency is made and approved verbally pursuant to Section 4.2 above, the City and WFCWD shall work together to create a written retroactive accounting of the raw water requirements for the measured volume of Interconnect Water delivered and the total payment due to the party providing Interconnect Water under Section 4.5 below.

4.3 Raw Water Supplies for Interconnect Water Deliveries. Subject to any required consents or approvals from, and in accordance with the Rules and Regulations of the Northern Colorado Water Conservancy District, a party requesting Interconnect Water shall make available to the party providing Interconnect Water raw water in the form of project units of the Colorado-Big Thompson Project ("C-BT Units"), in the amount of one hundred and ten percent (110%) of the total volume of Interconnect Water to be delivered to the requesting party. This requirement is equal to one hundred percent (100%) of the Interconnect Water delivered, plus an additional allowance of ten percent (10%) to account for treatment and system delivery losses. The provision of C-BT Units by either party in exchange for the delivery of Interconnect Water under this Agreement shall not be considered, nor constitute, a Section 131 Contract, a Temporary Use Permit, a permanent transfer of C-BT Units, or a permanent transfer of any other interest under an allotment contract with the Northern Colorado Water Conservancy District. Any fees related to making C-BT Units available to a party providing Interconnect Water under this Agreement shall be the responsibility of the party requesting Interconnect Water.

4.4 Measurement and Accounting Requirements. The Interconnect Infrastructure shall be equipped with water meters that may be operated and maintained to record both cumulative flow and, as needed, maximum hourly and maximum daily flow rates within the accuracy prescribed by current American Water Works Standards. The City and WFCWD shall respectively measure and account for raw water transferred and Interconnect Water delivered pursuant to this Agreement, and make such data available to the other party upon request.

4.5 Rates for Interconnect Water; Billing and Payment. A party receiving delivery of Interconnect Water pursuant to this Section 4 shall pay a rate per one thousand (1,000) gallons equal to one hundred and five percent (105%) of the actual costs of treating the water at that party's treatment plant, based upon that party's reasonable good faith determination of the cost per one thousand (1,000) gallons of water treated during the six (6)-month period immediately preceding the delivery of Interconnect Water. The party providing Interconnect Water shall issue invoice(s) on a monthly basis, and all such invoices shall be paid within thirty (30) days of receipt.

4.6 Water Quality. Any Interconnect Water delivered by the City or by WFCWD



through the Interconnect Infrastructure as contemplated by this Agreement shall at all times be treated and suitable for human consumption, and of a water quality that complies with the provisions of any lawful statute, regulation, or ordinance of general applicability limiting, regulating, or prescribing the quality of potable water.

4.7 Restriction on Backflow. Unless specifically authorized in writing by a party providing Interconnect Water, a party requesting Interconnect Water pursuant to this Section 4 shall not cause nor allow any water from its own system to flow into the system of the party providing Interconnect Water.

5. No Vested Interest or Modification of Ownership Interests. Nothing in this Agreement is intended or shall be construed to modify the existing ownership interests of either the City or WFCWD in their respective water rights portfolios, water supply infrastructure, treatment and transmission systems, or equipment and facilities of any kind. Neither the City nor WFCWD shall make any claim, whether in law or equity, to the existing ownership interests of the other party by virtue of the operations contemplated by this Agreement.

6. No Integrated System. Nothing in this Agreement is intended or shall be construed to create between the City and WFCWD systems an integrated system within the meaning of the Colorado Primary Drinking Water Regulations, 5 C.C.R. § 1002-11, *et seq.*, or within the meaning of the Water Right Determination and Administration Act of 1969, C.R.S. § 37-92-101, *et seq.*

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

For the City of Greeley:      City of Greeley Water and Sewer Department  
Attn: Director of Water and Sewer  
1001 11<sup>th</sup> Avenue, Second Floor  
Greeley, Colorado 80631  
Email: sean.chambers@greeleygov.com;  
water@greeleygov.com

With copy to:      City of Greeley City Attorney's Office  
Attn: Environmental and Water Resources  
1100 10<sup>th</sup> Street, Suite 401  
Greeley, Colorado 80631  
Email: daniel.biwer@greeleygov.com;  
cityattorney@greeleygov.com

For WFCWD:      West Fort Collins Water District  
Attn: General Manager  
PO Box 426  
Laporte, Colorado 80535  
Email: doug@wfcwdist.com

With copy to:      Anderson Consulting Engineers  
Attn: Scott Parker  
375 E Horsetooth Rd #5101

Fort Collins, Colorado 80525  
Email: [scott.parker@acewater.com](mailto:scott.parker@acewater.com)

Merrick & Company  
Attn: Christine Sednek  
2480 W 26<sup>th</sup> Ave Unit B225  
Denver, Colorado 80211  
Email: [christine.sednek@merrik.com](mailto:christine.sednek@merrik.com)

8. Default and Termination; Waiver. In the event either the City or WFCWD fails to comply with the terms and conditions of this Agreement, such failure constitutes a default of this Agreement and the non-defaulting party may give notice of the perceived default in accordance with Section 7 above. The defaulting party is then entitled to a period of ninety (90) days from receipt of the notice within which to cure the default. Upon the cure of any such default during this period, this Agreement will remain in full force and effect.

8.1 If any declared default remains uncured after the ninety-day cure period described above, or after any extension of the cure period mutually agreed to by the parties, the non-defaulting party may immediately terminate this Agreement with written notice to the defaulting party. Nothing in this Agreement should be construed to limit either party from seeking damages or pursuing available remedies upon the termination of this Agreement for default. The prevailing party in any legal action arising out of a default of this Agreement shall be entitled to the recovery of reasonable costs and attorneys' fees.

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

9. Governmental Immunity; Indemnification and Liability. The City and WFCWD are public entities, as that term is defined pursuant to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. Nothing in this Agreement should be construed to limit or alter the benefits and responsibilities to which the City and WFCWD are entitled pursuant to the Colorado Governmental Immunity Act. The City and WFCWD respectively shall defend any and all claims for injuries or damages, in accordance with the requirements and limitations of the Colorado Governmental Immunity Act, that occur as a result of the negligent or intentional acts or omissions of their own officers, agents, employees, or assigns. The City and WFCWD respectively shall be responsible for any and all claims for injuries or damages caused by any negligent acts or omissions of their own officers, employees, agents, and assignees performing functions or activities upon the property of the other party.

10. No Public Utilities Commission Control. The City and WFCWD, including their employees and elected or appointed officials, shall not assert nor support any statement, policy, petition, rule-making, or legislative attempt to place the City or WFCWD water supply systems under the authority or jurisdiction of the Colorado Public Utilities Commission, whether by virtue of this Agreement or otherwise.

11. Restriction on Assignment. The rights and obligations set forth in this Agreement are particular to and vested solely in the City and WFCWD. Neither the City nor WFCWD shall assign any of its interest in this Agreement, and any purported assignment of this Agreement by either the City or WFCWD shall be considered null and void.

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

13. No Third-Party Beneficiaries. The terms and conditions of this Agreement, and all rights of action related thereto, are strictly reserved to the City and WFCWD. Nothing in this Agreement should be construed to allow any claim, right, or cause of action by any person or entity not a party to this Agreement, including, without limitation, any of the Transmission Tap Customers. Any person or entity other than the City or WFCWD that realizes a service or benefit under this Agreement is an incidental beneficiary only.

14. Severability. In the event one or more clauses in this Agreement are found invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement will nevertheless be valid and binding upon the City and WFCWD, unless the absence of such clause(s) would destroy the intent and purpose of this Agreement.

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

16. Integration and Amendment. This Agreement constitutes a complete integration of the understandings and agreement between the City and WFCWD. No representations, negotiations, or warranties, express or implied, exist between the City and WFCWD except as explicitly set forth in this Agreement. This Agreement may only be amended in a writing duly authorized and executed by the City and WFCWD.

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

IN WITNESS WHEREOF, the City of Greeley and West Fort Collins Water District have authorized and executed this Intergovernmental Agreement concerning Customer Transfer and Interconnect Operations on the dates set forth below.

**[Signature Page Follows]**

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

By: \_\_\_\_\_  
City Manager

Date: \_\_\_\_\_

As to Legal Form:

By: \_\_\_\_\_  
City Attorney

As to Availability of Funds:

By: \_\_\_\_\_  
Director of Finance

**WEST FORT COLLINS WATER DISTRICT**  
a Colorado special district

By: Karl Hoff

Date: 6/4/2022

Name: Karl Hoff

Title: President, Board of Directors  
West Fort Collins Water District

ATTEST

By: Doug Bigge

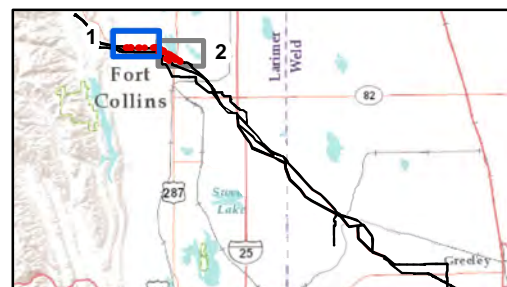
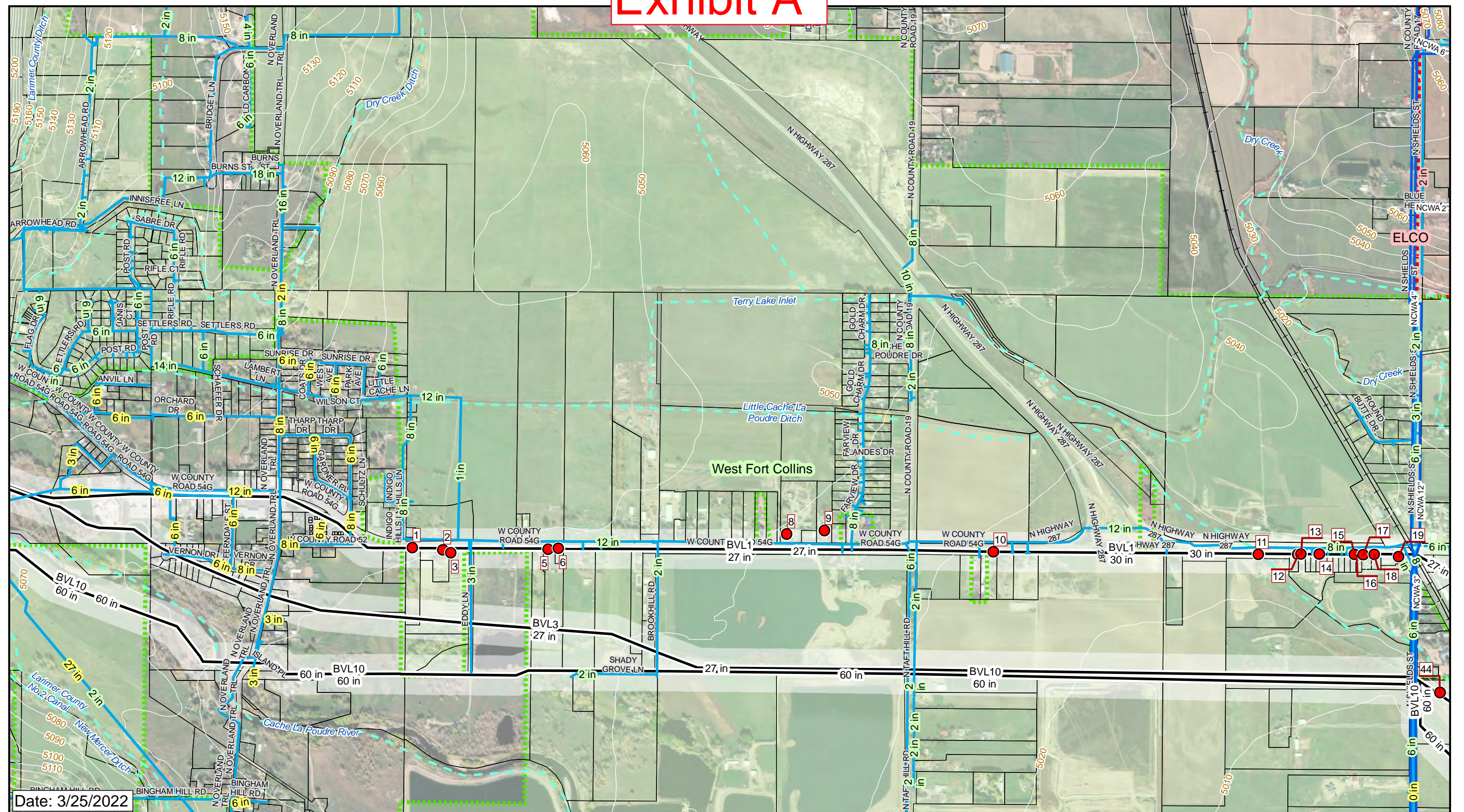
Date: 6/4/2022

Name: Doug Bigge

Title: General Manager  
West Fort Collins Water District



# Exhibit A



Note: Pipe label color indicates source

8" -- WFCWD 8" -- FCLWD  
8" -- ELCO 8" -- NWCWD  
8" -- FC 8" -- Windsor

0 500 1,000  
Feet



- Bellvue Meters
- Bellvue Transmission Mains
- Water Lines (see note)
- Streams/Canals
- + Railroads
- Parcel Lines

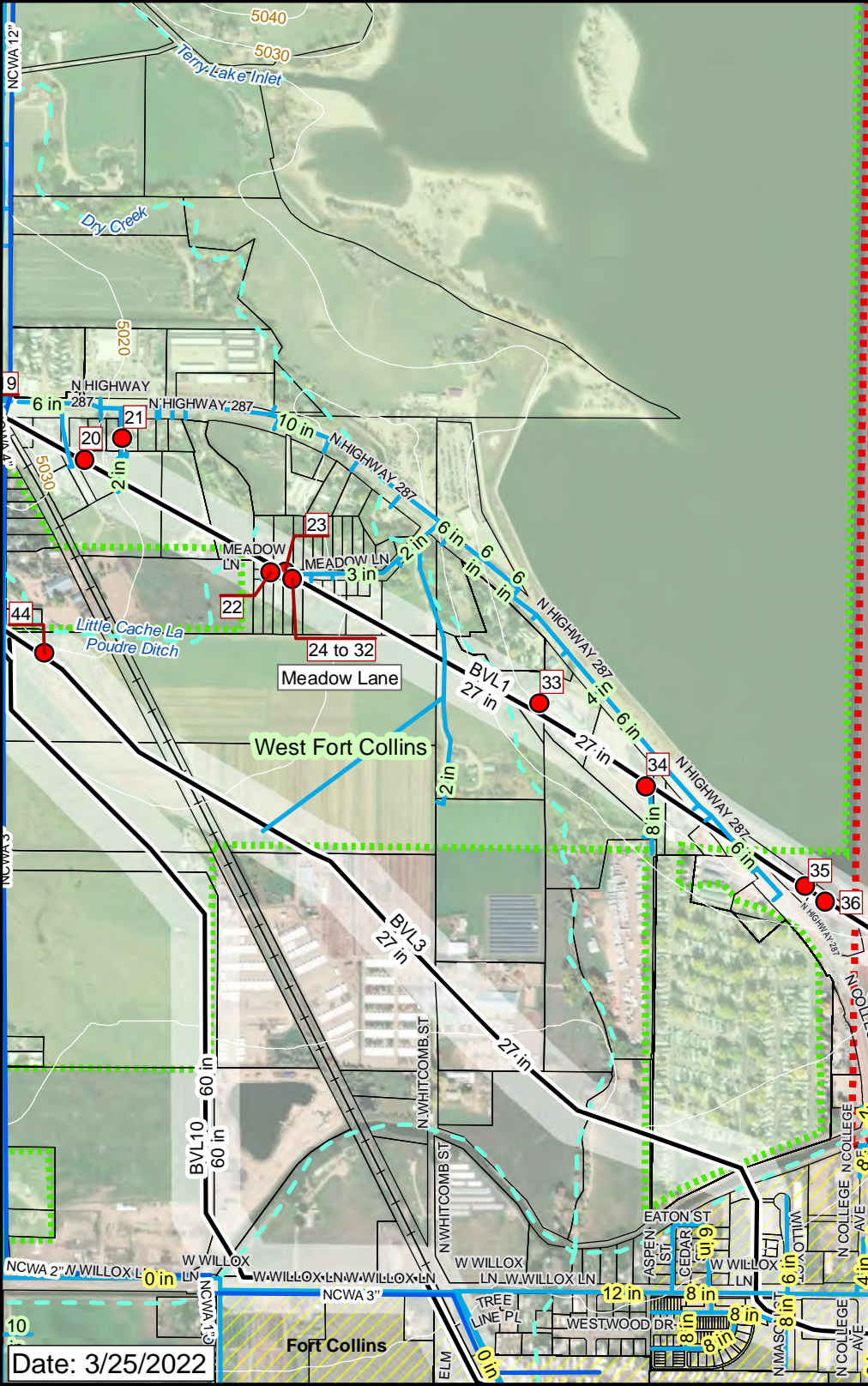
## Water Service Boundaries

- East Larimer County Water District
- Fort Collins - Loveland Water District
- North Weld County Water District
- West Fort Collins Water District
- Municipal Areas

## Bellvue Transmission Main Meters

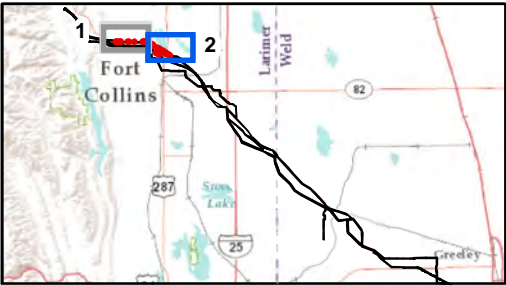


Exhibit A



Map ID 2022	NAME	ParcNum County	BILL_NAME	Name1_County	Name2_County	Address_Local_County	Address_Mail_County
1	SCHUBERT SHERRY	9833000009	DE LA CRUZ, PHILLIP	SCHUBERT SHERRY		3029 W COUNTY ROAD 54G, FORT COLLINS, CO 80524	3029 W COUNTY ROAD 54G, FORT COLLINS, CO 80524
2	ROBERTS JAMES D/CYNTHIA L	9833000016	RICE, JAMES P	ROBERTS JAMES D/CYNTHIA L		3005 W COUNTY ROAD 54G, LAPORTE, CO 80535	PO BOX 485, LAPORTE, CO 80535
3	ROBERTS JAMES DEAN	9833000024	PLANTORIUM	ROBERTS JAMES DEAN	CINDY L	2933 W COUNTY ROAD 54G, FORT COLLINS, CO 80524	PO BOX 485, LAPORTE, CO 80524
5	STILL, HERBERT	9833000007	STILL, HERBERT	STILL HERBERT WILLIAM	MILDRED LORENA	2801 W COUNTY ROAD 54G, FORT COLLINS, CO 80524	2801 W COUNTY ROAD 54G, FORT COLLINS, CO 80524
6	WHITAKER RUSSELL J/RUSSELL B	9833000017	STILL, HERB	WHITAKER ROSEMARY/RUSSELL J		2729 W COUNTY ROAD 54G, FORT COLLINS, CO 80524	2729 W COUNTY ROAD 54G, FORT COLLINS, CO 80524
8	UTHMANN, ROGER & VICKI	9828400009	UTHMANN, ROGER & VICKI	UTHMANN ROGER D/VICKI L		2316 W COUNTY ROAD 54G, FORT COLLINS, CO 80524	2577 MOEN RANCH RD, VIRGINIA DALE, CO 80524
9	Jack Dickson	9828400033	DICKSON, JACK L	DICKSON JACK L		2220 W COUNTY ROAD 54G, FORT COLLINS, CO 80524	2220 W COUNTY ROAD 54G, FORT COLLINS, CO 80524
10	JESSER, JOHN	9834000014	AUNE, GALE K	JESSER JOHN A/CONNIE M		1909 W COUNTY ROAD 54G, FORT COLLINS, CO 80524	1909 W COUNTY ROAD 54G, FORT COLLINS, CO 80524
11	MODESITT, BRADLEY W	9834110701	MODESITT, BRADLEY W	MODESITT BRAD/LINDSEY TRUST		1329 N HIGHWAY 287, FORT COLLINS, CO 80524	2411 N SHIELDS ST, FORT COLLINS, CO 80524
12	SHORKEY, JAMES H & RICKI L	9834000022	SHORKEY, JAMES H & RICKI L	SHORKEY JAMES H	RICKI L	1313 N HIGHWAY 287, FORT COLLINS, CO 80524	1313 N HIGHWAY 287, FORT COLLINS, CO 80524
13	PEREGOY, LINDA	9834000023	PEREGOY, LINDA	BOX LINDA A/RANDY L SR		1309 N HIGHWAY 287, FORT COLLINS, CO 80524	1309 N HIGHWAY 287, FORT COLLINS, CO 80524
14	MORRIS, W H	9834000018	MORRIS, W H	GUNG HO LLC		1229 N HIGHWAY 287, FORT COLLINS, CO 80524	1229 N HIGHWAY 287, FORT COLLINS, CO 80524
15	SPENCER, ALLAN & LINDA	9834000020	SPENCER, ALLAN & LINDA	HAENSCHEN JUDITH A TRUST		1209 N HIGHWAY 287, FORT COLLINS, CO 80524	2803 SILVER FOX RD, FORT COLLINS, CO 80524
16	MARTINEZ, ARTHUR & RHONDA	9834000019	MARTINEZ, ARTHUR & RHONDA	MARTINEZ RHONDA		1205 N HIGHWAY 287, FORT COLLINS, CO 80524	1205 N HIGHWAY 287, FORT COLLINS, CO 80524
17	GUTZWILLER, MICHAEL	9834000004	GUTZWILLER, MICHAEL	GUTZWILLER MICHAEL J		1201 N HIGHWAY 287, FORT COLLINS, CO 80524	1201 N HIGHWAY 287, FORT COLLINS, CO 80524
18	RUSSELL, PATRICK & SALLY	9834000003	RUSSELL, PATRICK & SALLY	RUSSELL PATRICK R	SALLY A	1125 N HIGHWAY 287, FORT COLLINS, CO 80524	2826 FLEET DR, FORT COLLINS, CO 80524
19	ROCKY MOUNTAIN ADVENTURES	9834000001	ADVENTURES	RMA PROPERTIES LLC		1117 N HIGHWAY 287, FORT COLLINS, CO 80524	121 S WHITCOMB ST, FORT COLLINS, CO 80524
20	Daniel Miller	9835205008		CADY MAURICE D REVOCABLE TRUST		1005 N HIGHWAY 287, FORT COLLINS, CO 80524	933 N HIGHWAY 287, FORT COLLINS, CO 80524
21	FARR PAULINE C/JOANN	9835205005	FARR, PAULINE	FARR PAULINE C/JOANN		925 N HIGHWAY 287, FORT COLLINS, CO 80524	12525 RIST CANYON RD, BELLVUE, CO 80524
22	DELUDE, GREGORY M	9835200029	DELUDE, GREGORY M	WEBBER MICHAEL	HIROTA LYNNE	132 MEADOW LN, FORT COLLINS, CO 80524	132 MEADOW LN, FORT COLLINS, CO 80524
23	BUNGER, RICK	9835200028	BUNGER, RICK	BUNGER RICHARD K		126 MEADOW LN, FORT COLLINS, CO 80524	126 MEADOW LN, FORT COLLINS, CO 80524
24	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
25	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
26	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
27	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
28	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
29	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
30	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
31	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
32	MTN VIEW MEADOWS WATER ASSOC	9835200033	MTN VIEW MEADOWS WATER AS	HOWARD CATHERINE C	FINN KEVIN	127 MEADOW LN, FORT COLLINS, CO 80524	127 MEADOW DR, FORT COLLINS, CO 80524
33	FELLER, RICHARD	9835100028	FELLER, RICHARD	FELLER RICHARD W	BARBARA C	425 N HIGHWAY 287, FORT COLLINS, CO 80524	300 CAMINO REAL, FORT COLLINS, CO 80524
34	ADAMS, CORINA	9835100009	ADAMS, CORINA	ASSOCIATES OF POUDRE VALLEY LLC		333 N HIGHWAY 287, FORT COLLINS, CO 80524	28587 CLOVER LN, EVERGREEN, CO 80524
35	DEBORD INVESTMENTS LLC	9835400027		DEBORD INVESTMENTS LLC		200 N HIGHWAY 287, FORT COLLINS, CO 80524	1232 BELLEVUE DR, FORT COLLINS, CO 80524
36	287 SUPPLY	9835400001	287 SUPPLY	LONGHORN LAND HOLDINGS LLC		120 N HIGHWAY 287, FORT COLLINS, CO 80524	9939 N COUNTY ROAD 7, WELLINGTON, CO 80524
44	MERRIAM GST EXEMPT TRUST UNDER THE	9835400010	MURRAY, KAREN	MERRIAM GST EXEMPT TRUST UNDER THE	MERRIAM KAREN E REVOCABLE TRUST	2024 N SHEILDS	2823 W LAKE ST, FORT COLLINS, CO 80524

Note:  
Meters 4 and 7: Details were not included due to meters not being a part of the COG/WFCWD transaction.  
Meters 37 through 43: Details were not included due to meters not being a part of the COG/WFCWD transaction.



Note: Pipe label color indicates source

8" -- WFCWD 8" -- FCLWD  
8" -- ELCO 8" -- NWCWD  
8" -- FC 8" -- Windsor

0 500 1,000 Feet



- Bellvue Meters
- Bellvue Transmission Mains
- Water Lines (see note)
- Streams/Canals
- Railroads
- Parcel Lines

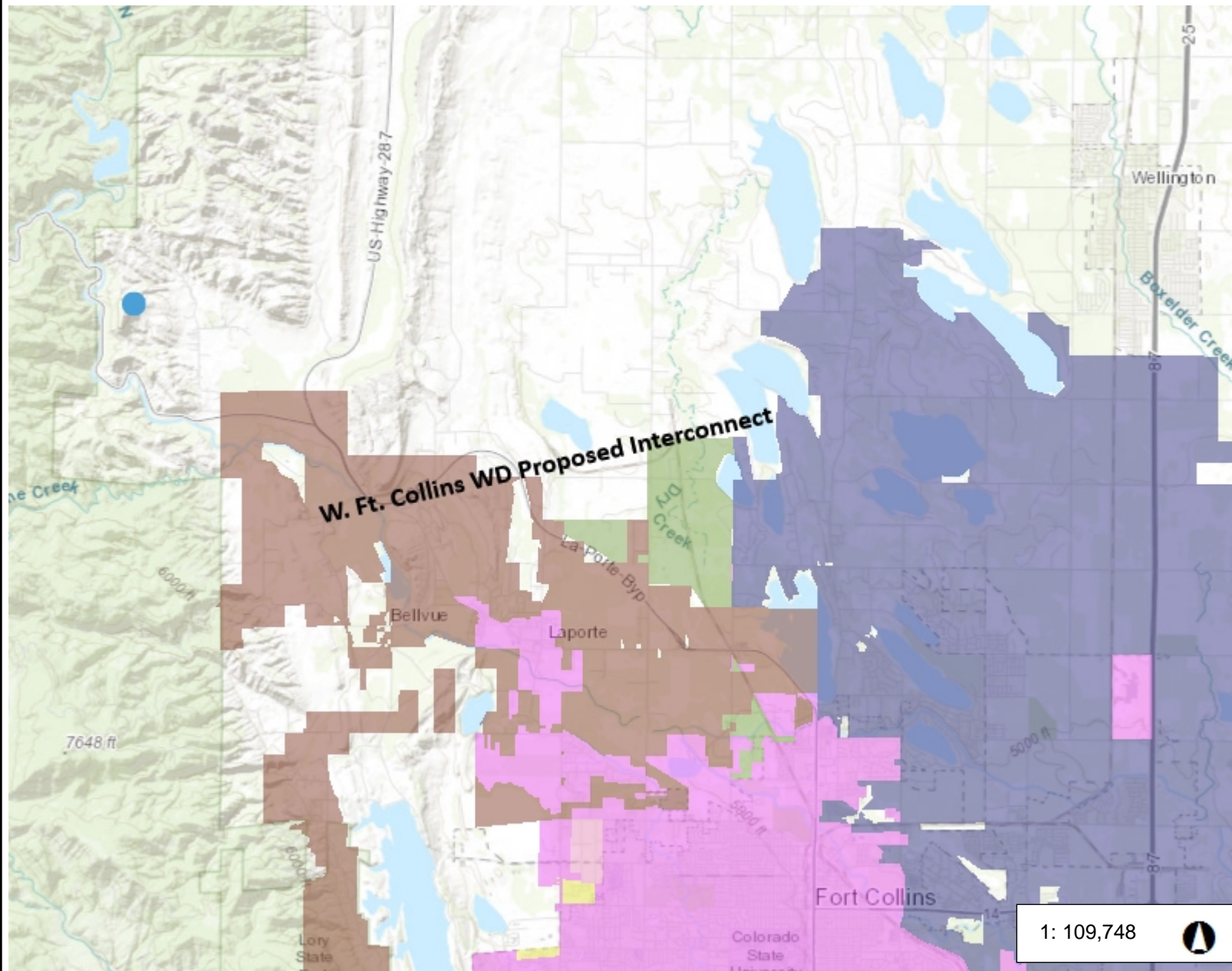
Water Service Boundaries

- East Larimer County Water District
- Fort Collins - Loveland Water District
- North Weld County Water District
- West Fort Collins Water District
- Municipal Areas

Bellvue Transmission Main Meters



# Bellvue area Greeley - W. Ft. Collins WD proposed emergency interconnect



## Legend

### Water District Service Areas

- ELCO Water District
- Northern Colorado Water Associati
- North Weld County Water District
- Fort Collins Loveland Water District
- Fort Collins Utilities (Water)
- Spring Canyon Water District
- Sunset Water District
- Town of Severance Utilities
- West Fort Collins Water District

### Citations

1: 109,748



18,291.0 0 9,145.50 18,291.0 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
City of Fort Collins - GIS

This map is a user generated static output from the City of Fort Collins FCMAPS Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

## Notes

# Water & Sewer Agenda Summary

Date: June 15, 2022

Key Staff Contact: Leah Hubbard, Water Resource Administrator III and Sean Chambers, Water & Sewer Director

**Title:** Executive Session

**Summary:** The city requests an executive session for the purpose of receiving legal advice relative to an active Water Court litigation matter. The executive session will focus only on the matters in the case no.21CW3216.

**Recommended Action:** N/A

**Attachments:** None

# Water & Sewer Agenda Summary

Date: June 15, 2022

Key Staff Contact: Carolyn Burr on behalf of Leah Hubbard, Water Resources Admin III

**Title:** Outside Water Council Legal Report

**Summary:** The Attached Report has been provided by Ms. Carolyn F. Burr, Esq. with Welborn Sullivan Meck & Tooley, P.C.

The first case for the legal report for this month covers case number 21CW3216. The Water and Sewer Board previously voted to file a statement of opposition in February of 2022. Upon further analysis, staff and counsel have changed their recommendation.

The second case is 22CW3055. This is the Halligan Reservoir Enlargement in the amount of 16,520AF. Greeley needs to ensure the Enlargement will not impact Milton-Seaman Reservoir operations.

## **Recommended Action:**

Staff recommends rescinding authorization to file a statement of opposition in 21CW3216 and entering a statement of opposition on 22CW3055.

"I move that the Board authorize the filing of a statement of opposition in Case No. 22CW3055, 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."

## **Attachments:**

1. Legal Report for June 15, 2022

Legal Report  
Greeley Water & Sewer Board Meeting  
June 15, 2022

1. Case Number: **21CW3216**: State Decennial 2020 Abandonment List. Greeley's Island Grove Well No. 4503, originally decreed in Case No. W-2642, is on the list. The Board previously authorized counsel and staff to file a statement of opposition to the abandonment listing for this water right. Upon further analysis, staff and counsel have changed their recommendation and now recommend that the Board not file a statement of opposition to the abandonment of the junior right associated with this well.

**Proposed Motion Language:** "I move that the Board rescind its authorization of February 16, 2022 for staff and legal counsel to file a statement of opposition in Case No. 21CW3216 listing Greeley's Island Grove Well No. 4503 water right, originally decreed in Case No. W-2642, on the State of Colorado's Decennial Abandonment List."

2. Case Number: **22CW3055**: Ft. Collins' application for diligence of Halligan Reservoir Enlargement in the amount of 16,520AF, conditional. Ft. Collins is not claiming any portion absolute. Staff and legal counsel recommend filing a statement of opposition in this case to ensure that the diligence decree is consistent with the terms of the original decree; that Greeley's operation of Milton Seaman Reservoir is not impacted by any terms in the diligence decree; and that Ft. Collins has met its burden of diligently developing the water right.

**Proposed Motion Language:** "I move that the Board authorize the filing of a statement of opposition in Case No. 22CW3055, 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 Agenda Summary

Date: June 15, 2022

Key Staff Contact: Sean Chambers, Water & Sewer Director

**Title:** Director's Report

**Summary:**

The Director will provide a summary overview of several items of Board interest:

- June 2022 W&S Organizational Chart
- Annual Board & Council Tour of Water and Wastewater Infrastructure
- Annual Greeley Citizen Tour of Water & Wastewater Infrastructure – Aug. 5<sup>th</sup>
- Guest Column on Greeley's water security as a result of planning

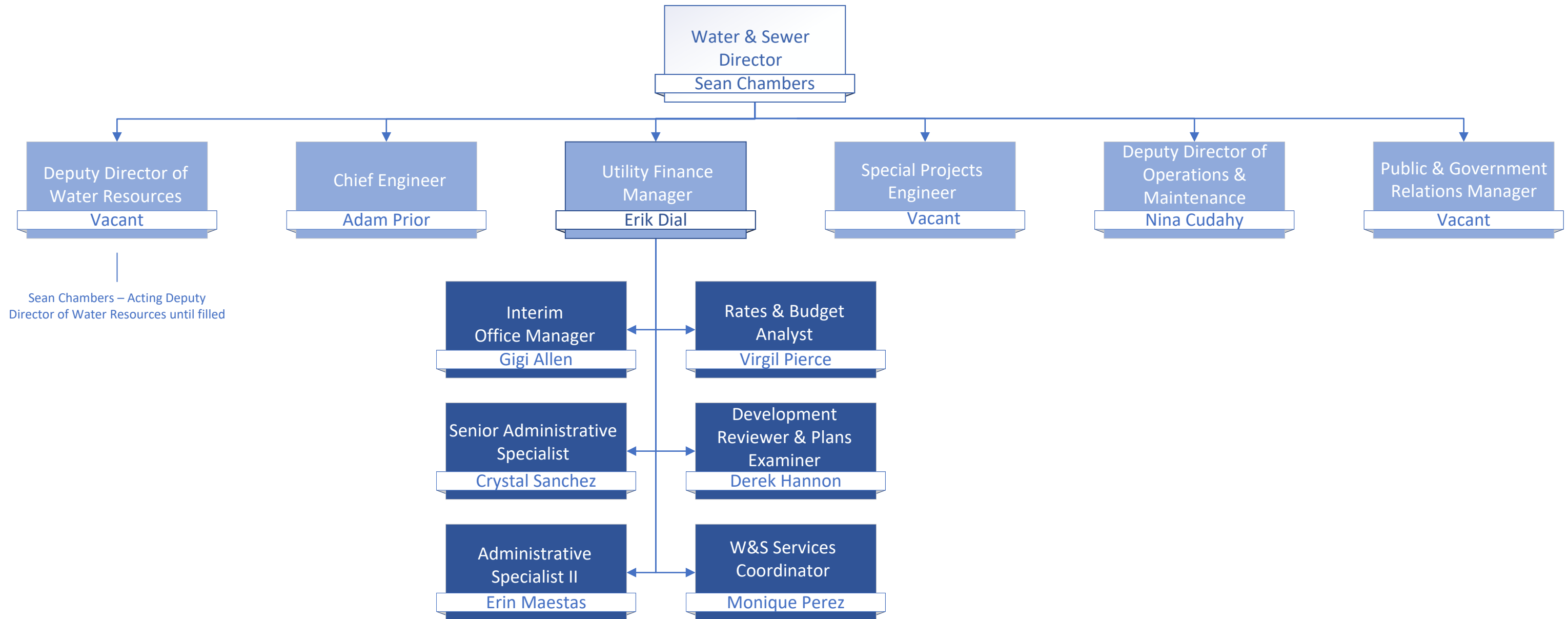
**Recommended Action:**

Non-action informational item

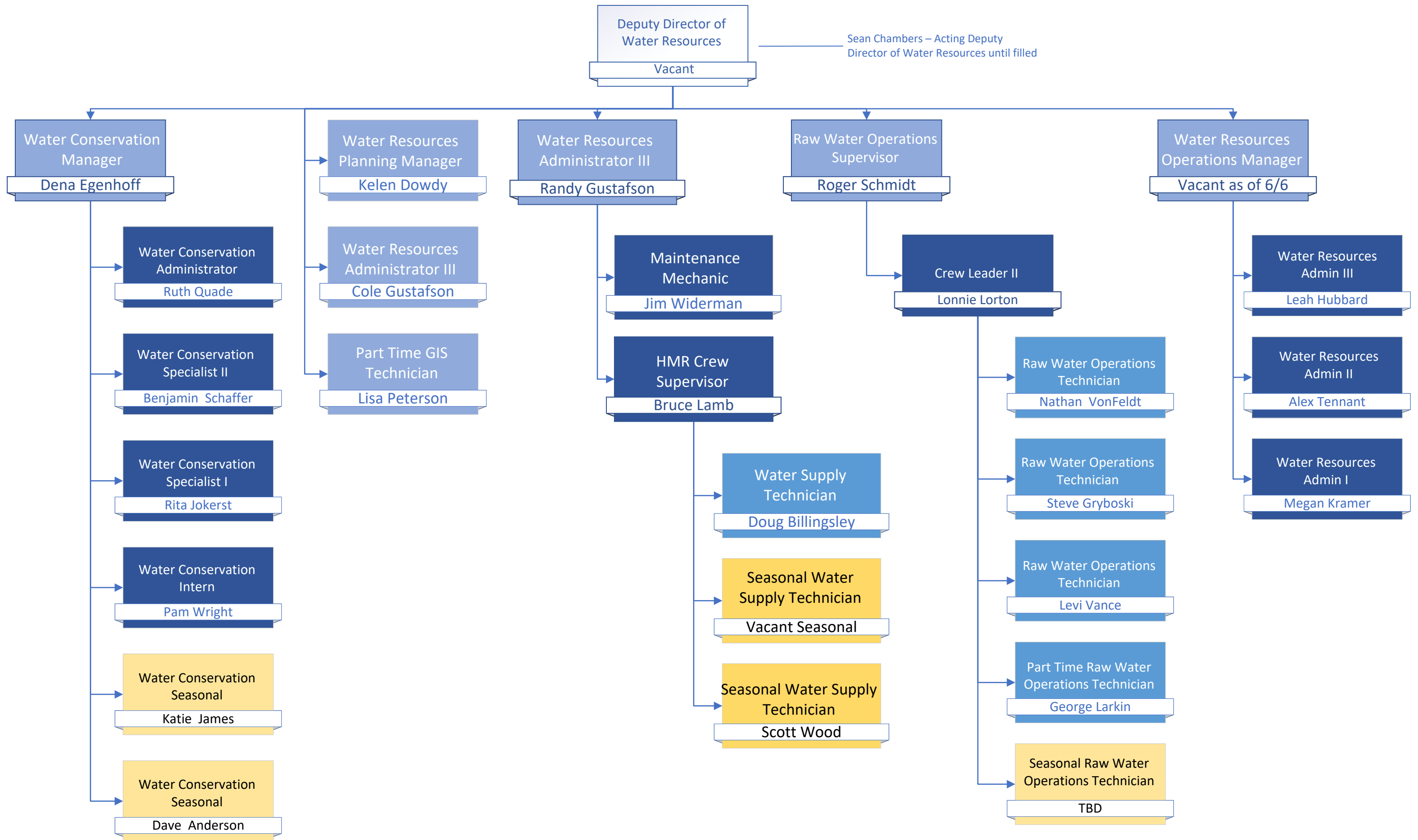
**Attachments:**

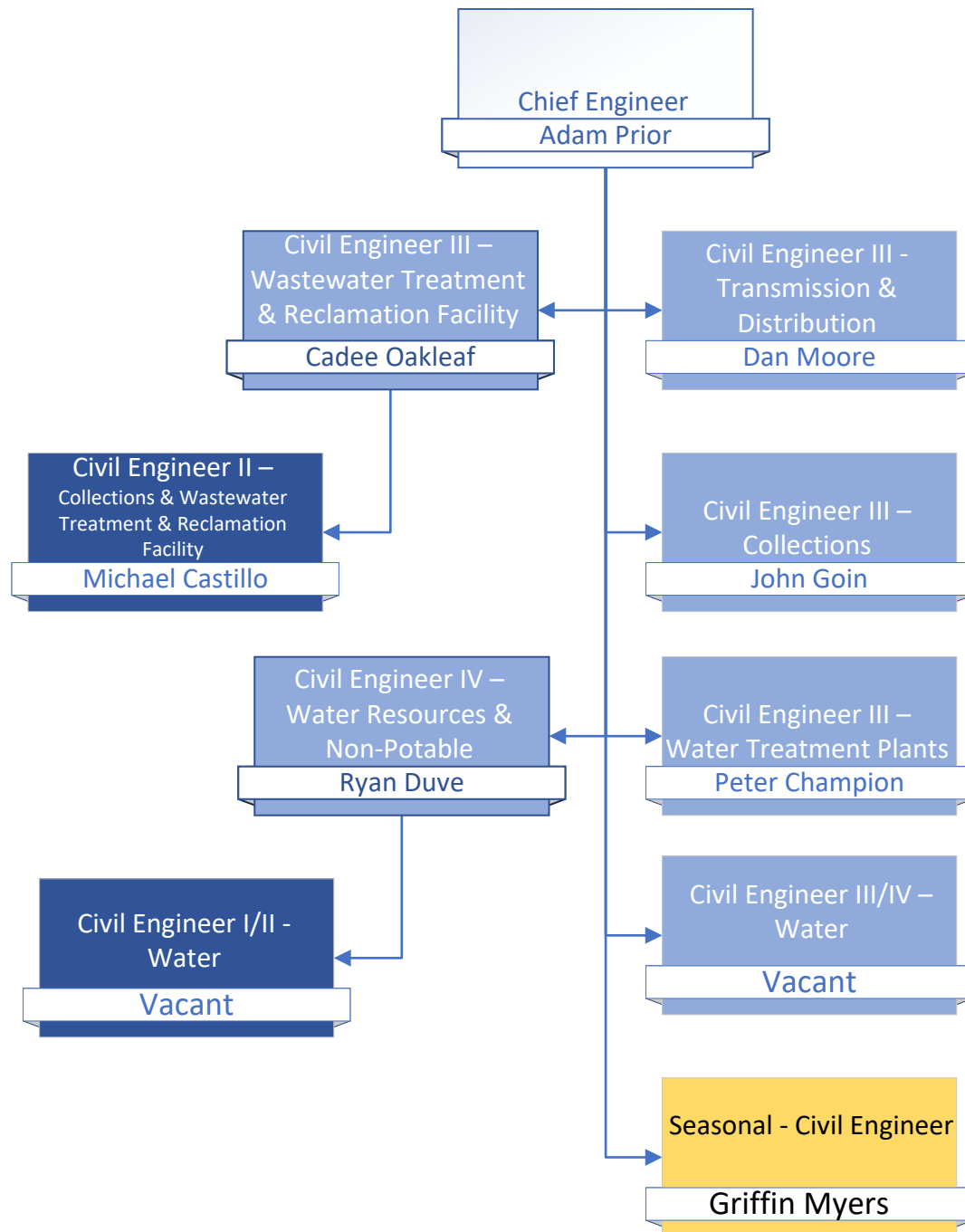
Organizational Charts – June 5, 2022

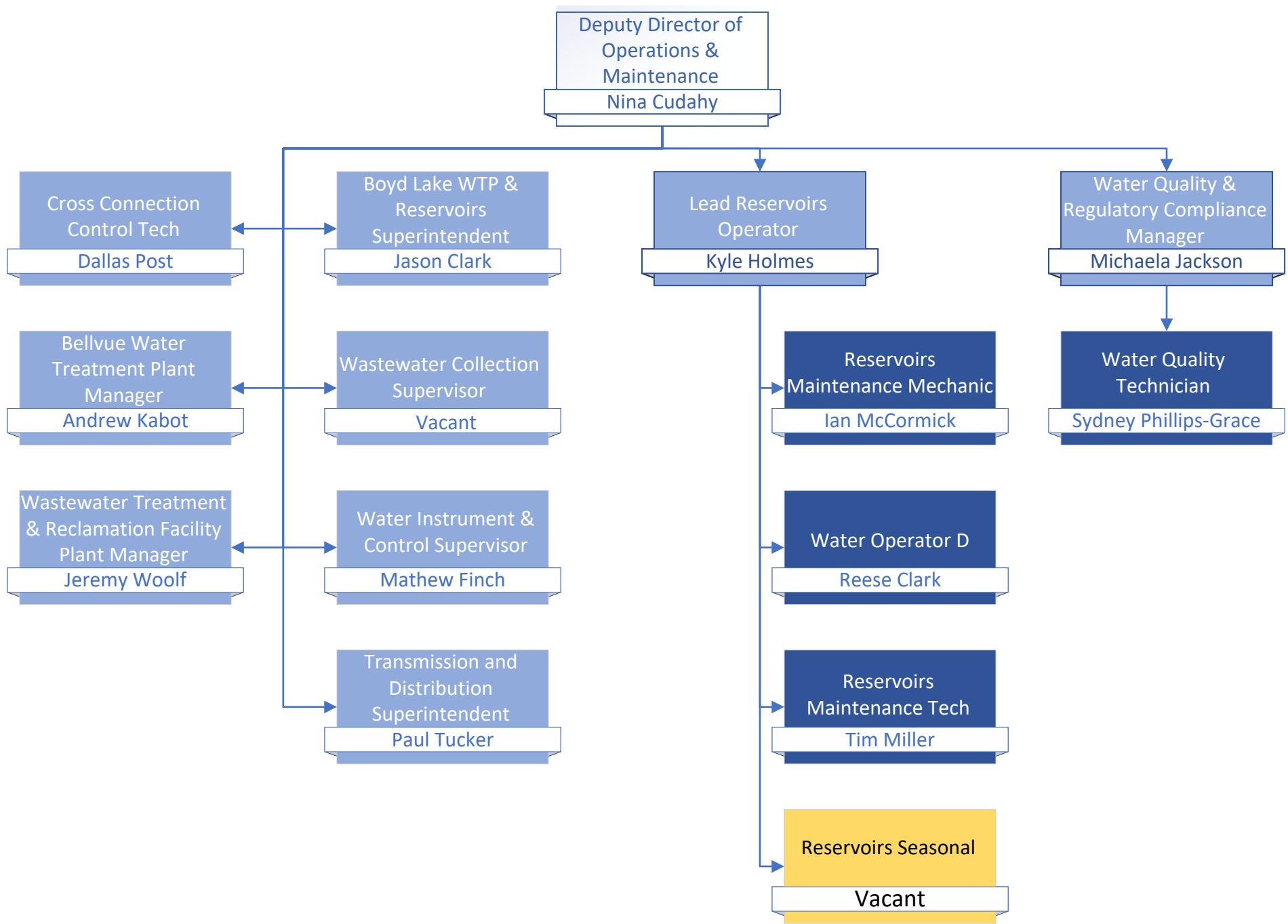
June 2022 Board Charts

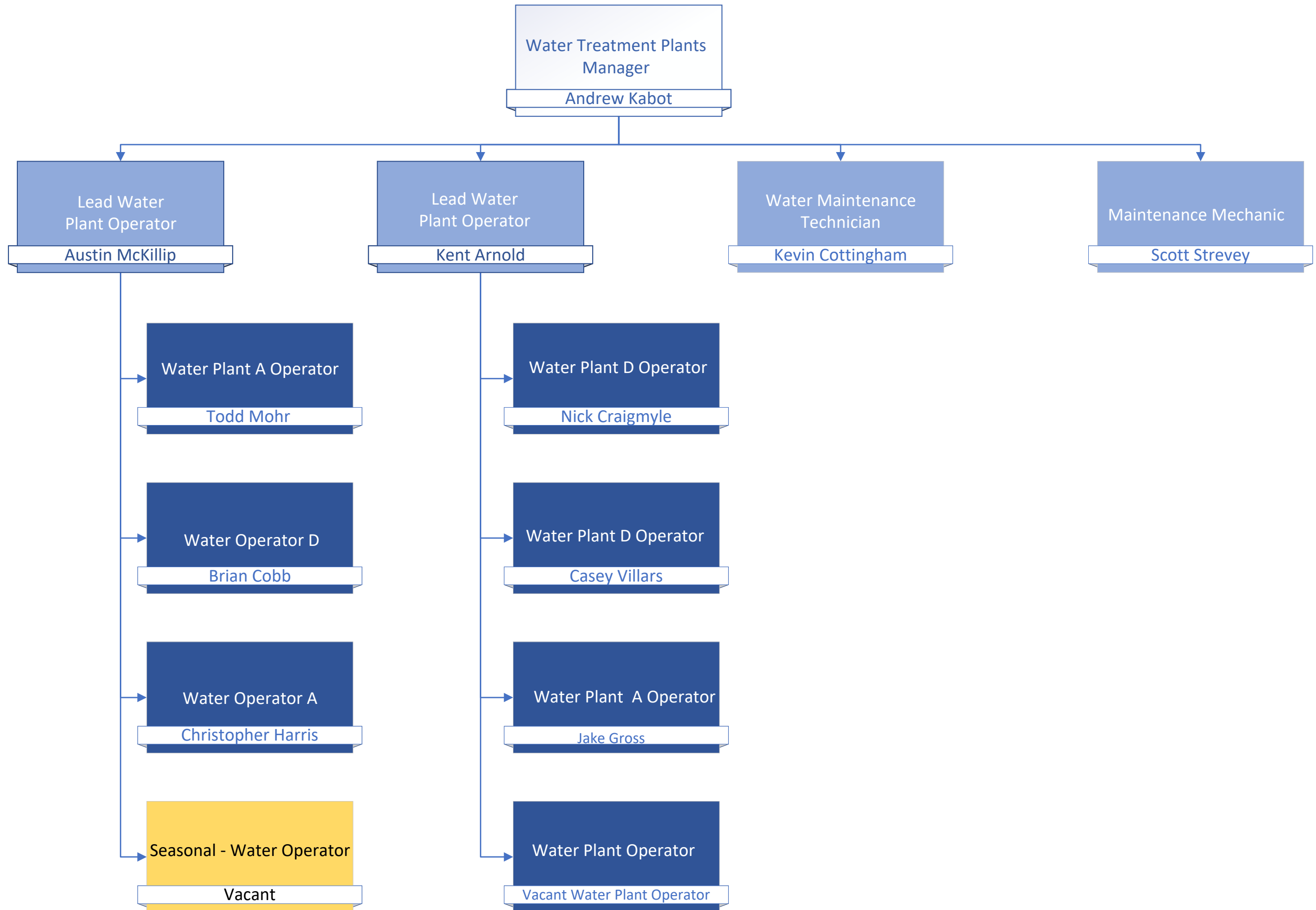


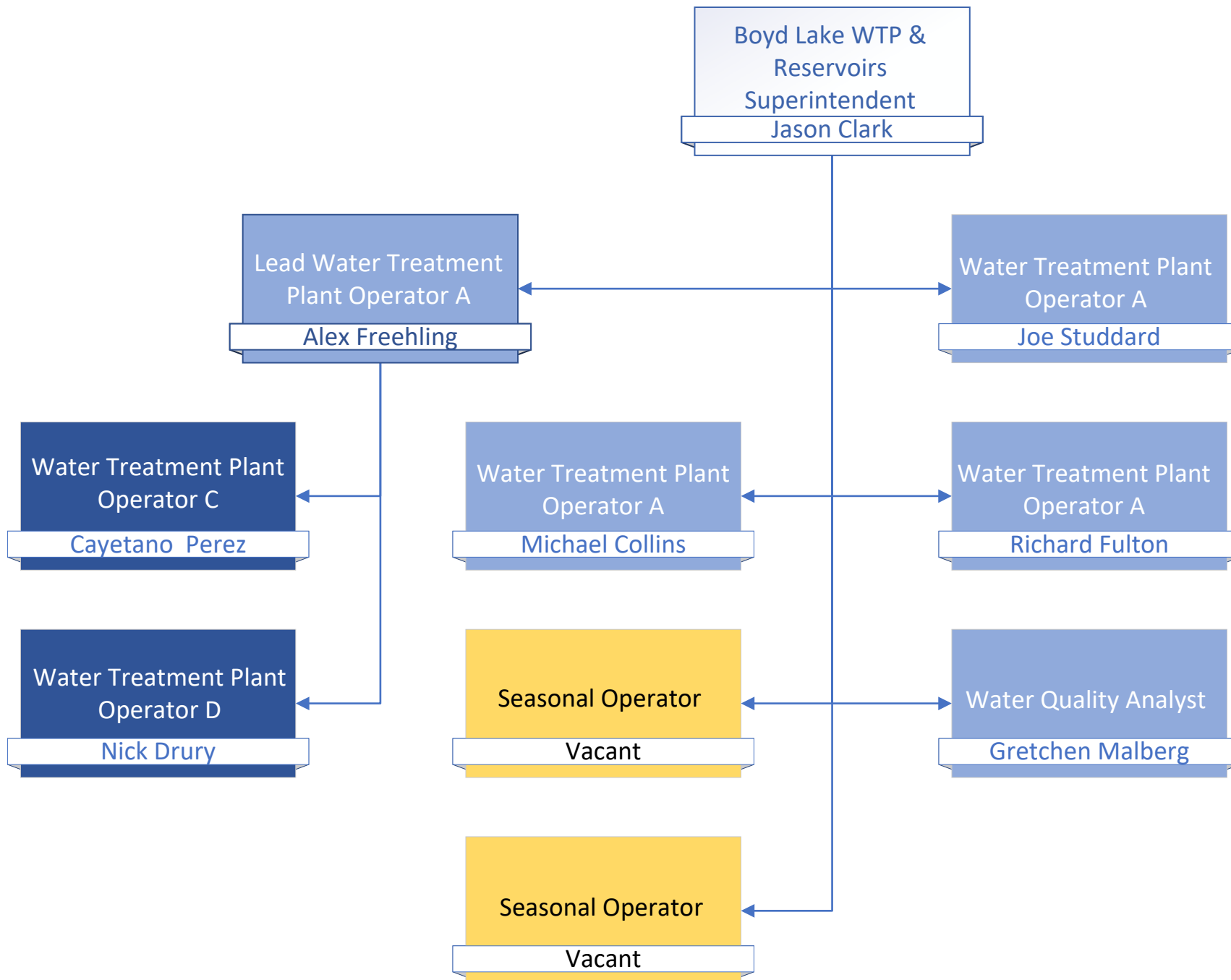


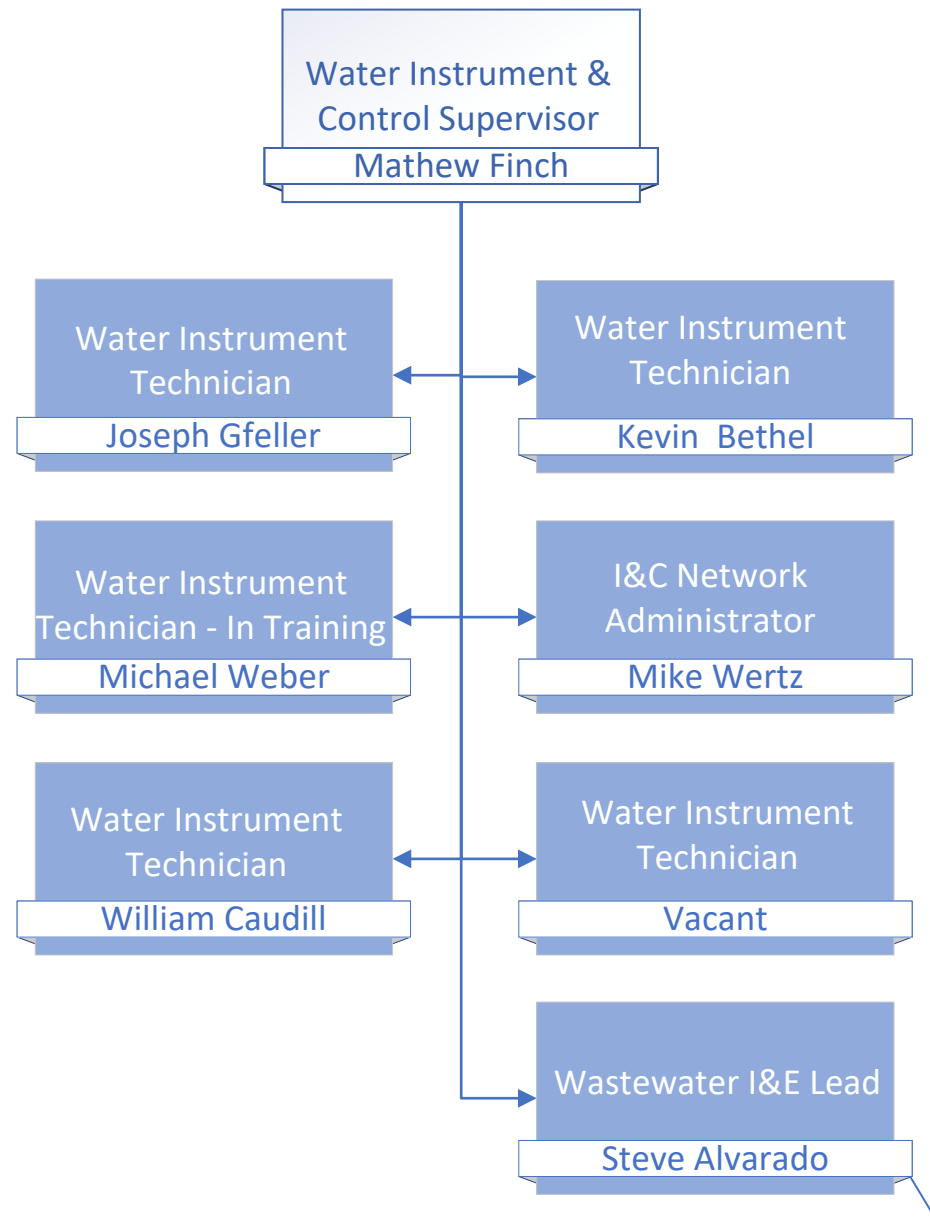






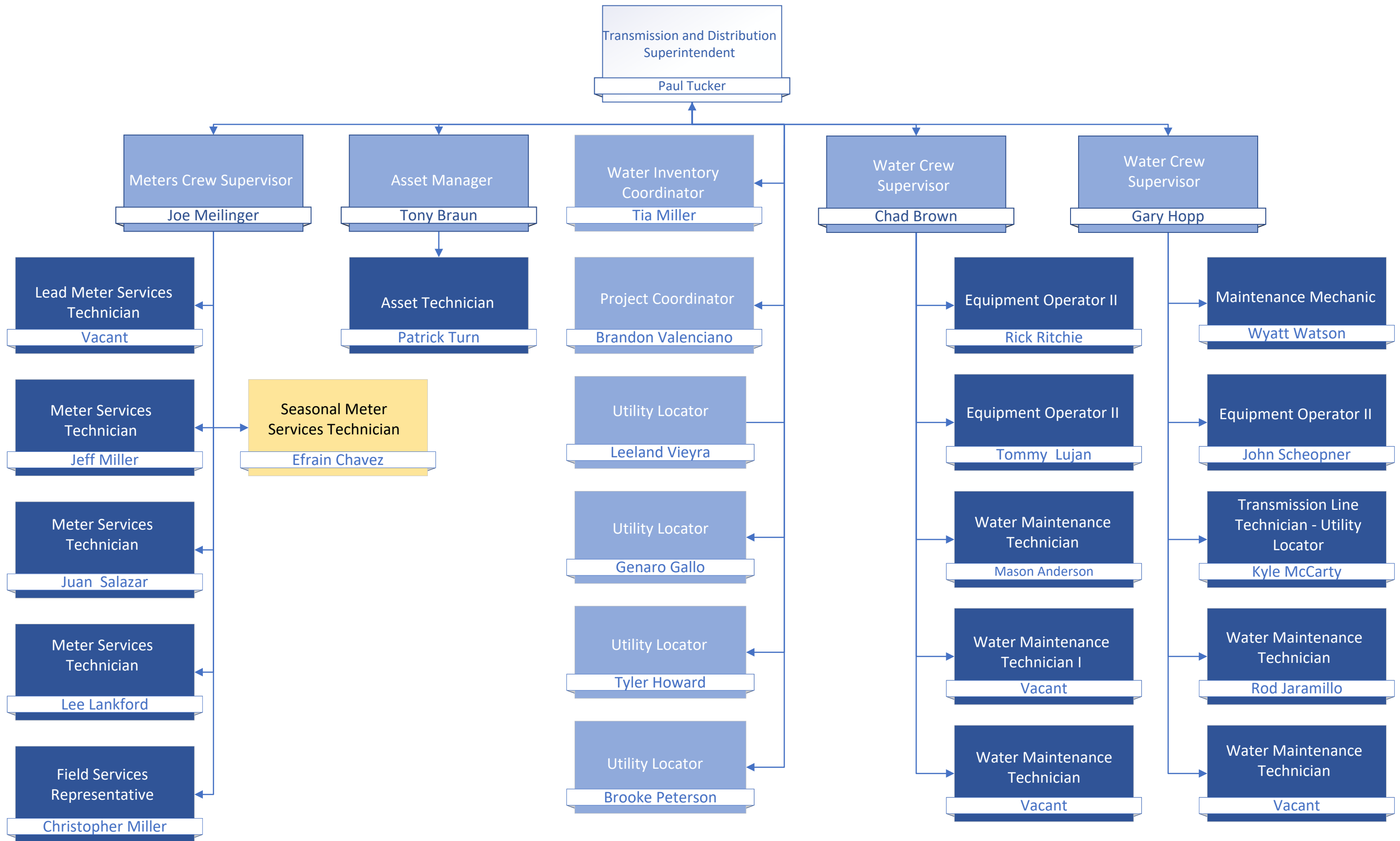


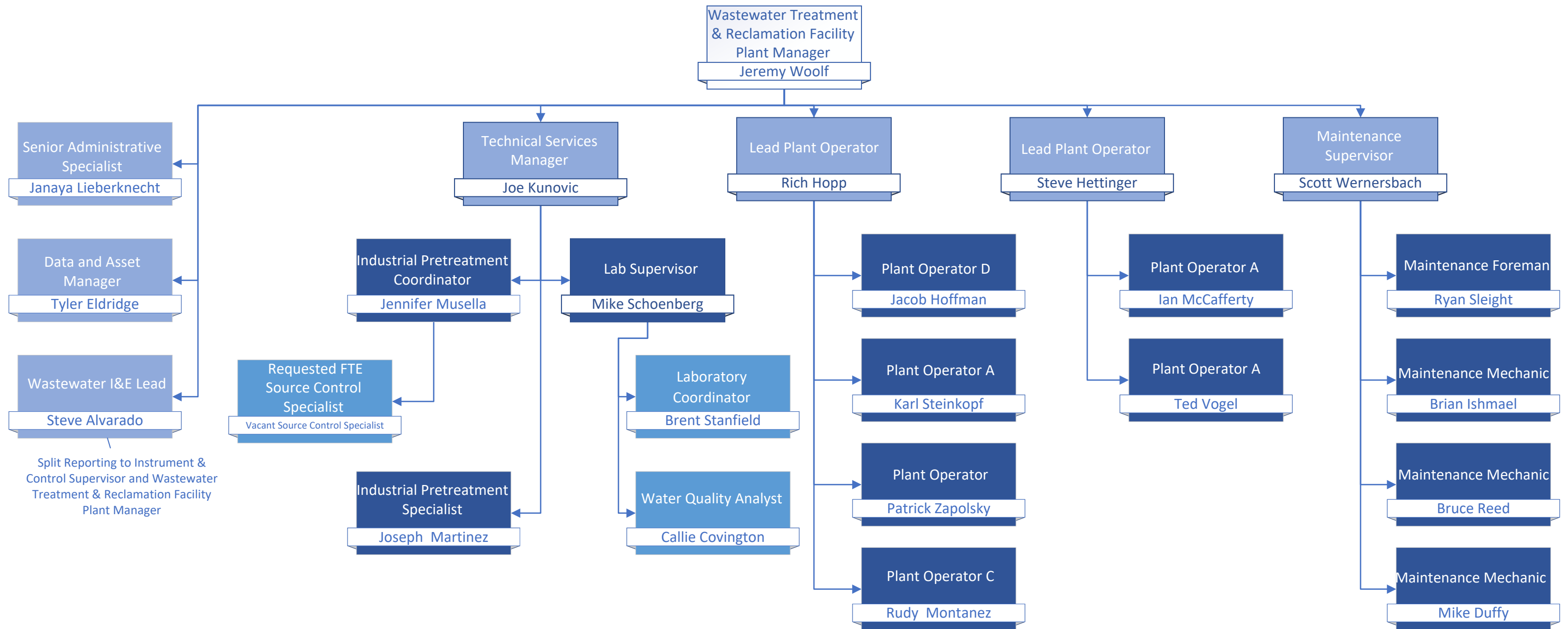


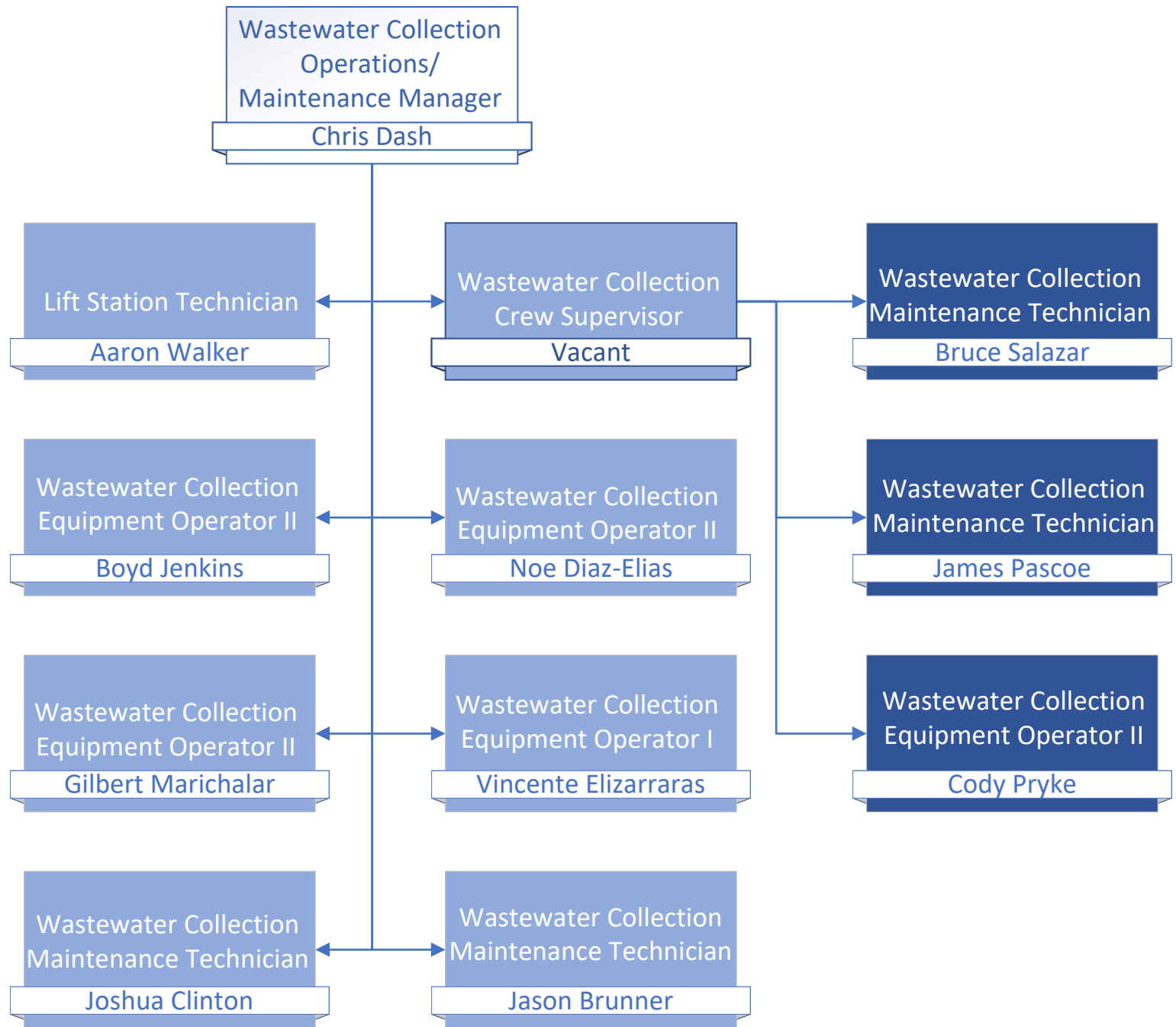


Split Reporting to Instrument & Control Supervisor and Wastewater Treatment & Reclamation Facility Plant Manager







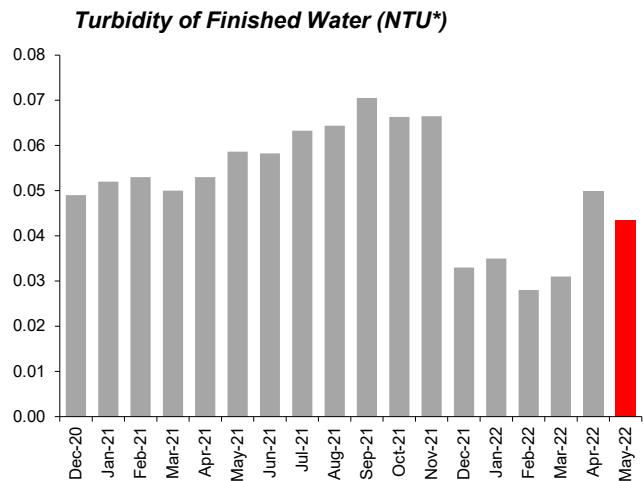
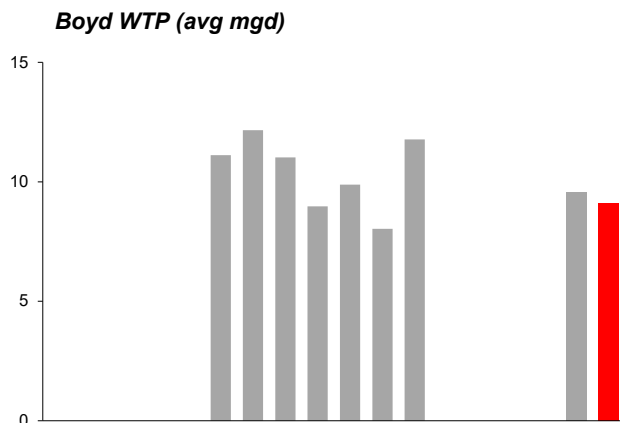
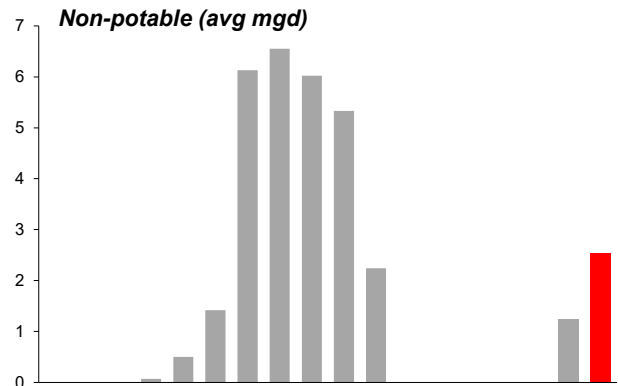
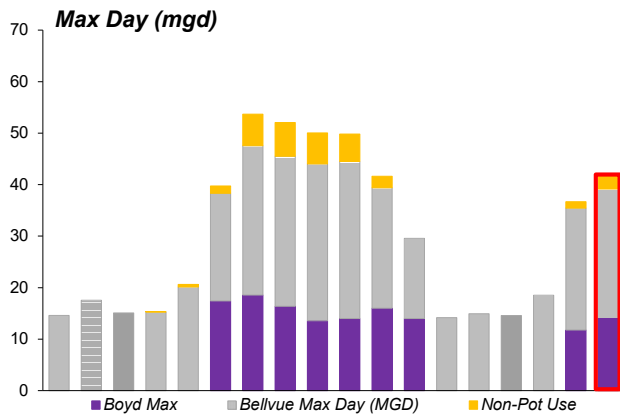


## Water Treatment

Bellvue Water Treatment Plant operates year-round with a transmission capacity of 29.1 million gallons per day (mgd) (plant capacity is 32 to 35 mgd). Water sources include Poudre River direct flows, Colorado-Big Thompson (C-BT), Windy Gap, High Mountain Reservoirs, Laramie-Poudre Tunnel, and Water Supply and Storage. Average volume is 19,000 acre-feet a year (2000-2011). The plant was built in 1907, with its last treatment upgrade in 2009. Solar panels were added in 2014.

Boyd Water Treatment Plant operates normally from April to October with a plant capacity of 38 mgd (transmission capacity is 40 mgd). Water sources include Greeley-Loveland Irrigation Company, C-BT, and Windy Gap. Average Volume is 8,200 acre-feet (2000-2011). The current plant was built in 1974, with its last treatment upgrade in 1999. Solar panels were added at Boyd in 2014. In 2016, tube settlers and platte settlers were replaced in the sedimentation basins. In 2018, all old existing chemical lines were replaced with new lines and the piping was up-sized to carry more chemical. A PLC upgrade was done on the SCADA system. Sludge pumps were replaced and hooked into the Trac Vac system that pulls sludge out of the sedimentation basins.

Combined, Bellvue and Boyd can treat a maximum of 70-73 million gallons per day.



Starting May 2016 Bellvue turbidity measurements will use a new method resulting in more accurate readings.

\*Turbidity limit: 95% of samples must be below 0.3 NTU.

Turbidity is the measure of relative clarity of a liquid. Clarity is important when producing drinking water for human consumption and in many manufacturing uses. Turbidity is measured in Nephelometric Turbidity Units (NTU).

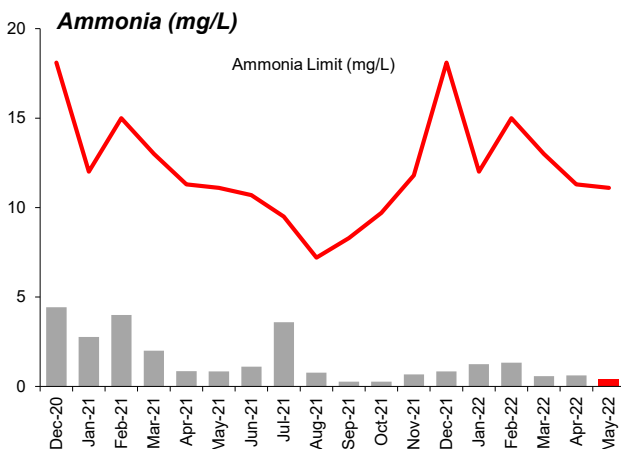
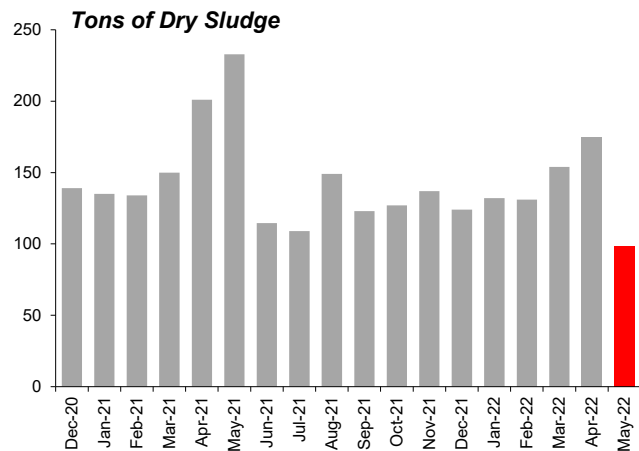
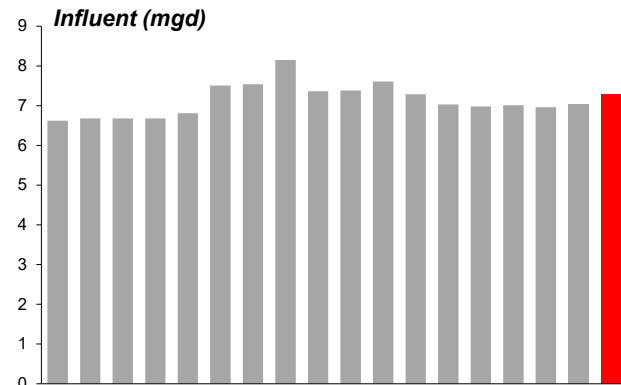
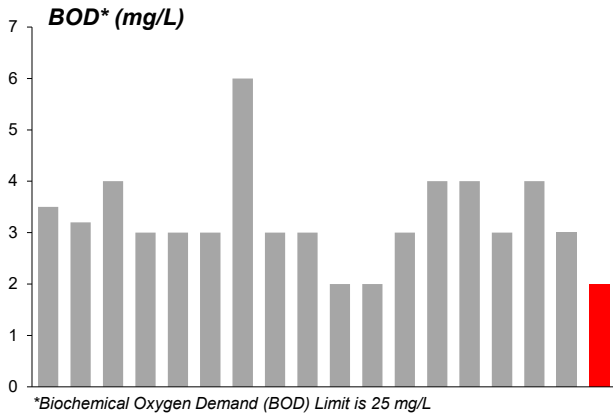
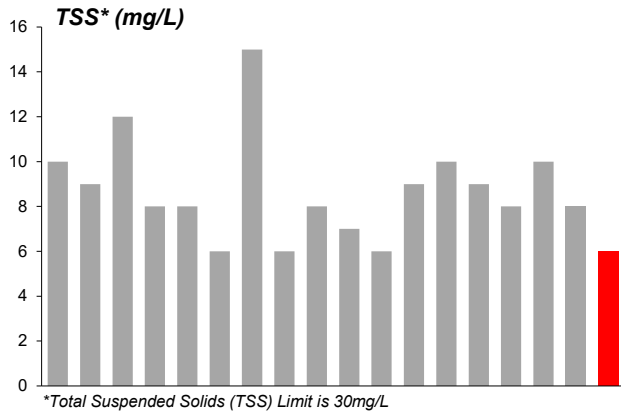


## Wastewater Treatment

The Water Pollution Control Facility (WPCF) staff are dedicated environmental professionals who provide quality, safe and cost-effective wastewater treatment services for the citizens of Greeley. The WPCF treats wastewater to meet or exceed Environmental Protection Agency (EPA) and Colorado Department of Public Health & Environment requirements.

In 2011, the WPCF received an Xcel Energy Custom Efficiency Achievement Award for saving 2.78 million kWh and reducing CO2 emissions by 1,584 tons. In 2012, the WPCF received the Rocky Mountain Water Environment Association's (RMWEA) Sustainability Award for Colorado demonstrating excellence in programs that enhanced the principles of sustainability. A Certificate of Achievement from the Colorado Industrial Energy Challenge program managed through the Colorado Energy Office was received in the same year. In 2013, the plant received the City of Greeley's Environmental Stewardship Award for outstanding efforts to reduce energy (watts), conserve energy and water, reduce air and water pollution, and educate and encourage others to be environmental stewards. Also, in 2013, the plant was the recipient of a Bronze Award from the Colorado Environmental Leadership Program. In 2015, after having 5 years without a plant violation, the plant received the 2015 National Association of Clean Water Agencies (NACWA) Platinum Peak Performance award for the City of Greeley Water and Sewer Department.

Note: the red column indicates the current month.



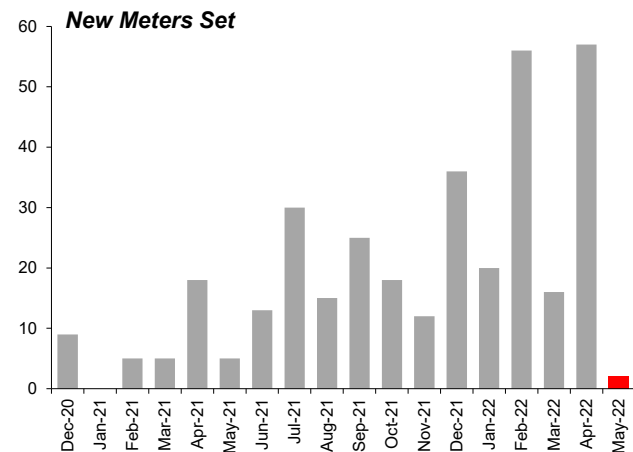
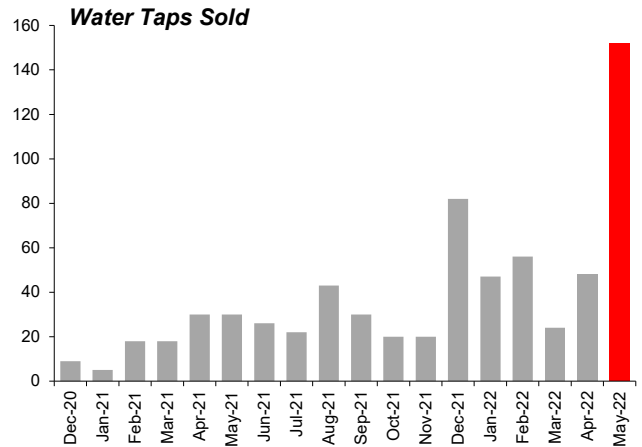
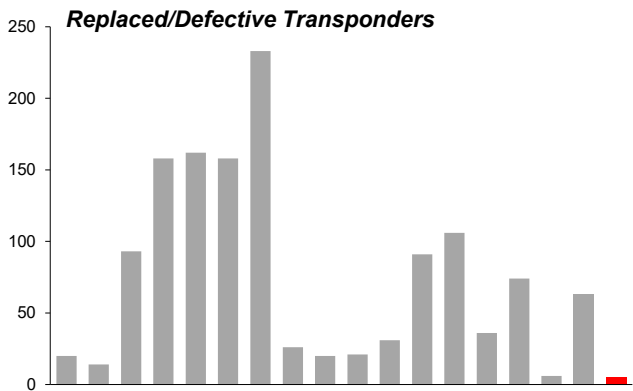
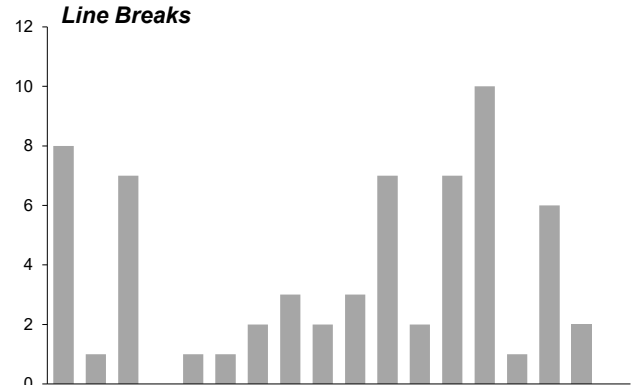
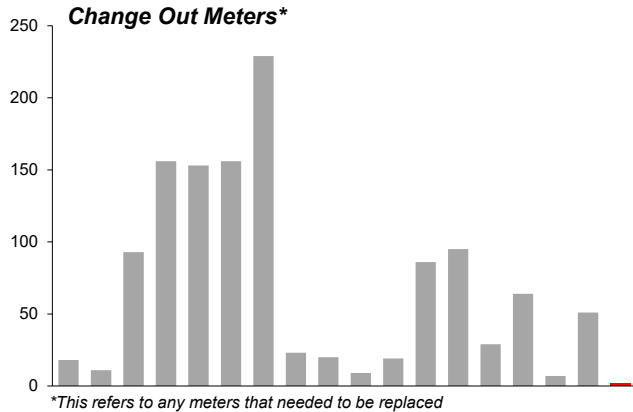
## Water Distribution

The Greeley water distribution system consists of various sizes of pipes that generally follow the streets within the City. The distribution system serves residences and businesses in Greeley, Evans and Garden City, and the system is divided into four pressure zones.

There are 69.75 million gallons of potable water storage in Greeley. The water is stored within three covered reservoirs and one elevated tank; 23rd Avenue - 37.5 million gallons, Mosier Hill - 15 million gallons, and Gold Hill - 15 million gallons. The system also has 476 miles of pipeline, 24,233 water meters and 3,378 fire hydrants.

The water pipes in the distribution system vary in size from 4" to 36". Pipe material is steel, ductile iron, cast iron, or polyvinyl chloride. The age of the pipes varies from the 1890's to new installations.

Note: the red column indicates the current month.





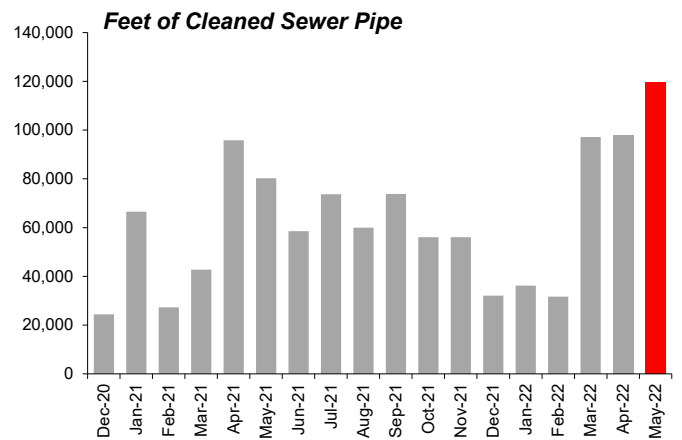
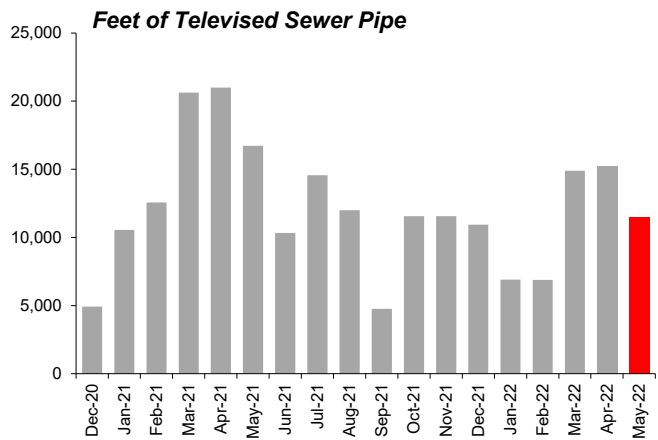
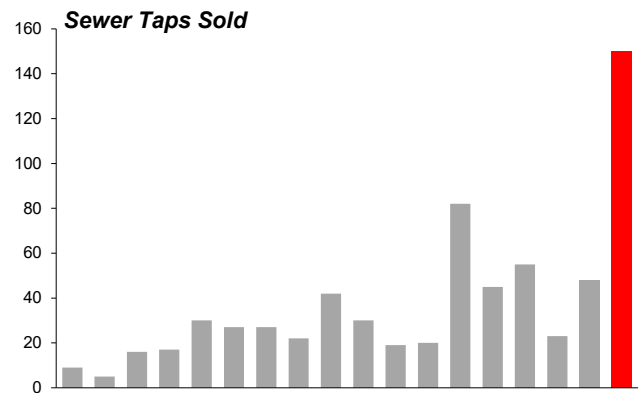
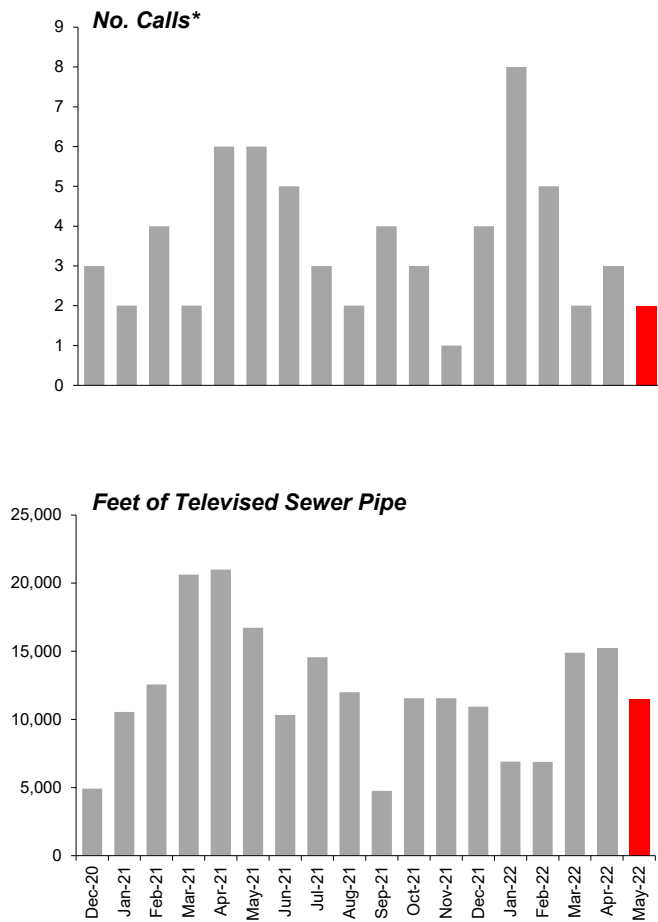
## Wastewater Collection

The mission of the Wastewater Collection Division of the Water and Sewer Department is to protect community health by transporting wastewater away from homes and businesses. This includes respecting property values and public safety by reducing the frequency of blockages in the sanitary sewer lines.

A wide variety of work is performed including routine cleaning of sewer lines, inspection of sewer lines, maintenance of the sewage pumping stations, rehabilitation of the system and responding to emergencies.

The wastewater collection system dates back to 1889. At the end of 2017, the system had a total of 364.8 miles of line and 10 sewage pumping stations. The sewer service area is approximately 51 square miles. Over the last 10 years, the system has grown by 17 miles.

Note: the red column indicates the current month.

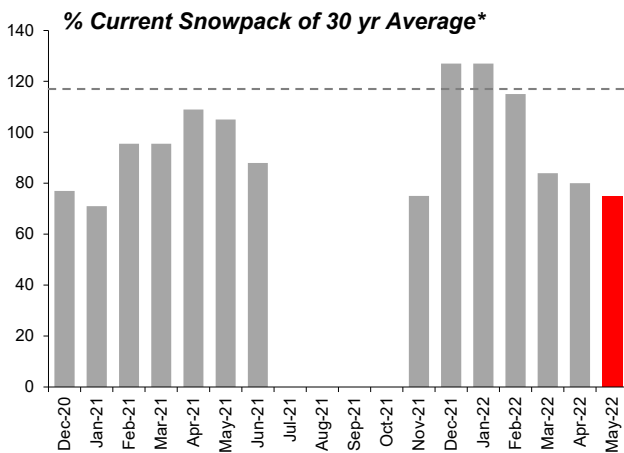
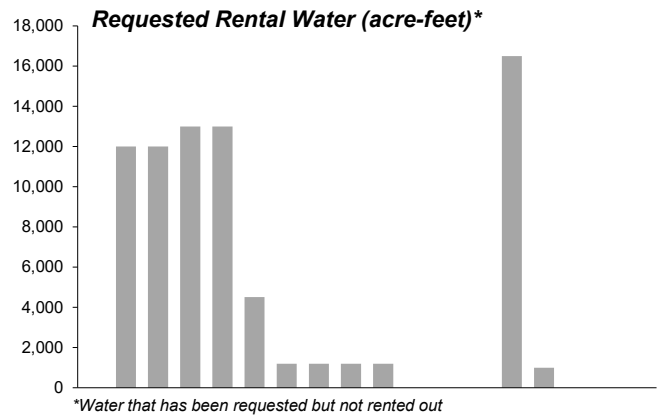
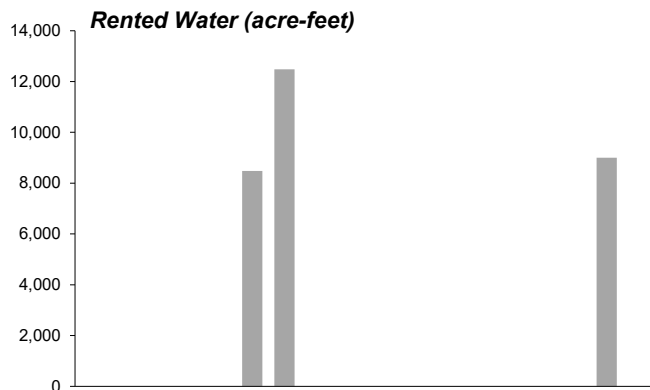
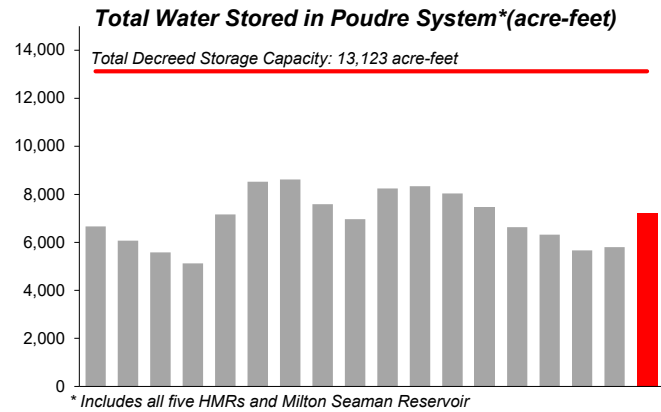
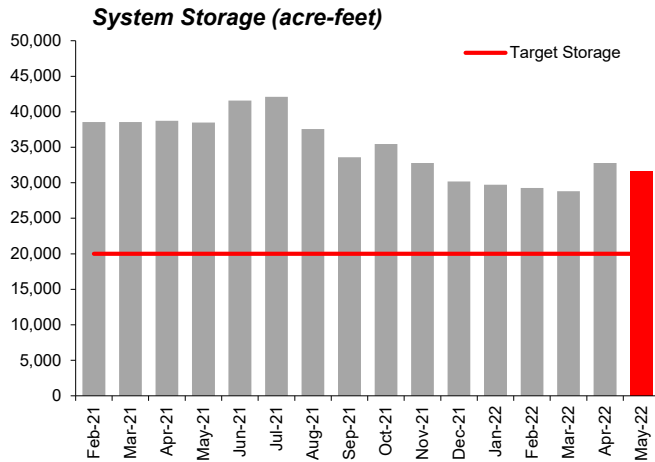


## Water Resources

Greeley has numerous water rights in four river basins; the Upper Colorado River, Cache La Poudre, Big Thompson and Laramie River. The Water Resource staff must account for all of this water and comply with the rules of the Colorado Water Court and the State Engineer's Office which is in charge of allocating all of Colorado's water resources. Approximately one-third of the City's water supply comes from agricultural water rights. These water rights must be formally changed to municipal use by a special legal process through the Water Court. In this court, Water Resource staff and attorneys also defend the City's water rights against adverse claims from other parties.

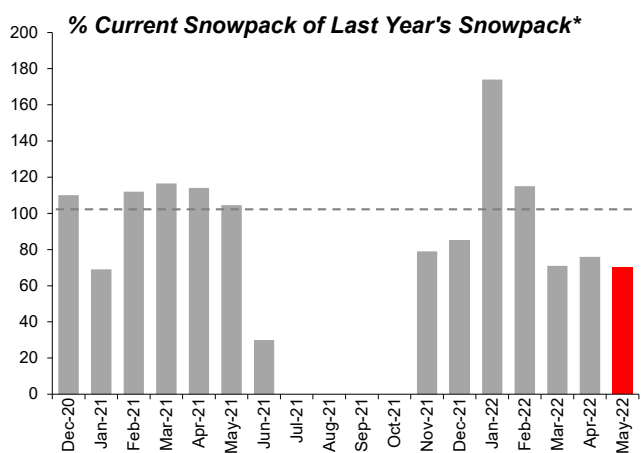
Greeley's goal is to have enough water in carry-over storage to sustain Greeley through a 50-year critical drought. Water in excess of this carry-over drought supply can be leased to agriculture, both for revenue and to support our local agricultural community. Modeling has shown that, given existing population and demand factors, Greeley will have sufficient water for citizens, if at the beginning of the 6-year long, 50-year critical drought, there is 20,000 acre-feet in storage on April 1st of the following year.

Note: the red column indicates the current month.



\*Data is from the 1st of the month

\*\*Average of Deadman Hill and Joe Wright



\*Data is from the 1st of the month

\*\*Average of Deadman Hill and Joe Wright

## Treated Water and Weather Data

January 2022 average temperature was 24.38°F, approximately 2.8°F cooler than average. February also brought colder temperatures averaging 25.23°F. In March the average temperature was 38.94°F, slightly cooler than the historical average. Temperatures began to rise in April, bringing the average temperature to 49°F, which is slightly higher than the historical average temperature of 47°F. May brought an average temperature of 56.93°F, almost exact to the historical average.

Greeley precipitation was 0.79 inches in January, which is slightly above average (0.43 inches). February had high precipitation at 0.93 inches. March brought 1.07 inches of precipitation, setting Greeley 1.23 inches over the historical cumulative precipitation for March. Greeley has a very dry April with only 0.13 inches of precipitation bringing the cumulative precipitation 0.63 inches below average. May brought 2.44 inches of precipitation.

