

# Greeley City Council Agenda

## Regular Meeting

Tuesday, March 15, 2022 at 6:00 p.m.

City Council Chambers at City Center South, 1001 11th Ave, Greeley, CO 80631  
Zoom Webinar link: <https://greeleygov.zoom.us/j/91910136877>

### NOTICE:

Regular meetings of the City Council are held on the 1st and 3rd Tuesdays of each month in the City Council Chambers. Meetings are conducted in a hybrid format, with a Zoom webinar in addition to the in person meeting in Council Chambers.

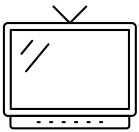
City Council members may participate in this meeting via electronic means pursuant to their adopted policies and protocol.

Members of the public are also invited to choose how to participate in Council meetings in the manner that works best for them.

### Watch Meetings:



Meetings are open to the public and can be attended in person by anyone.



Meetings are televised live on GTV8 on cable television.



Meetings are livestreamed on the City's website, [greeleygov.com](http://greeleygov.com) as well as YouTube at [youtube.com/CityofGreeley](http://youtube.com/CityofGreeley)

For more information about this meeting or to request reasonable accommodations, contact the City Clerk's Office at 970-350-9740 or by email at [cityclerk@greeleygov.com](mailto:cityclerk@greeleygov.com).

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

### Comment in real time:

During the public input portion of the meeting and public hearings:



In person attendees can address the Council in the Chambers .



The public can join the Zoom webinar and comment from the remote meeting.

### Submit written comments:



Email comments about any item on the agenda to [cityclerk@greeleygov.com](mailto:cityclerk@greeleygov.com)



Written comments can be mailed or dropped off at the City Clerk's Office at City Hall, at 1000 10th St, Greeley, CO 80631





# City Council Agenda

March 15, 2022 at 6:00 PM

City Council Chambers, City Center South, 1001 11th Ave & via Zoom at <https://greeleygov.zoom.us/j/91910136877>

**Mayor**

John Gates

**Councilmembers**

Tommy Butler  
Ward I

Deb DeBoutez  
Ward II

Johnny Olson  
Ward III

Dale Hall  
Ward IV

Brett Payton  
At-Large

Ed Clark  
At-Large

A City Achieving  
Community Excellence  
Greeley promotes a healthy, diverse economy and high quality of life responsive to all its residents and neighborhoods, thoughtfully managing its human and natural resources in a manner that creates and sustains a safe, unique, vibrant and rewarding community in which to live, work, and play.

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Approval of the Agenda
5. Recognitions and Proclamations
6. Citizen Input
7. Reports from Mayor and Councilmembers
8. Initiatives from Mayor and Councilmembers
9. University of Northern Colorado update

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**Consent Agenda**

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

**Council Members may request an item be pulled off the Consent Agenda and considered separately under the next agenda item in the order they were listed.**

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10. Approval of the City Council Proceedings of March 1, 2022
11. Acceptance of the Report of the City Council Work Session of March 8, 2022
12. Consideration of a Resolution approving an Enhanced Sales Tax Incentive Program Agreement ("ESTIP Agreement")
13. Introduction and first reading of an ordinance changing the official zoning map of the City of Greeley, Colorado, from PUD (Planned Unit Development – Lake Bluff) to PUD (Planned Unit Development – Poudre Heights), changing the underlying land use designations for approximately 277.6 acres of property located north of U.S. Highway 34 Business, east of Missile Park Road and west of 101<sup>st</sup> Avenue

14. First reading of an ordinance appropriating additional sums to defray the expenses and liabilities of the City of Greeley for the balance of the fiscal year of 2022 and for funds held in reserve for encumbrances at December 31, 2021.

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### **End of Consent Agenda**

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15. Pulled Consent Agenda Items
16. Public Hearing and Final Reading of an Ordinance Amending Title 2 of the Greeley Municipal Code relating to Special Districts by adding a new Chapter 16.
17. Public hearing and second reading of an Ordinance authorizing a salary increase for the Municipal Judge
18. Public Hearing and second reading of an Ordinance authorizing a salary increase for the City Attorney
19. Public hearing and final reading of an ordinance authorizing the divestment of water rights from the Larimer and Weld Irrigation Company and Windsor Reservoir and Canal Company in exchange for water rights from the Water Supply and Storage Company.
20. Appointment of applicants to the Citizen Transportation Advisory Board, Judicial Review Board, Museum Advisory Board, Parks & Recreation Advisory Board, Stormwater Board, and Union Colony Civic Center Advisory Board.
21. Scheduling of Meetings, Other Events
22. Consideration of a motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements and ordinances
23. Adjournment

# Council Agenda Summary

## Title

Recognitions and Proclamations

## Summary

Council Member (name) will present the *What's Great about Greeley Report*.

Mayor Gates will present a proclamation

## Attachments

*What's Great about Greeley Report*  
Proclamation

Greeley City Council  
March 15, 2022  
Councilmember Ed Clark



“If you belittle what you  
have...it becomes less.  
If you appreciate what  
you have ...  
it becomes more.”

~Gelene McDonald

# University of Northern Colorado Big 12 Wrestling Champion



# 30 Highest-rated Museums in Colorado

## CMRM Ranked #3



 **stacker**





# Ron Loos Male Youth Referee of the Year Colorado Soccer Association



# University of Northern Colorado WAC Swimmer of the Year



# \$6,000 American Rescue Plan Grant “Bands Give Back” Program



# GreeleyGov.com



Greeley City Council - 2022





## Kiwanis Club of Greeley Day

**WHEREAS**, Kiwanis International is a global organization of volunteers dedicated to improving the world, one child and one community at a time; and

**WHEREAS**, the Kiwanis Club of Greeley was chartered on March 21, 1922; and

**WHEREAS**, the Kiwanis Club of Greeley has given over \$1.5 million dollars to the Greeley community; and

**WHEREAS**, the Kiwanis Club of Greeley hosts annual projects supporting the Weld Food Bank, the Salvation Army and many other Greeley-area non-profit organizations; and

**WHEREAS**, for over 74 years, the Kiwanis Club of Greeley has hosted the “Stars of Tomorrow” youth talent show, awarding scholarships for winning participants; and

**WHEREAS**, the Kiwanis Club of Greeley sponsors youth service clubs in the Greeley area, including four high school Key Clubs, a Builders Club, and a K-kids Club; and

**WHEREAS**, the Kiwanis Club of Greeley provides multiple annual scholarships to graduating seniors in the area; and

**WHEREAS**, the Kiwanis Club of Greeley has hosted a Christmas party for underprivileged first graders for over 60 years; and

**WHEREAS**, the Greeley City Council recognizes the important civic contributions that the Kiwanis Club of Greeley has made to the Greeley community.

**NOW, THEREFORE**, I, John Gates, by virtue of the authority vested in me as Mayor of the City of Greeley, do hereby proclaim March 26, 2022, as **the Kiwanis Club of Greeley Day** in the City of Greeley, and urge all citizens to join with us in recognizing and commending the Kiwanis Club of Greeley for its commitment to improving the lives of all citizens locally and globally. The City of Greeley congratulates the Kiwanis Club of Greeley on its 100th Anniversary.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the official seal of the City of Greeley, Colorado, this 15<sup>th</sup> day of March, 2022.

\_\_\_\_\_  
John D. Gates  
Mayor



The logo for the City of Greeley, Colorado, features a stylized mountain range with a winding path or river. The text "City of" is positioned above the word "Greeley", and "Colorado" is positioned to the right of "Greeley".

## AmeriCorps Week

**WHEREAS**, service is a hallmark of the American character and has the unique ability to bring people of all backgrounds together in common cause, and throughout our history citizens have stepped up to meet our most pressing challenges of the day by volunteering in their communities; and

**WHEREAS**, AmeriCorps provides opportunities for more than 250,000 Americans to serve their country through service at nonprofits, schools, public agencies, and community and faith-based groups across the country; and

**WHEREAS**, in Northern Colorado, more than 200 AmeriCorps members and AmeriCorps Seniors volunteers of various ages and backgrounds helped to meet local needs at more than 50 locations in Larimer and Weld Counties by responding to COVID-19, tutoring or mentoring children and youth, supporting veterans and military families, restoring the environment, and responding to disasters; and

**WHEREAS**, AmeriCorps members and AmeriCorps Seniors volunteers encourage collaboration and partnerships, leveraging millions of volunteers in service and acquiring the support of business, foundation, and other local partners to increase the effectiveness of their initiatives; and

**WHEREAS**, AmeriCorps members and AmeriCorps Seniors volunteers demonstrate commitment, dedication, and patriotism by making an intensive commitment to service, a commitment that remains with them in their future endeavors; and

**WHEREAS**, through their service, AmeriCorps members and AmeriCorps Seniors volunteers strengthen the lives of their families, communities, and the City of Greeley as a whole; and

**WHEREAS**, AmeriCorps Week is an opportunity to recognize the dedication and commitment of the millions of Americans who have chosen to serve their country through AmeriCorps and AmeriCorps Seniors and their community partners, and to encourage more Americans to follow their footsteps.

**NOW, THEREFORE**, I, John D. Gates, by virtue of the authority vested in me as Mayor of the City of Greeley, Colorado and behalf of the Greeley City Council, do hereby designate March 13- March 19 as AmeriCorps week in Greeley and encourage all community members to join in celebratory events this month and throughout the year in recognition of the contributions of this important culture within our community.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the official seal of the City of Greeley, this 15<sup>th</sup> day of March, 2022.

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John D. Gates  
Mayor



## NATIONAL INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AWARENESS MONTH

WHEREAS, in 1987 President Ronald Reagan officially declared March to be National Developmental Disabilities Awareness month in order to “increase public awareness of the needs and the potential of Americans who face developmental disabilities and to provide the opportunities they need in order to live productive lives and to achieve their full potential”; and

WHEREAS, the National Centers for Disease Control estimates that one in six children between the ages of three and seventeen have one or more developmental disabilities; and

WHEREAS, more than six million Americans have one or more developmental disabilities; and

WHEREAS, people with disabilities are an important, vital part of our community as valued employees, civic leaders, business owners, veterans, family members, and friends, and they are innovative and valued contributors in the workplace, the classroom, and the community; and

WHEREAS, the Arc of Weld County proudly supports the National Intellectual and Developmental Disabilities Awareness Month by advocating for people with Intellectual and Developmental Disabilities in the local community by offering many programs and services.

NOW, THEREFORE, I, John Gates, by virtue of authority vested in me as Mayor of the City of Greeley, Colorado, do hereby proclaim the month of March 2022 as **Intellectual and Developmental Disabilities Awareness Month** in the City of Greeley and urge all citizens to support programs that serve people with Intellectual and Developmental Disabilities and to ensure that all people with disabilities are treated with dignity and respect.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Greeley, this 15<sup>th</sup> day of March, 2022.

\_\_\_\_\_  
John Gates  
Mayor

# Council Agenda Summary

## Title

Citizen Input

## Summary

During this 15 minute portion of the meeting, anyone may address the Council on any item of City Business appropriate for Council consideration that is not already listed as a public hearing on this evening's agenda.

As this meeting is being conducted in a hybrid format, citizen input will be accepted first from those in the City Council Chambers, and then from the virtual meeting audience via the meeting's webinar.

Written comments submitted for any item on the agenda will be placed in the public record and provided to the Council for their review and should include the name and city of residence of the person submitting the comments for the record.



# Council Agenda Summary

## Title

Reports from Mayor and Councilmembers

## Summary

During this portion of the meeting any Councilmember may offer announcements or reports on recent events and happenings. These reports should be a summary of the Councilmember's attendance at assigned board/commission meetings and should include key highlights and points that may require additional decision and discussion by the full Council at a future time.

# Council Agenda Summary

## Title

Initiatives from Mayor and Councilmembers

## Summary

During this portion of the meeting any Councilmember may bring before the Council any business that the member feels should be deliberated upon by the Council. These matters need not be specifically listed on the Agenda, but formal action on such matters shall be deferred until a subsequent Council meeting.

Initiatives will generally fall into three categories:

- 1) A policy item for Council deliberation and direction for a future Worksession, Committee meeting, or regular/special Council meeting;
- 2) A request to the City Manager for information or research;
- 3) A request involving administrative processes or procedures.

At the close of this portion of the meeting, the Mayor will confirm Council's consensus that the individual requests be pursued.

## Attachments

Status Report of Council Initiatives and Related Information

## Greeley City Council

### Status Report of Council Initiatives

Initiative No.	Council Member Initiating	Council Request	Council Meeting or Work Session Date Requested	Status or Disposition (After completion, item is shown one time as completed and then removed.)	Assigned to:
03-2021	Hall	Request for formation of a committee, to be chaired by Council Member Hall, regarding the section of the Poudre River Trail known as the Narrows. This section is facing increasing risks of erosion, with some portions in danger of falling into the river, and no available alternative areas for trail placement in that vicinity. The School of Mines will do a project to work on some engineering solutions for the area, in addition to other engineering studies that have already been done. The committee will review and determine options to move forward in addressing this with the assistance of City staff. City Manager Otto added information about potential Capital Improvement Projects through this area, and Council Member Hall provided information about existing potential rough cost estimates.	February 2, 2021 Council Meeting	<p>Update 12/7/2021 Council Member Hall reported in the last 6 months, 30 feet of trail has started becoming undermined and must be shored up immediately, likely requiring some short term dollars while awaiting a longer solution.</p> <p>Update: 04/20/2021 Council Member Hall reported the committee had its first meeting and he is pleased with engagement from City staff and the community.</p> <p>A committee, chaired by Council Member and Poudre River Trail Corridor Chairman Hall, has been formed with representatives from the Poudre Trail Corridor Board, Culture, Parks and Recreation/Natural Areas and Trails, Public Works, Water and Sewer, the Poudre River Run Master HOA, a member of the Parks and Recreation Advisory Board, and a representative from the Ditch #3 Board. Committee Chairman Hall has also referenced initial communications with Otak Engineering, a consulting firm who produced</p>	Kelly Snook

<b>Initiative No.</b>	<b>Council Member Initiating</b>	<b>Council Request</b>	<b>Council Meeting or Work Session Date Requested</b>	<b>Status or Disposition</b> (After completion, item is shown one time as completed and then removed.)	<b>Assigned to:</b>
				a study of this area in 2018 for the City of Greeley, as well as the Colorado School of Mines engineering students who will conduct a capstone project this semester towards a suggested course of action and suggested funding mechanism(s). An initial assessment with design parameters, recommended course(s) of action including recommended funding sources, is expected in June, 2021 post consultation with the Mines student project and engineering consultants. Although this project will carry on m practicality through committee work	
14-2021	Butler	Request to have a discussion on railroad quiet zones and safety at a work session.	December 7, 2021 Council Meeting	Scheduled for a work session in early 2022	Paul Trombino
15-2021	Olson	Formation of a committee for implementation of a funding strategy for the 35 <sup>th</sup> and 47 <sup>th</sup> interchanges.	December 7, 2021 Council Meeting	Council Member Olson will be following up with Manager Lee and Director Trombino on next steps	Paul Trombino
01-2022	Butler	Cost and feasibility study of matching the Fun Plex and Greeley Recreation Center hours	February 15, 2022 Council Meeting	Kelly Snook will look into the costs and feasibility of matching the hours of the two recreation facilities	Kelly Snook

# Council Agenda Summary

March 15, 2022

Key Staff Contact: Raymond Lee, City Manager, 970-350-9785

**Title:**

University of Northern Colorado update

**Summary:**

University of Northern Colorado (UNC) President Andy Feinstein will be present to provide Council with an update on UNC's operations and programs.

**Attachments:**

None

# Council Agenda Summary

**Title:**

Approval of the City Council Proceedings of March 1, 2022

**Summary:**

A meeting of the City Council was held in the City Council's Chambers on March 1, 2022. The draft proceedings have been prepared and are being presented for the Council's review and approval.

**Decision Options:**

1. To approve the proceedings as presented; or
2. Amend the proceedings if amendments or corrections are needed, and approve as amended.

**Council's Recommended Action:**

A motion to approve the City Council proceedings as presented.

**Attachments:**

Draft Proceedings of March 1, 2022

City of Greeley, Colorado  
**CITY COUNCIL PROCEEDINGS**  
March 1, 2022

**1. Call to Order**

Mayor John Gates called the meeting to order at 6:00 p.m. in the City Council Chambers at 1001 11<sup>th</sup> Ave, Greeley, Colorado, with hybrid participation available via the City's Zoom platform.

**2. Pledge of Allegiance**

Mayor Gates led the Pledge of Allegiance to the American Flag.

**3. Roll Call**

Charity Campfield, Deputy City Clerk, called the roll.

PRESENT

Mayor John Gates

Council Member Tommy Butler

Council Member Deb DeBoutez

Council Member Dale Hall

Council Member Johnny Olson

Council Member Ed Clark

Council Member Brett Payton

**4. Approval of the Agenda**

The agenda was changed to move item 19 to 22.

**5. Recognitions and Proclamations**

Mayor John Gates presented the Youth Art Month Proclamation.

Council Member Butler presented the *What's Great About Greeley* report.

**6. Citizen Input**

Mike Weiland, Greeley, commended the city departments on their individual work on sustainability issues. He recognized Mr. Lee for hiring a Chief Resiliency Officer. He addressed the council about a sustainability board.

Stacy Suniga, Greeley, discussed item 17 on the consent agenda and the metro district. She addressed her concerns with the Metro District and asked the city to slow down the project's progress. She addressed her concerns with gentrification.

Rhonda Solis, Greeley, reported her concerns about the east side of Greeley and the proper representation for that community. She discussed engagement with the community and how the special districts will affect them.

**7. Reports from Mayor and Councilmembers**

None

**8. Initiatives from Mayor and Councilmembers**

None

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**Consent Agenda**

Council Member Payton moved, seconded by Council Member Butler, to approve the recommended actions on items 9-16. The motion carried 7-0 (by roll call vote).

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**9. Approval of the City Council Proceedings of February 15, 2022 and the Council Special Worksession of February 18, 19 and 20, 2022**

Council's recommended action is to approve the City Council proceedings and worksession report as presented.

**10. Consideration of Naming the East Greeley Natural Area "Campo Esperanza Natural Area"**

Council's recommended action is to approve the proposed name of "Campo Esperanza Natural Area".

**11. Consideration of a resolution to support an award for grant funding from the Great Outdoors Colorado Trust Fund program for the Natural Areas & Trails Fellowship**

Council's recommended action is to adopt the resolution.

**12. Consideration of a resolution to support an award for grant funding from the Great Outdoors Colorado Trust Fund program for the acquisition of the Shurview property**

Council's recommended action is to adopt the resolution.

**13. Consideration of a change order in the amount of \$74,655.10 for Rodarte Kitchen & Bathroom Remodel**

Council's recommended action is to approve the change order.

**14. Introduction and first reading of an Ordinance authorizing a salary increase for the Municipal Judge**

Council's recommended action is a motion to introduce the Ordinance and schedule a public hearing and final reading for March 15, 2022.



**15. Introduction and first reading of an Ordinance authorizing a salary increase for the City Attorney**

Council's recommended action is a motion to introduce the Ordinance and schedule a public hearing and final reading for March 15, 2022.

**16. Introduction and first reading of an ordinance authorizing the divestment of water rights from the Larimer and Weld Irrigation Company and Windsor Reservoir and Canal Company in exchange for water rights from the Water Supply and Storage Company**

Council's recommended action is a motion to introduce the Ordinance and schedule a public hearing and final reading for March 15, 2022.

**17. Introduction and First Reading of an Ordinance Amending Title 2 of the Greeley Municipal Code relating to Special Districts by adding a new Chapter 16**

Council's recommended action is a motion to introduce the Ordinance and schedule a public hearing and final reading for March 15, 2022.

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**End of Consent Agenda**

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**18. Pulled Consent Agenda Items**

**17. Introduction and First Reading of an Ordinance Amending Title 2 of the Greeley Municipal Code relating to Special Districts by adding a new Chapter 16**

Council Member Butler requested to delay this vote until it has been discussed at a work session.

Council Member DeBoutez asked for clarification if there were other municipalities that have separate special districts.

Becky Safarik addressed this issue and clarified that it is a legislative action that needs to go through council.

Council Member Hall moved, seconded by Council Member Payton, to approve the first reading of the ordinance.

The motion carried 6-1

Council Member Butler moved, seconded by Council Member DeBoutez, to address the special district issue at the March 8, 2022 Worksession.

The motion carried 7-0

**19. Provide the Mayor and the City Council an update on Greeley Recycling**

Paul Trombino, Public Works Director, introduced Will Jones, Deputy Public Works Director to discuss the plan for implementing city recycling.

Council Member Clark made a motion, seconded by Council Member Payton to approve a resolution in support of a recycling grant.

The motion carried 7-0

**20. Provide the Mayor and the City Council an update on Keep Greeley Moving program and the 2022 projects**

Paul Trombino, Public Works Director presented a slide panel on the Keep Greeley Moving program and the 2022 projects.

Council discussed the plan and process that the city is using for the infrastructure updates.

**21. Scheduling of Meetings, Other Events**

No other meetings or events were scheduled.

**22. Consideration of a motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements and ordinances**

Council Member Clark moved, seconded by Council Member Payton, to approve the above authorizations.

The motion carried 7-0.

**23. Adjournment**

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John D. Gates, Mayor

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Charity Campfield, Deputy City Clerk

# Council Agenda Summary

**Title:**

Acceptance of the Report of the City Council Work Session of March 8, 2022

**Summary:**

A City Council Work Session was held in the City Council's Chambers on March 8, 2022. The draft report of that work session has been prepared for the Council's review and acceptance.

**Decision Options:**

1. To accept the Report as presented; or
2. Amend the Report if amendments or corrections are needed, and accept as amended.

**Council's Recommended Action:**

A motion to accept the Report as presented.

**Attachments:**

Draft Report of March 8, 2022

City of Greeley, Colorado  
**CITY COUNCIL WORK SESSION REPORT**  
March 08, 2022

**1. Call to Order**

Mayor John Gates called the meeting to order at 6:00 p.m. in the City Council Chambers at 1001 11<sup>th</sup> Ave, Greeley, Colorado, with hybrid participation available via the City's Zoom platform.

**2. Pledge of Allegiance**

Mayor Gates led the Pledge of Allegiance to the American Flag.

**3. Roll Call**

Stacey Aurzada, Interim City Clerk, called the roll.

PRESENT

Mayor John Gates  
Council Member Tommy Butler  
Council Member Deb DeBoutez  
Council Member Dale Hall  
Council Member Brett Payton  
Council Member Ed Clark  
Council Member Johnny Olson

**4. Reports from Mayor and Council Members**

There were no reports presented.

**5. Scheduling of Meetings, Other Events**

City Manager Raymond Lee indicated there was no information to present.

**6. Special District Ordinance Review**

Becky Safarik, Interim Deputy City Manager and Interim Community Development Director, presented as set forth in the PowerPoint deck in the agenda packet. Deputy City Manager Safarik answered questions from the Council about the presentation. Deputy City Manager Safarik and City Attorney Doug Marek answered questions about the process for creating a Special District. The process includes not only the City's

ordinance, but also requires an election by property owners within the proposed district and approval by the District Court.

Mayor Gates thanked Deputy City Manager Safarik for the presentation and reminded those in the audience that a public hearing will be held on the proposed ordinance on March 15, 2022 at 6:00 p.m.

**7. Review 9/10<sup>th</sup> Streets Mobility Enhancements Opportunities**

Paul Trombino, Director of Public Works, presented as set forth in the PowerPoint deck in the agenda packet. Director Trombino answered questions from the Council about the presentation. A discussion was held about the opportunities and challenges associated with making improvements and enhancements to 9<sup>th</sup> and 10<sup>th</sup> streets, including changing the streets to provide for two-way traffic.

Mayor Gates thanked Director Trombino for his work thus far on this issue.

**8. Greeley Public Safety Picture**

Adam Turk, Interim Chief of Police, presented as set forth in the PowerPoint deck in the agenda packet. Chief Turk answered questions from the Council about the presentation.

Mayor Gates thanked Chief Turk for the information.

**9. Adjournment**

There being no further business before the Council, the meeting was adjourned at 7:22 p.m.

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John D. Gates, Mayor

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Stacey Aurzada, Interim City Clerk

# Council Agenda Summary

March 15, 2022

Key Staff Contact: Benjamin Snow, Economic Health & Housing Director, 970-350-9384

## Title:

Consideration of a Resolution approving an Enhanced Sales Tax Incentive Program Agreement (“ESTIP Agreement”)

## Summary:

Richmark Real Estate Partners, LLC (“Richmark”) continues to make significant investments in Greeley, especially in our Downtown core. They have developed several properties, most recently completing the Maddie and the Natural Grocers redevelopments. They are currently considering a redevelopment of the former Firestone retail building located at 1130 8<sup>th</sup> Avenue in Downtown Greeley.

They have owned the building for a few years and are now in position to redevelop this property as a multi-tenant retail project, with the goal of bringing more retail services to the 8<sup>th</sup> Avenue corridor to support the growing levels of residential units and to support the daytime population (employees) of our Downtown. This 10,220 square foot building is projected for occupancy in early 2023.

Capitalizing on the current momentum of Downtown Greeley, Richmark believes that truly unique and new to market retailers, chef-driven restaurants, brewers and vendors can be attracted to the Maddie Corridor (8<sup>th</sup> Avenue). Similar to the recently completed Natural Grocers project, Richmark also believes that a building face-lift must be completed prior to attracting the right tenants. The current conditions of the building don’t allow the prospective tenants to see the vision of what the property can become.

## Business-Need for Incentives

The costs of construction and prevailing market rents for downtown Greeley do not justify speculative construction, so the owner is requesting economic assistance in the form of incentives.

The current estimate of capital investment, including land acquisition costs, is just under \$5.7 million and there is a current project feasibility gap of over \$1.3 million.

To bridge a portion of this gap, we have identified three sources of incentives:

1. Up to \$100,000 from the DDA in the form of a façade improvement grant. This has been approved by the DDA Board.
2. Up to \$300,000 from the DDA in the form of property tax increment. This has been approved by the DDA Board.
3. Up to \$500,000 from the City in the form of sales tax increment, based on future taxes generated from project tenants using the city’s 3.0% general sales tax rate over a period of 10 years.

We believe the combination of these incentives, totaling \$900,000, will provide enough impetus for the owner to make the property investment and improvements needed to attract new sales tax-generating businesses to downtown.

Qualification

Following completion of a detailed financial analysis of the project by a third-party, paid for by the city, and a thorough internal review by senior staff, we have determined that this project qualifies under our Enhanced Sales Tax Incentive Program (ESTIP), adopted by the City Council in 2021. This performance-based incentive tool allows for sales taxes generated by the project to be shared back with the owner, who is responsible for making the upfront capital investments to improve the property.

Staff has ensured that this project, even when including the maximum incentives, delivers a very modest, below-market rate of return to the owner/developer.

Recommendation

Based upon a positive evaluation of the proposed project regarding the criteria contained in the ESTIP Incentive Plan, staff recommends that the City Council consider and approve the Firestone Redevelopment project for a maximum of \$500,000 in sales tax rebates over a 10 year period.

The City has structured an ESTIP Agreement that limits the incentive to \$500,000, or 10 Years, whichever occurs first, and qualifies the eligible uses/tenants.

The attached tax worksheet identifies the total taxes and fees expected to be generated by the project over 10 years, how much of that total would be offered as an incentive, and how much would be retained by the city.

Fiscal Impact:

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	\$500,000 maximum over 10 years.
What is the annual impact?	
What fund of the City will provide Funding?	
What is the source of revenue within the fund?	
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

Legal Issues:

None.

Other Issues and Considerations:

None.

**Strategic Work Program Item or Applicable Council Priority and Goal:**

*Image:* Reinforce Greeley's vision as an attractive and vibrant community in which to live, learn, work and play.

*Economic Health & Development:* Foster and maintain public and private investment in business development.

**Decision Options:**

- 1) Adopt the resolution as presented; or
- 2) Amend the resolution and adopt as amended; or
- 3) Deny the resolution; or
- 4) Continue consideration of the resolution to a date certain.

**Council's Recommended Action:**

A motion to adopt the Resolution.

**Attachments:**

Resolution  
ESTIP Agreement  
Tax Worksheet



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

**A RESOLUTION APPROVING AN ENHANCED SALES TAX INCENTIVE PROGRAM AGREEMENT (“ESTIP AGREEMENT”).**

WHEREAS, capitalizing on the current momentum of Downtown Greeley, the City believes that truly unique and new to market retailers, chef-driven restaurants, brewers and vendors can be attracted to the Maddie Corridor (8<sup>th</sup> Avenue); and

WHEREAS, Five R on 8<sup>th</sup>, LLC, the owner of the property located at 1130 8<sup>th</sup> Avenue has approached the City with its plans to redevelop the property and attract such retail uses (“Firestone Redevelopment Project”); and

WHEREAS, a building face-lift must be completed prior to attracting the right tenants and the costs of construction and prevailing market rents for downtown Greeley do not justify speculative construction; and

WHEREAS, the current estimate of capital investment, including land acquisition costs, is just under \$5.7 million and there is a current project feasibility gap of over \$1.3 million and the property owner has requested economic assistance in the form of incentives; and

WHEREAS, to bridge a portion of this gap, the City has determined that this project qualifies under our Enhanced Sales Tax Incentive Program (ESTIP), a performance-based incentive tool that allows for sales taxes generated by the project to be shared back with the owner, who is responsible for making the upfront capital investments to improve the property

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GREELEY, COLORADO AS FOLLOWS:**

Section 1. The City Council authorizes and approves the Firestone Redevelopment project for a maximum of \$500,000 in sales tax rebates over a 10 year period.

Section 2. This Resolution shall become effective immediately upon its passage, as provided by the Greeley City Charter.

**PASSED AND ADOPTED, SIGNED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2022.**

**ATTEST:**

**THE CITY OF GREELEY, COLORADO**

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

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

## ENHANCED SALES TAX INCENTIVE PROGRAM AGREEMENT

THIS ENHANCED SALES TAX INCENTIVE PROGRAM AGREEMENT (the "ESTIP Agreement") is made and executed this 15th day of March, 2022, by and between the CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, (hereafter referred to as the "City") and **FIVE R ON 8<sup>TH</sup>, LLC** (hereafter referred to as "Owner").

### WITNESSETH

WHEREAS, Owner is the owner of property located at 1130 8<sup>th</sup> Avenue in the City of Greeley, Colorado and legally described as set forth in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Property"), upon which Owner desires to construct improvements consisting of a redevelopment of the property into a multi-tenant retail facility (collectively, the "Project");

WHEREAS, the Project will include a significant reconstruction of certain improvements, such improvements generally described in the attached **Exhibit B**, attached hereto and incorporated herein by this reference, which the Parties agree constitute eligible "Improvements" as defined by Section 6-924 of the Greeley Municipal Code, meaning "...public improvements, including, but not limited to streets, sidewalks, curbs, gutters, pedestrian malls, street lights, drainage facilities, landscaping, decorative structures, public art, fountains, identification signs, traffic safety devices, bicycle paths, off-street parking facilities, benches, restrooms, information booths, public meeting facilities, and all necessary, incidental, building facades, architectural enhancements, and appurtenant structures and improvements, together with the relocation and improvement of existing utility lines, and any other improvements of a similar nature which are specifically approved by the City";

WHEREAS, in entering into this ESTIP Agreement, the City Council of the City specifically finds that entering into this ESTIP Agreement will encourage the establishment or substantial expansion of retail sales tax generating businesses within the City; thereby stimulating the economy of and within the City; thereby providing employment for residents of the City and others; thereby expanding the goods available for purchase and consumption by residents of the City; and further increasing the sales taxes collected by the City;

WHEREAS, the City Council finds that the Project is necessary to promote the public welfare, including the expansion of retail sales tax generating business and expanded employment opportunities;

WHEREAS, the City Council further finds that entering into this ESTIP Agreement shall provide a mechanism for the provision to the residents of the City of necessary public and private improvements at no cost or reduced cost to the residents and the government of the City;

WHEREAS, the parties hereto wish to set forth in full their agreement as to the general nature and extent of the public and private improvements which shall be constructed and installed by Owner, and the manner for and extent of the reimbursement to Owner for such construction and installation;

WHEREAS, the parties wish to memorialize all aspects of their agreement as to the terms and conditions of such reimbursement in this ESTIP Agreement.

NOW THEREFORE, the parties hereto, for themselves, their successors and assigns (to the extent this ESTIP Agreement is assignable, as specified hereinafter), in and for the consideration of the performance of the mutual covenants and promises set forth herein, the receipt and adequacy of which are hereby acknowledged, do hereby covenant and agree as follows:

1. This ESTIP Agreement is entered into in compliance with the provisions of Article VI, Chapter 12 of the Greeley Municipal Code.

2. The parties hereby mutually agree that Owner shall construct or cause to be constructed, certain public and public-related improvements as part of the Project. This ESTIP Agreement shall terminate and be of no further force or effect in the event Owner shall fail to commence the Project by September 30, 2022. For the purposes of this ESTIP Agreement the owner shall be deemed to commence the project on the date of the of the first City inspection related to the building permit.

3. The parties hereby mutually agree that the base amount of the City's three percent (3%) general sales tax to be used in determining the "enhanced sales tax" to be shared hereunder is \$0 (the "Base Amount"). All general sales tax revenues collected from the Property in excess of the Base Amount shall constitute "enhanced sales taxes" and shall be subject to division as specified herein.

4. The parties hereby agree that any and all "enhanced sales taxes" as defined in paragraph 3 above shall be subject to sharing by the City at a rate of one hundred percent (100%). The uses to which the shared sales taxes may be applied are limited to those set forth in section 6-924 of the Greeley Municipal Code.

5. The parties agree that the maximum amount of "enhanced sales tax" revenue which is subject to distribution to Owner from sales within the Property hereunder shall be \$500,000, and that the "enhanced sales taxes" shall be shared commencing with sales taxes generated on the Property upon receipt of the Certificate of Occupancy for the first approved tenant. The parties specifically acknowledge and agree that whether or not the entire \$500,000 has been received by Owner, this ESTIP Agreement shall terminate following division and payment of the sales tax increment through a ten year period, commencing with receipt of the Certificate of Occupancy for the first approved tenant. Likewise, the parties acknowledge and agree that receipt by Owner of the entire \$500,000 prior to the end of the ten year period, shall terminate this ESTIP Agreement.

6. The parties agree that the sales tax-generating tenants at the property must not represent a transfer of sales tax revenue currently being generated from another location within Greeley. Each prospective qualifying tenant must be approved by the EHH Director of the City to determine ESTIP Agreement eligibility. Owner shall request that a prospective qualifying tenant be approved by providing written notice to the City and the City shall have ten (10) business day to either approve or deny the prospective tenant. If the City does not respond within ten (10) business day the prospective qualifying tenant shall be deemed approved by the City.

7. It shall be the duty of the City to undertake collection of all sales taxes generated within the Property, and thereafter to administer division and sharing thereof, in accordance with the provisions of Sections 6-925 and 6-926 of the City's Municipal Code. The parties agree that, for purposes of administration of this ESTIP Agreement, reimbursement to Owner shall occur on a quarterly basis (*i.e.*, January - March, April - June, July - September, and October - December). Reimbursements to Owner shall be made within forty-five (45) days following the last day of each quarter and shall be calculated based upon all sales taxes paid to the City from businesses within the Property in the preceding quarter.

8. The obligations of the City under this ESTIP Agreement are specifically conditioned upon and made subject to the following contingencies:

a. Owner shall commence the Project on or before September 30, 2022.

b. Owner shall complete construction of the Project contemplated by this ESTIP Agreement no later than December 31, 2023.

9. The parties specifically acknowledge and agree that no undertaking on the part of the City to share "enhanced sales taxes" as specified herein constitutes a debt or obligation of the City within any constitutional or statutory provision. The City's obligations hereunder shall be subject to annual appropriation by the City Council unless and until approved by the City's electors.

10. Any and all undisbursed "enhanced sales tax" increment subject to sharing hereunder shall be escrowed in the event there is a legal challenge to the Enhanced Sales Tax Incentive Program in general or to this ESTIP Agreement. In the event of such a legal challenge, Owner may continue to receive reimbursements under this Agreement if it posts a bond or other security, in a form acceptable to the City, for the full amount of such reimbursements. The City shall actively defend against any such legal challenge, and Owner may participate in such defense at its own cost and expense.

11. None of the obligations, benefits, and provisions of this ESTIP Agreement shall be assigned in whole or in any part without the express written authorization of the City Manager. No third party may rely upon or enforce any provision of this ESTIP Agreement, the same being an agreement solely between the City and Owner, and which agreement is made for the benefit of no other person or entity. The preceding sentence notwithstanding, this Agreement and Owner's rights hereunder may be assigned without the written authorization of the City to a company under substantially the same ownership and/or to a lender who holds a first deed of trust against the Property.

12. This ESTIP Agreement shall be subject to amendment only by a written instrument executed by each party. Any such amendment shall require the approval by the City Council of the City of Greeley at a regular or special meeting of the City Council, and execution thereof by the Mayor and attestation by the City Clerk.

13. Any written notices provided for or required in this ESTIP Agreement shall be deemed delivered when either personally delivered or mailed, postage fully prepaid, certified or registered mail, return-receipt requested, to the parties at the following addresses:

To the City: Raymond C. Lee III  
City Manager  
City of Greeley  
1000 10<sup>th</sup> Street  
Greeley, CO 80631

With copy to: Doug Marek  
City Attorney  
1100 10th Street, Suite 401  
Greeley, Colorado 80631

For Owner: Five R on 8<sup>th</sup>, LLC  
By: Western States Management, LLC, Manager  
5200 W. 20th Street  
Greeley, CO 80634  
Attn: Tyler Richardson, Manager

DATED this day and date first above set forth.

The Parties hereby agree to the same and execute this Agreement by their duly authorized representatives as follows:

CITY OF GREELEY, COLORADO

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

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

\_\_\_\_\_  
**Date**

Approved as to Substance:

\_\_\_\_\_  
**City Manager**

Approved as to Legal Form:

\_\_\_\_\_  
**City Attorney**

Approved as to Availability of Funds:

\_\_\_\_\_  
**Director of Finance**

FIVE R ON 8<sup>TH</sup>, LLC

By: Western States Management, LLC.  
Its: Manager

By: \_\_\_\_\_  
**Printed Name**

\_\_\_\_\_  
**Tyler Richardson, Manager**

\_\_\_\_\_  
**Date**

## **EXHIBIT A**

### **Legal Description**

**A parcel of land being a portion of Block 83 of the Map of the Town of Greeley, recorded April 6, 1887 as Reception No. 24738 of the Records of Weld County, situate within the Northwest Quarter (NW1/4) of Section Eight (8), Township Five North (T.5N.), Range Sixty-five West (R.65W.), Sixth Principal Meridian (6th P.M.), City of Greeley, County of Weld, State of Colorado, more particularly described as follows:**

**Lot 5, Lot 6, and the West 25 feet of Lot 7, all in said Block 83, excepting therefrom the South 133.00 feet of said Lot 5, Block 83.**

**Said described parcel contains a total of 29,789 sq. ft., more or less.**

**EXHIBIT B****Property Improvements**

<b>Acquisition Costs</b>	
	<b>Total</b>
Land Acquisition	\$875,000
<b>Total Acquisition Costs</b>	<b>\$875,000</b>

<b>Hard Costs</b>	
	<b>Total</b>
Property Improvements	\$2,420,022
Tenant Allowance	\$1,026,500
Dry Utilities Allowance	\$55,000
<b>Total Hard Costs</b>	<b>\$3,501,522</b>

<b>Soft Costs</b>	
	<b>Total</b>
Total Soft Costs	\$1,253,913
<b>Total Unlevered Costs</b>	<b>\$5,630,435</b>
Lender Fees & OpEx Escrow	\$44,955
Interest During Construction	\$104,225
<b>Total Levered Costs</b>	<b>\$5,779,615</b>



### Conceptual Elevations





### **City Sales Tax and Fee Refund Summary**

Fees & Taxes	Normal Fee	Amount of Incentive/Refund	Net to City After Incentives
<b>Upfront Fees and Taxes to the City (Building Permit, Development Impact, Sales &amp; Use Taxes)</b>	\$182,000	\$0	\$182,000
<b>FIRST YEAR TOTAL</b>	<b>\$182,000</b>	<b>\$0</b>	<b>\$182,000</b>
<b>Non-Sharable Portion of Sales Taxes Collected (1.11%)</b>	\$239,968	\$0	\$239,968
<b>Sharable Portion of Sales Taxes Collected (3.00%)</b>	\$648,562	\$500,000	\$148,562
		(PROPOSING 100% Shared Back to a MAX of \$500,000, or 10 Years, whichever occurs first)	
<b>10 YEAR TOTAL (4.11%)</b>	<b>\$888,530</b>	<b>\$500,000</b>	<b>\$388,530</b>
<b>GRAND TOTAL</b>	<b>\$1,070,530</b>	<b>\$500,000</b>	<b>\$570,530</b>

# Council Agenda Summary

March 15, 2022

Key Staff Contact: Brittany Hathaway, Community Development, 350-9823

Becky Safarik, Interim Community Development Director, 350-9786

## Title:

Introduction and first reading of an ordinance changing the official zoning map of the City of Greeley, Colorado, from PUD (Planned Unit Development – Lake Bluff) to PUD (Planned Unit Development – Poudre Heights), changing the underlying land use designations for approximately 277.6 acres of property located north of U.S. Highway 34 Business, east of Missile Park Road and west of 101<sup>st</sup> Avenue

## Summary:

The applicant, Todd Johnson, on behalf of Poudre Bay Partners, is requesting a rezone for the purpose of developing a mixed-use development consisting of residential, industrial, and commercial uses known as the Poudre Heights PUD. As Preliminary PUD Plans require only a public hearing, that request is scheduled for April 5, 2022 to be presented in conjunction with the public hearing for this rezone.

The subject property was included in the 2013 Lake Bluff PUD, which has since expired. This area is requested to be rezoned from PUD (Lake Bluff - expired) to PUD (Poudre Heights).

The applicant plans a mix of residential housing options including multi-family, attached single-family, and detached single-family with a maximum unit count of 1,185 at an overall residential density of 4.27 units per acre over the approximate 100 acres dedicated to residential uses. Mixed-uses would account for 108 acres with residential density averaging 6.6 units per acre. Commercial and limited industrial uses would also be permitted in the mixed-use planning areas. Industrial uses would account for 30 acres and would be located on the western boundary of the project, adjacent to existing industrial zoning and land uses part of the Golden Triangle PUD.

Approximately 50 acres would be reserved for both private and public open space and bluff preservation. Two pocket parks, a city neighborhood park, and an amenity center are also proposed

The Poudre Heights PUD proposes specific uses for each planning area alongside specific development standards. Lot standards as proposed would vary from the City of Greeley standards, allowing for smaller lot sizes and cluster developments. Reduced lot sizes and setbacks as proposed are supplemented residential development standards to ensure a cohesive environment, as well as trail connectivity and access to parks and open spaces.

The Planning Commission considered this request on February 22, 2022 and recommended approval by a vote of 6-0.

**Fiscal Impact:**

Does this item create a fiscal impact on the City of Greeley?	No
If yes, what is the initial, or, onetime impact?	
What is the annual impact?	
What fund of the City will provide Funding?	
What is the source of revenue within the fund?	
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

**Legal Issues:**

Consideration of this matter is a quasi-judicial process.

**Other Issues and Considerations:**

None noted.

**Strategic Work Program Item or Applicable Council Priority and Goal:**

Consistency with Comprehensive Plan and Development Code standards.

**Decision Options:**

- 1) Introduce the ordinance as presented; or
- 2) Amend the ordinance and introduce as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

**Council's Recommended Action:**

A motion to introduce the ordinance and schedule the public hearing and final reading for April 5, 2022.

**Attachments:**

Ordinance

Vicinity Map

Planning Commission Summary (Staff Report) (February 22, 2022)

CITY OF GREELEY, COLORADO

ORDINANCE NO. \_\_\_\_, 2022

CASE NO. ZON2022-0001

AN ORDINANCE CHANGING THE OFFICIAL ZONING MAP OF THE CITY OF GREELEY, COLORADO, FROM PUD (PLANNED UNIT DEVELOPMENT - LAKE BLUFF) TO PUD (PLANNED UNIT DEVELOPMENT - POUUDRE HEIGHTS), CHANGING THE UNDERLYING LAND USE DESIGNATIONS FOR APPROXIMATELY 277.6 ACRES OF PROPERTY LOCATED NORTH OF U.S. HIGHWAY 34 BUSINESS, EAST OF MISSILE PARK ROAD AND WEST OF 101<sup>ST</sup> AVENUE

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

Section 1. The following described property located in the City of Greeley is hereby changed from the zoning district referred to as Planned Unit Development - Lake Bluff to Planned Unit Development - Poudre Heights, in the City of Greeley, County of Weld, State of Colorado:

See attached legal description

Section 2. The boundaries of the pertinent zoning districts as shown on the official zoning map are hereby changed so as to accomplish the above-described zoning changes, and the Mayor and City Clerk are hereby authorized and directed to sign and attest an entry which shall be made on the official zoning map to reflect this change.

Section 3. This ordinance shall become effective five (5) days after its final publication as provided by the Greeley City Charter.

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

ATTEST:

THE CITY OF GREELEY

\_\_\_\_\_  
Interim City Clerk

\_\_\_\_\_  
Mayor

Legal Description

A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN WARRANTY DEED RECORDED AT RECEPTION NUMBER 4369421, LYING WITHIN TRACT 2, JACKSON SUBDIVISION RECORDED AT RECEPTION NO. 3347377, BOTH IN THE OFFICIAL RECORDS OF THE CLERK AND RECORDER'S OFFICE, COUNTY OF WELD, STATE OF COLORADO, SITUATED IN THE WEST HALF OF SECTION 1 AND THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 5 NORTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF GREELEY, SAID COUNTY AND STATE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID WEST HALF, WHENCE THE EAST LINE OF THE WEST HALF OF SAID SECTION 1 BEARS NORTH 01°41'09" EAST, A DISTANCE OF 5546.41 FEET, WITH ALL BEARINGS REFERENCED HEREIN RELATIVE THERETO;

THENCE ALONG SAID EAST LINE, NORTH 01°41'09" WEST, A DISTANCE OF 65.05 FEET TO THE NORTHERLY RIGHT-OF-WAY OF US 34 BUSINESS, AS DESCRIBED IN WARRANTY DEED RECORDED AT RECEPTION NUMBER 3508373, IN SAID OFFICIAL RECORDS AND THE POINT OF BEGINNING;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, THE FOLLOWING TWO (2) COURSES:

1. SOUTH 89°51'14" WEST, A DISTANCE OF 762.98 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 5,875.00 FEET;
2. WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°31'12", AN ARC LENGTH OF 1,078.70 FEET TO THE NORTHERLY RIGHT-OF-WAY OF US 34 BUSINESS AS DESCRIBED IN RIGHT-OF-WAY DEED RECORDED AT BOOK 918 PAGE 465 IN SAID OFFICIAL RECORDS;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, SOUTH 87°32'57" WEST, A DISTANCE OF 745.89 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1;

THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, SOUTH 04°08'49" WEST, A DISTANCE OF 0.19 FEET TO THE NORTHERLY RIGHT-OF-WAY OF STATE HIGHWAY 257 SPUR, AS DESCRIBED IN QUIT-CLAIM DEED RECORDED AT RECEPTION NUMBER 741532 IN SAID OFFICIAL RECORDS;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, NORTH 89°30'07" WEST, A DISTANCE OF 673.11;

THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY, NORTH 01°24'45" EAST, A DISTANCE OF 1,366.25 FEET TO THE WESTERLY BOUNDARY OF SAID TRACT 2;

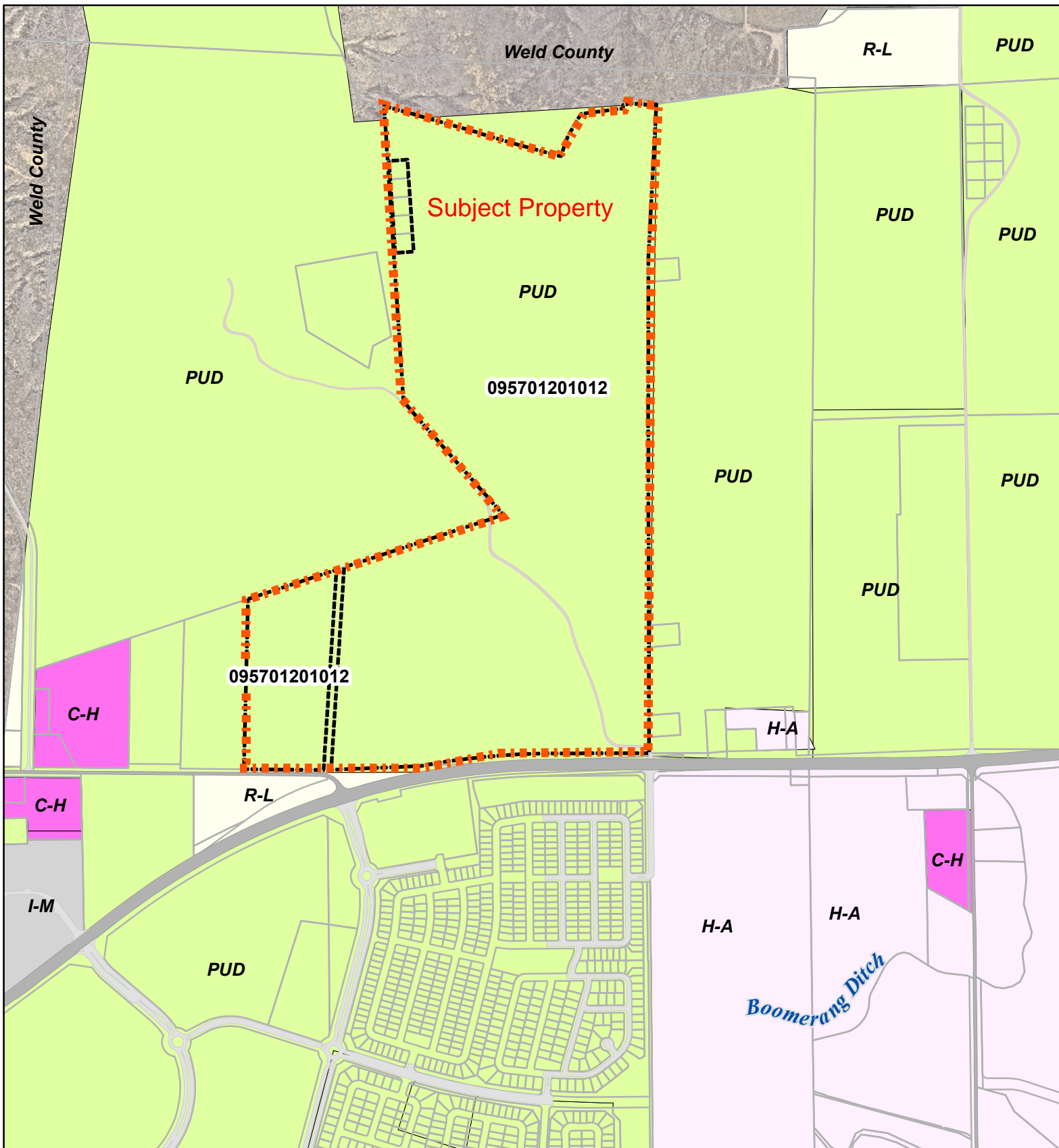
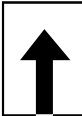
THENCE ALONG SAID WESTERLY BOUNDARY THE FOLLOWING SIXTEEN (16) COURSES:

1. NORTH 71°39'24" EAST, A DISTANCE OF 2,154.85 FEET;

2. NORTH 41°25'22" WEST, A DISTANCE OF 1,214.31 FEET;
3. NORTH 03°52'55" WEST, A DISTANCE OF 2,375.77 FEET;
4. SOUTH 74°26'17" EAST, A DISTANCE OF 428.29 FEET;
5. SOUTH 74°20'30" EAST, A DISTANCE OF 323.81 FEET;
6. SOUTH 72°00'45" EAST, A DISTANCE OF 111.51 FEET;
7. SOUTH 73°45'25" EAST, A DISTANCE OF 277.33 FEET;
8. SOUTH 74°59'39" EAST, A DISTANCE OF 335.15 FEET;
9. NORTH 19°26'18" EAST, A DISTANCE OF 177.59 FEET;
10. NORTH 30°44'56" EAST, A DISTANCE OF 201.48 FEET;
11. NORTH 82°22'46" EAST, A DISTANCE OF 338.90 FEET;
12. NORTH 06°10'33" EAST, A DISTANCE OF 31.99 FEET;
13. NORTH 84°36'54" EAST, A DISTANCE OF 70.65 FEET;
14. NORTH 87°59'53" EAST, A DISTANCE OF 50.09 FEET;
15. SOUTH 79°28'41" EAST, A DISTANCE OF 71.41 FEET;
16. NORTH 82°09'43" EAST, A DISTANCE OF 182.08 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SECTION 1 AND THE EAST BOUNDARY OF SAID TRACT 2;

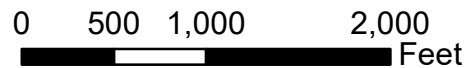
THENCE ALONG THE EAST BOUNDARY OF SAID TRACT 2 AND THE EAST LINE OF SAID WEST HALF, SOUTH 01°41'09" WEST, A DISTANCE OF 5,233.90 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 277.652 ACRES, (12,094,523 SQUARE FEET), MORE OR LESS.



- Target Property
- Greeley Parcels
- Expressway
- Arterial
- Local
- Unpaved
- Commercial High Intensity

- Holding Agriculture
- Industrial Medium Intensity
- Planned Unit Development
- Residential Low Density





**PLANNING COMMISSION SUMMARY**

**ITEMS:** Rezoning from PUD (Planned Unit Development – Lake Bluff) to PUD (Planned Unit Development – Poudre Heights) and a Preliminary PUD Plan

**FILE NUMBER:** PUD2019-0007 & ZON2022-0001

**PROJECT:** Poudre Heights Preliminary PUD

**LOCATION:** North of US Highway 34 Business, west of 101st Avenue, and east Missile Park Road

**APPLICANT:** Todd Johnson on behalf of Poudre Bay Partners

**CASE PLANNER:** Brittany Hathaway, Planner III

**PLANNING COMMISSION HEARING DATE:** February 22, 2022

**PLANNING COMMISSION FUNCTION:**

The Planning Commission shall consider the staff report, along with testimony and comments made by the applicant and the public and shall then make a recommendation to the City Council regarding the applications in the form of a finding based on the review criteria in Sections 24-583, 24-625(c)(3) and 24-663(b) of the 1998 Development Code.

**EXECUTIVE SUMMARY**

The City of Greeley is considering a request to a rezone from PUD (Planned Unit Development – Lake Bluff) to PUD (Planned Unit Development – Poudre Heights) and a Preliminary PUD Plan for approximately 277.6 acres of property located north of US Highway 34 Business and west of 101<sup>st</sup> Avenue.

**A. REQUEST**

The proposed PUD would consist of a mix of residential, commercial, and industrial uses. Parks, open spaces, and trails are incorporated into the project to allow for pedestrian connectivity, outdoor activities, and public access to the Poudre Bluffs Natural Areas. The theme of the Poudre Heights PUD would be focused on native wildlife and is further described on page 11 of the PUD document (*see Attachment C*). As the application was submitted in 2019, the application is processed under the 1998 Development Code.

Approximately 50 acres would be reserved for both private and public open space and bluff preservation. Two pocket parks, a City neighborhood park, and an amenity center are also proposed. The amenity center would be located along the bluff areas in PA-I (*See Attachment C*) and would be accessible using the trail system proposed in the community. This center would be a “home gathering place” to overlook the vistas and connect to a public nature trail.

The applicant would preserve nearly 40 acres of bluff preservation open space to the City and adjacent residential lots would require a 50-foot bluff setback to minimize ridgeline effects.

The applicant proposes a mix of residential housing options including multi-family, attached single-family, and detached single-family. As proposed, the maximum number of residential units would be 1,185 units at an overall residential density of 4.27 units per acre over the approximate 100 acres dedicated to residential uses. Mixed-uses would account for 108 acres with residential density averaging 6.6 units per acre and allowing for up to 24 units per acre, should density transfers be utilized. Commercial and limited industrial uses would also be permitted in the mixed-use planning areas.

Industrial uses would account for 30 acres and would be located on the western boundary of the project, adjacent to existing industrial zoning and land uses part of the Golden Triangle PUD. Poudre Heights PUD would require buffer treatments adjacent to any industrial uses, when and if future land uses warrant.

The Poudre Heights PUD proposes a table of land uses for each planning area alongside specific development standards. Development standards can be found on Sheet 7 of the PUD Document (*see Attachment C*). Reduced lot sizes and setbacks as proposed are supplemented by specific residential development standards to ensure a cohesive environment, as well as trail connectivity and access to parks and open spaces.

## **B. STAFF RECOMMENDATION**

Approval

## **C. LOCATION**

### **Abutting Zoning/Land Use:**

North: Weld County: A-AG

*(Undeveloped lands, bluffs)*

South: R-E, US Highway 34 Business & PUD

*(Highway, single-family residential, and undeveloped lands)*

East: PUD (Lake Bluff)

*(Future development)*

West: PUD (Golden Triangle)

*(Undeveloped lands, light industrial)*

### **Site Characteristics:**

The site is largely undeveloped agricultural land. A natural bluff area, known as the Poudre Bluffs, is located along the northern portion of the property.

## **D. BACKGROUND**

The subject area was included in the 2013 Lake Bluff PUD. The 2013 Lake Bluff PUD expired due to inactivity and an updated Lake Bluff PUD was adopted in 2020 (ORD 03, 2020), of which

excluded the subject area. This area is requested to be rezoned from PUD (Lake Bluff - expired) to PUD (Poudre Heights).

The Poudre Heights Metropolitan District was approved in September 2021 (MD2021-0001/Resolution No. 32, 2021) and included all subject land areas within its service area. Upon approval of a master plan, which is an element of this Preliminary PUD, the Metro District would be able to begin issuing debt for infrastructure improvements. The Metro District was needed in order to undertake the maintenance, planning, design, acquisition, construction and financing of public improvements, including external infrastructure.

## E. APPROVAL CRITERIA

### **Standards for Rezoning (ZON2022-0001):**

**In reaching recommendations and decisions as to rezoning land to the PUD district, the Planning Commission and the City Council shall apply the following standards in addition to the standards and procedures of Section 24-625(c)(3) applicable to the rezoning of land:**

**a. Has the area changed, or is it changing to such a degree that it is in the public interest to rezone the subject property to encourage development or redevelopment of the area?**

Staff Comment: The subject property has historically been utilized for agricultural uses.

The immediate surrounding area and land use approvals have changed significantly in the past few years. The land uses in the nearby Promontory development, as approved, continues to be developed with predominately residential land uses. Land uses adjacent to this development include the recently approved Lake Bluff PUD (Ordinance No. 03, 2020), which is currently in design stages with an approved Preliminary Plat. The Cache PUD is also in design stages for platting and the Poudre River Ranch PUD, a residential subdivision to the east, has begun development.

*The request complies with this criterion.*

**b. Has the existing zoning been in place for at least fifteen (15) years without substantial development resulting and does the existing zoning appear to be obsolete, given development trends?**

Staff Comment: The existing Lake Bluff PUD zoning has been in place since 2013. Given that the applicable portion of the 2013 Lake Bluff Preliminary PUD Plan has expired, the zoning would no longer be valid.

*The request complies with this criterion.*

**c. Are there clerical or technical errors to correct?**

Staff Comment: There are no clerical or technical errors to correct.

*This criterion is not applicable.*

**d. Are there detrimental environmental conditions, such as flood plains, presence of irrigation ditches, inadequate drainage, slopes, unstable soils, etc., that may affect future development of this site and which may not have been considered during the original zoning of the property?**

Staff Comment: The northern bluff area contains significant slopes. These areas would be protected and remain as a natural area. Staff is unaware of any additional detrimental environmental conditions on the property.

*This criterion is not applicable.*

**e. Is the proposed rezoning necessary in order to provide land for a community related use which was not anticipated at the time of adoption of the City's Comprehensive Plan; or have the policies of the City changed to the extent that a rezoning is warranted?**

Staff Comment: The City's Comprehensive Plan has been updated since the last PUD zoning for this site in 2013. The Comprehensive Plan designates the subject area primarily as "mixed-use", and "bluffs". This PUD proposes a variety of residential housing options and includes opportunities for commercial, industrial, and mixed-uses to support existing and future residents in the area. The project also would protect the natural bluff areas through preservation and would provide a trail system for community enjoyment of these natural areas.

In order to accomplish a mixed-use development, the developer is proposing complete neighborhood offerings, of which are supported by the City's current Comprehensive Plan.

*The request complies with this criterion.*

**f. What is the potential impact of the proposed rezoning upon the immediate neighborhood and the City as a whole (including potential noise and environmental impacts, visual impacts, the provision of City services such as police, fire, water, sewer, street and pedestrian systems and parks and recreation facilities)?**

Staff Comment: The proposed PUD would have a greater impact on city services upon development of the site.

As part of the overall development, 101<sup>st</sup> Avenue would need to be improved and/or realigned. Additionally, 4th Street, 7<sup>th</sup> Street, and 105<sup>th</sup> Avenue would extend through the development. These improvements would be funded by the Metro District. Exact roadway alignments and dedication would be determined at the time of subdivision.

Water and sanitary sewer lines would have to be extended from future Lake Bluff through coordinated development. Drainage, water, and sewer would be addressed at time of subdivision.

Impact to the City as a whole may include noise and other impacts, such as impacts to Police and Fire due to an increased residential population and commercial centers.

The PUD proposes to provide parks, open space, and trail systems to support the development and provide public connectivity through safe and well-planned means. All impacts and improvements would be further addressed at time of subdivision.

**g. Is there clear and convincing evidence that the proposed rezoning will be consistent with the policies and goals of the City's Comprehensive Plan and comply with applicable zoning overlay requirements?**

Staff Comment: The subject property was reviewed against the policies regarding zoning overlay requirements. This criterion is similar to specific criteria governing the Preliminary PUD. The proposal generally complies with the City's Comprehensive Plan.

*The request complies with this criterion.*

**h. What is the potential impact of the proposed rezoning upon an approved zoning suitability plan for the property?**

Staff Comment: The applicable Lake Bluff PUD Preliminary Plan adopted in 2013 has expired. Therefore, the associated zoning suitability plan is no longer valid. As such, there is not an approved zoning suitability plan for the property.

*This criterion is not applicable.*

**Standards for PUD establishment (PUD2019-0007):**

Per Section 24-663, in reaching recommendations and decisions as to rezoning land to the PUD district, the Planning Commission and the City Council shall apply the following standards in addition to the standards and procedures of Section 24-625 applicable to the rezoning of land:

**Area Requirements.** *The area of a proposed PUD shall be of substantial size to permit its design and development as a cohesive unit fulfilling the stated purpose of these regulations and to establish the PUD as a meaningful part of the larger community. Each proposed PUD shall therefore be evaluated as to its adequacy in size with respect to both the nature and character of its internal design and to its specific location within the City. The minimum size of a PUD to be considered for establishment shall be two (2) acres.*

Staff Comment: The proposal meets this requirement. The area of the proposed PUD is approximately 277.6 acres.

**Consistency with the Land Use Chapter of the Comprehensive Plan.** *A PUD proposal shall be found to be consistent with all applicable elements of the Land Use Chapter of the City's adopted Comprehensive Plan with respect to its proposed internal design and use and its relationship to adjacent areas and the City as a whole before it may be zoned as a PUD.*

- The following Comprehensive Plan goals are met with this PUD proposal:
  - ED-1: Promote a healthy, progressive, and competitive local economy.
    - Proposal provides future employment and tax base opportunities while proposing commercial development to benefit residents of West Greeley.
  - EH-2: Integrate healthy living into community planning and development.
    - Proposal provides an extensive open space amenity and trail system that would connect the community to area parks, an amenity center, and open space. The project's trail system would also connect to adjacent future development that would provide additional trail and open space systems. The trail network will also provide for pedestrian walkability to commercial areas, encouraging an active lifestyle.
  - EH-4: Support and collaborate with the City's school districts.
    - The applicant has worked with the Weld RE-4 School District to ensure their needs are being met. As a school site is not warranted, cash-in-lieu would be provided at time of subdivision.
  - GC-1: Manage growth effectively.
    - The transition to parks and open lands were considered with the Preliminary PUD proposal. The PUD was also reviewed against the neighboring approved Lake Bluff and Cache PUD's to ensure connectivity.
  - CG-2: Promote a balanced mix and distribution of land uses.
    - The proposed PUD offers a mix of residential, commercial, industrial and mixed-uses with suitable transition between these areas. Commercial and industrial offerings would also provide for employment opportunities.
  - CG06: Maintain and enhance the character and inter-connectivity of Greeley's neighborhoods.
    - The Poudre Heights PUD is envisioned as a complete neighborhood, offering a mix of uses and multi-modal connectivity while incorporating a high level of design criteria with a theme focused on area wildlife and habitat. The PUD was also designed to be cohesive with the neighboring Lake Bluff PUD through land use, trail, and roadway alignments.

- HO-2: Encourage a broad diversity of housing options.
  - The PUD would provide a variety of housing types including multi-family, single family detached, and single family attached.
- NR-1: Protect, conserve, maintain, and improve the quality and quantity of water available to Greeley.
  - This objective is met through the PUD's sustainable landscape standards which encourages drought-tolerant trees and plants, natural grasses, and responsible use of turf. The PUD is proposing to also use non-potable water for park and open space irrigation.

## **F. PHYSICAL SITE CHARACTERISTICS**

### **HAZARDS**

The applicant has identified areas within the site that are impacted by significant slopes, which may impact development. Dedicated open space and increased setbacks have been identified with this Preliminary PUD to protect sensitive bluff areas. These setbacks would be included on subsequent plats with sensitive bluff areas to be dedicated to the City for preservation. Additionally there are a number of plugged and abandoned well sites within the proposed development that would require additional building setbacks. Staff is unaware of any other hazards on the property.

### **WILDLIFE**

The areas near and within the Poudre Bluffs are identified for moderate impacts to wildlife. To protect the existing habitat, the applicant intends to protect these sensitive areas by dedicating open space requiring large building setbacks adjacent to the bluff area.

In accordance with Section 24-1217(b) of the City's Development Code, a biologist's report will be required to be submitted for any development that may occur near the impacted areas.

### **FLOODPLAIN**

The intended development area is not located within the 100-year floodplain, according to the adopted Federal Emergency Management Administration (FEMA) flood data.

### **DRAINAGE AND EROSION**

Increases in stormwater flows from development would be addressed with on-site detention ponds, which would be designed to limit runoff to historical flows. Another effort to minimize stormwater runoff would be to limit the amount of non-pervious surface, through best management practices.

Erosion control devices would be designed by the developer and reviewed by the City at time of construction to ensure that best management practices as utilized as the project progress.

### **TRANSPORTATION**

The subject property has frontage on 10<sup>th</sup> Street (US 34 Business). Direct access to the development is proposed from 101<sup>st</sup> Avenue, 105<sup>th</sup> Avenue, and also along the 4<sup>th</sup> Street and

7<sup>th</sup> Street roadway extensions. All future roadways within the development would be required to comply with standards set forth in the 2035 Comprehensive Transportation Plan.

All roadway improvements would be determined at time of development and will be routed to the appropriate agencies for review and comment.

Further subdivision of the property would require the dedication of public rights-of-way as necessary to support the development. Roadway upgrades, extensions, and realignments are also anticipated as part of the future development of the site.

The City of Greeley Traffic Engineer has reviewed the Traffic Study and has no significant concerns at this point. Further traffic analysis would occur at time of subdivision.

## **G. SERVICES**

### **WATER**

The City of Greeley provides water services to the area. Water lines would need to be extended from the neighboring Lake Bluff development, for which a Preliminary Plat has been approved. Water provisions, including non-potable, within the development would be reviewed at time of subdivision.

### **SANITATION**

The City of Greeley would provide sanitary services to the area. Sewer services would be provided via the future Poudre Trunk Line to be extended from the northeast along 95<sup>th</sup> Avenue and through The Cache and Lake Bluff developments. These extensions would be required in order for Poudre Heights to connect. The respective developments are coordinating this effort.

Sanitary Sewer and any applicable agreements would be reviewed at time of subdivision.

### **EMERGENCY SERVICES**

The property is served by the City of Greeley's Police and Fire Departments. Fire Station #6 is located at the intersection of US Highway 34 Bypass and Promontory Parkway, approximately 1.5 miles south.

### **PARKS AND OPEN SPACES**

The proposal includes 2 pocket parks and a 10-acre neighborhood park to be dedicated to the City of Greeley. The applicant would also dedicate 39.5 acres of bluff preservation open space to the City of Greeley for public use.

### **SCHOOLS**

The subject property is located within the Weld RE-4 School District. A school site is not required to be dedicated with this project, however the applicant would be required to pay cash-in-lieu to the District for school land dedication requirements at time of subdivision.

### **METROPOLITAN DISTRICT**



The applicant intends to finance many of the on- and off-site improvements for the development by means of a Metropolitan District. This district was approved in September 2021 (MD2021-0001) and is awaiting approval of this Preliminary PUD to begin infrastructure development.

## **H. NEIGHBORHOOD IMPACTS**

### **VISUAL**

Visual impacts will be reviewed for at time of subdivision against landscape and buffer requirements set forth in Code. Visual impacts resulting from residential development along the Poudre Bluffs would be mitigated through significant setbacks to ensure any ridgeline effects are avoided.

### **NOISE**

Any potential noise created by future development will be regulated by the Municipal Code.

## **I. PUBLIC NOTICE AND COMMENT**

Neighborhood notices for this meeting were mailed to surrounding property owners February 10, 2022 per 1998 Development Code requirements. Signs were also posted on the site on February 14, 2022. As of February 15, 2022 no written comments have been received.

Required mineral rights notifications were mailed with the previous PUD applications.

## **J. PLANNING COMMISSION RECOMMENDED MOTIONS**

1. Based on the application received and the preceding analysis, the Planning Commission finds that the proposed rezoning from Planned Unit Development (PUD) to Planned Unit Development (PUD) is in compliance with Development Code Section 24-625(c)(3) a, b, e and g and therefore recommends approval (*or denial*).

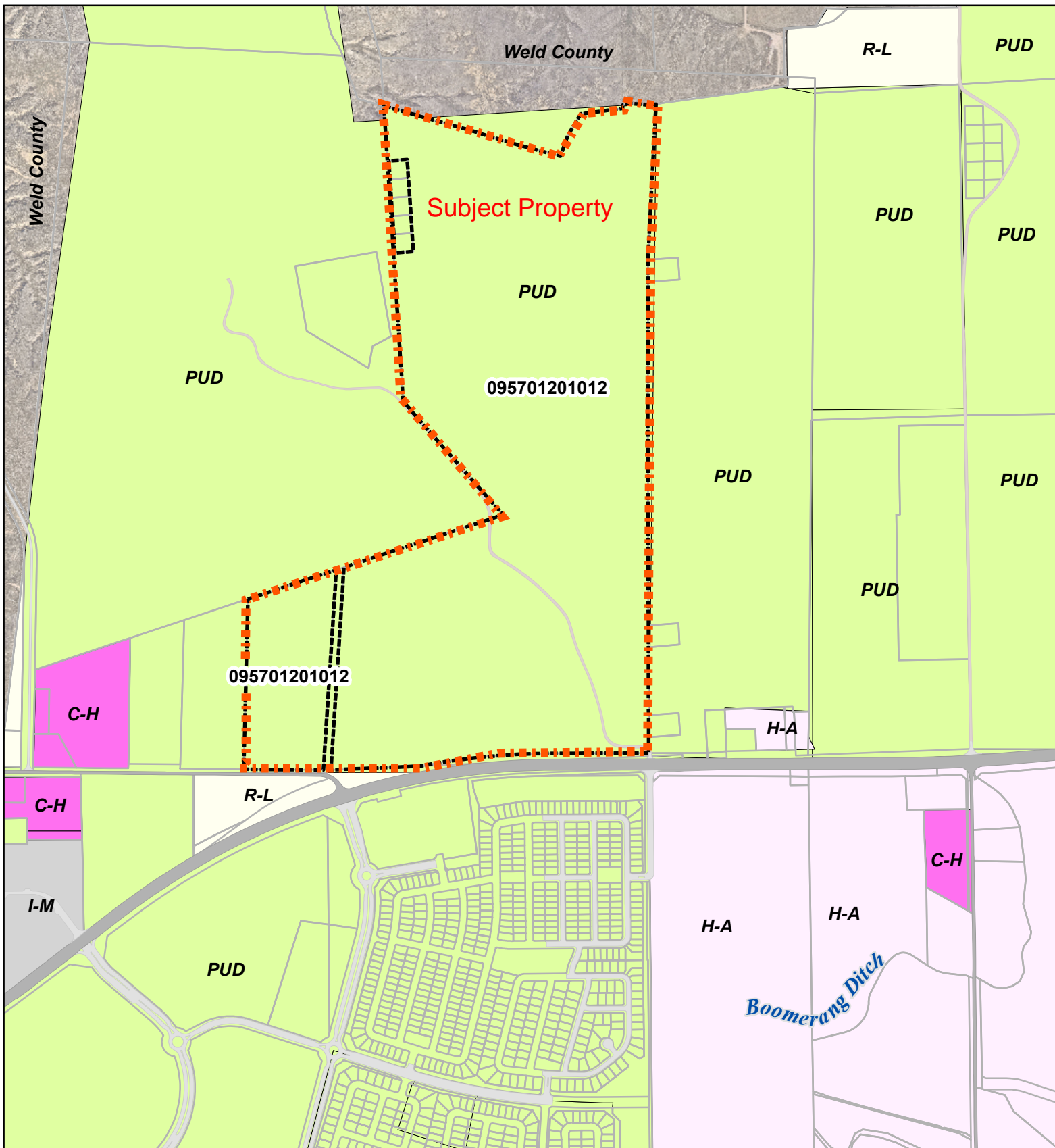
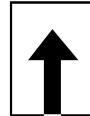
2. Based on the application received and the preceding analysis, the Planning Commission finds that the proposed The Poudre Heights Preliminary PUD Plan is in compliance with Development Code Section 24-625(c)(3) a, b, e and g and Section 24-663(b) and therefore recommends approval (*or denial*).

## **ATTACHMENTS**

Attachment A – Zoning/Vicinity Map

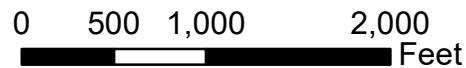
Attachment B – Project Narrative

Attachment C – PUD Document



- Target Property
- Greeley Parcels
- Expressway
- Arterial
- Local
- Unpaved
- Commercial High Intensity

- Holding Agriculture
- Industrial Medium Intensity
- Planned Unit Development
- Residential Low Density



COMMUNITY DEVELOPMENT

**CITY OF GREELEY  
NARRATIVE FOR PRELIMINARY  
SUBDIVISION APPLICATION**

**POUDRE HEIGHTS**

**LOCATION**

SITUATED IN THE WEST HALF OF SECTION 1 AND THE  
SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 5N, RANGE 67W,  
WEST OF THE 6<sup>TH</sup> PM  
CITY OF GREELEY, STATE OF COLORADO  
NORTH OF THE INTERSECTION OF HIGHWAY 34 (10<sup>TH</sup> STREET) AND  
PROMONTORY PARKWAY

*OCTOBER 4, 2021*

***PREPARED BY:***

*HR Green Development, LLC.  
5619 DTC Parkway Suite 1150  
Greenwood Village, CO 80111  
Contact: Ryan Littleton, PE  
[rlittleton@hrgreen.com](mailto:rlittleton@hrgreen.com)  
720-602-4937  
Project Number 210905*

***PREPARED FOR:***

*Poudre Bay Partners  
212 Poudre Way  
Windsor, CO 80550  
c/o Terra Forma Solutions  
Todd Johnson, President  
303-257-7653*

# PRELIMINARY SUBDIVISION PROJECT NARRATIVE POUDRE HEIGHTS

## **LOCATION**

The site is located within the City of Greeley, Colorado and partially within unincorporated Weld County, Colorado. The site includes area within:

- Section 1, Township 5 north, Range 67 west of the Sixth Principal Meridian
- Section 2, Township 5 north, Range 66 west of the Sixth Principal Meridian

The Site is comprised of approximately 277.6 acres of land zoned for PUD uses and is generally bound to the south by West 10th Street (Highway 34), to the east by 95th Avenue and future Lake Bluff development, to the west by Missile Park Rd and to the north by the northern border of Section 1, Township 5 north, Range 67 west of the Sixth Principal Meridian.

## **PROPOSED DEVELOPMENT**

The main intent of the Poudre Heights project is to create a mixed-use community that includes mixed uses such as residential, commercial, and industrial uses. Low intensity industrial uses are planned on the western area of the project and progressing east transitions to a mix of uses. The mixed-use planning areas will include commercial/retail, and various types of attached and detached residential. The north section of the property will be primarily residential. Transitioning from high density within the mixed-use area to lower density residential adjacent to the bluffs. Poudre Heights will be a pedestrian friendly community and connect the mix of uses into a cohesive, well planned project. A central park is provided in the north section of the residential uses and pocket parks are provided in the mixed-use areas which includes attached residential units. Trails will connect the pocket parks the large central park and ultimately to the greater community via trails and walkways along roads and through open space corridors. The blending of land uses and pedestrian facilities will reduce the reliance on automobile traffic within the community and encourages alternative modes of transportation.

## **PROJECT PHASING**

The Poudre Heights community will be developed in multiple phases and pace will depend on market demand and as infrastructure is constructed. The number of lots developed at any given time, the progression of amenities that will serve the project and all other aspects of sequence and timing in the development as defined in the PUD and/or per market demands. It is anticipated that the project will develop from south to north.

## **UTILITIES AND STORMWATER DRAINAGE**

### **Stormwater:**

The development of Poudre Heights will require public and private drainage improvements for the safe collection and conveyance of stormwater runoff. All public drainage improvements will meet the requirements of the City of Greeley as directed. Runoff within the proposed development will initially be carried in the streets. The street conveyance will be supplemented with storm sewer systems where street flow capacities are exceeded. Storm sewer networks along with open channel drainageways will convey runoff to detention and water quality facilities. Flow from the site will ultimately reach the Cache La Poudre River. Stormwater improvements as described above will be implemented as needed with each phase to ensure adequate stormwater outfalls,

detention and water quality facilities are available for each phase of development.

#### Non-Potable Water:

For the Poudre Heights development, it is proposed to provide a non-potable irrigation system to support the landscaping. There are two proposed scenarios:

The first scenario is to connect to the Boomerang Regional Pump Station that is expected to be located on the northern edge of the Boomerang Golf Course, West of the intersection of 71st Avenue and 4th Street. This pump station is part of a larger redevelopment project and will replace the existing Boomerang South pump station. The piping from the Boomerang Regional pump station is expected to serve far to the west, including past 95th Avenue. This station is expected to have a pressure of 115 psi at its discharge point. Connection would be expected through both The Cache and Lake Bluff developments, which would be coordinated.

The second scenario is to coordinate a new regional non-potable system to serve both the Lake Bluff development as well as Poudre Heights. In the Greeley Non-Potable Water Master Plan, June 2021, a Lake Bluff non-potable service expansion and pump station is noted as a capital improvement project in the 5-year planning horizon for the city. This is designated as "SA-60 Lake Bluff" in the report and is planned just east of the intersection of 95th Avenue and 10th Street. The Preliminary Hydraulics Report for Water and Sanitary Sewer, Lake Bluff Subdivision – Phase 1 (Lamp Rynearson, September 2021) includes discussion and calculations for a non-potable system. Poudre Heights development will connect to the Lake Bluff non-potable system where possible, potentially within 101st Avenue and West 4th Street. Discussions with the Lake Bluff development team are ongoing.

#### Domestic Water:

Domestic water will be a looped system with 6 connection points provided to the existing water system. The point of connection (POC) locations are as follows:

- POC 1 – Intersection of 101<sup>st</sup> Ave north of 4<sup>th</sup> Street – connecting to an 8" line in the Lake Bluff development
- POC 2 – Intersection of 101<sup>st</sup> Ave and 4<sup>th</sup> Street – connecting to a 12" line in the Lake Bluff development
- POC 3 – Intersection of 101<sup>st</sup> Ave and 7<sup>th</sup> Street – connecting to a 12" line in the Lake Bluff development
- POC 4 – Intersection of 101<sup>st</sup> Ave and 10<sup>th</sup> Street – connecting to a 12" line the Lake Bluff development
- POC 5 – Intersection of Promontory Parkway and 10<sup>th</sup> Street – connecting to an existing 16" line
- POC 6 – At Highway 235 Spur near the western boundary of the Poudre Heights development – connecting to an existing 8" line

Water valves will be placed per City regulations. Internal water lines shall be designed in accordance with Greeley development design standards.

#### Sanitary Sewer:

The proposed 24-inch to 30-inch Poudre Trunk Sewer Line recently designed by Stantec originates southwest of the site and runs from west to east through the project area along the projected 4<sup>th</sup> Street alignment. Internal 8-inch sanitary sewer infrastructure will connect to this trunk line at multiple locations. The trunk line exits the site at 101<sup>st</sup> Avenue. The Poudre Heights development internal sanitary sewer will also connect to the Lake Bluff development sanitary sewer infrastructure at the intersections of 101<sup>st</sup> Ave and 7<sup>th</sup> Street and at 101<sup>st</sup> and a yet unnamed street north of 4<sup>th</sup> Street.

**LANDSCAPING AND IRRIGATION**

Street trees and landscape for the project shall be constructed with each respective phase. The intent of the landscape is to be primarily a xeriscape approach with the goal of minimizing water usage. Irrigation shall be designed to utilize the non-potable water system providing water for landscape per the proposed PUD.

**ZONING**

The land is currently zoned Planned Unit Development (PUD). The Poudre Heights community will consist of a variety of land uses including low intensity industrial, mixed use, open space, parks, and various residential types and densities (low, medium, high).

**VARIANCES**

Variations will be addressed with Final PUD.

# POUDRE HEIGHTS

## PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN

**POUDRE HEIGHTS - PROPERTY AND SITE**

THE POUUDRE HEIGHTS COMMUNITY PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN (HEREAFTER CALLED "PUD") PROVIDES GENERAL STANDARDS AND LAND USE REGULATIONS FOR THE DEVELOPMENT OF THE COMMUNITY COMPRISING APPROXIMATELY 277.6 ACRES. "POUDRE HEIGHTS" SHALL BE INTERCHANGEABLE AND HAVE THE SAME MEANING AS THE PROJECT, PROPERTY, SITE, AREA, OR THE LIKE.

**PROJECT LOCATION AND INFORMATION**

THE PROPERTY IS GENERALLY LOCATED ON THE WESTERN SIDE OF THE CITY OF GREELEY AND SPECIFICALLY NORTH OF 10TH STREET, WEST OF 101ST AVENUE, AND EAST OF MISSILE PARK ROAD. THE ENTIRE PROPERTY IS LOCATED ON THE HIGHLANDS, SOUTH OF THE CACHE LA POUUDRE RIVER. MAIN ACCESS TO THE PROJECT WILL BE PRIMARILY FROM 10TH STREET, 105TH AVENUE, AND A FUTURE 4TH STREET WILL CONNECT THROUGH THE SITE.

**EXISTING AND PROPOSED ZONING**

POUDRE HEIGHTS PROPERTY (TOTALING 277.6 ACRES) IS BEING INCLUDED AS A PLANNED UNIT DEVELOPMENT. THE DEVELOPMENT WILL HAVE A MIX OF COMMERCIAL AND INDUSTRIAL (NON-RESIDENTIAL) USES, RESIDENTIAL USES (LOW, MEDIUM, HIGH), AND EXISTING FARM LAND.

**EXISTING ZONING AND LAND USE:**

FOR THE ENTIRE PROPERTY, ONE EXISTING ZONING CATEGORY EXISTS:  
 1. PUD (PLANNED UNIT DEVELOPMENT)

**PROPOSED ZONING:**

THE LAND USES AND ZONING PROPOSED FOR THE PROJECT CONSIST OF THE FOLLOWING:

<b>DEVELOPMENT SUMMARY - PRELIMINARY PUD</b>				
PLANNING AREA	ACREAGE (+/-)	CALCULATED DENSITY (DU/AC)	MAXIMUM UNITS*	% OF SITE
PA-C - MIXED-USE	33.9	6.6	223	12.2%
PA-D - MIXED-USE	23.9	6.6	157	8.6%
PA-E - MIXED-USE	24.6	6.6	162	8.9%
PA-F - MIXED-USE	25.6	6.6	168	9.2%
PA-G - MDR - MEDIUM DENSITY RESIDENTIAL	58.6	6	351	21.1%
PA-H - LDR - LOW DENSITY RESIDENTIAL	41.5	3	124	14.9%
<b>SUB-TOTAL</b>	<b>208.1</b>		<b>1185</b>	<b>75.0%</b>
PA-I - OPEN SPACE	39.5			14.2%
*NOTE: PARKS AND DETENTION AREAS ARE INCLUDED ABOVE AND WILL MEET MINIMUM OPEN SPACE REQUIREMENTS.				
PLANNING AREA	ACREAGE (+/-)			% OF SITE
PA-B - INDUSTRIAL - LOW INTENSITY	30.0			10.8%
<b>SITE TOTAL</b>	<b>277.6</b>			<b>100.0%</b>
*IF MULTI-FAMILY IS PLACED IN THE MIXED USE PARCELS (C, D, E AND F) THE DENSITY CAN BE UP TO 24 DU/AC AS LONG AS THE OVERALL PROJECT MAXIMUM UNIT COUNT IS NOT EXCEEDED FOR THE OVERALL PROJECT.				

<b>DENSITY CALCULATIONS</b>	
TOTAL MAXIMUM UNIT COUNT	1185
TOTAL SITE ACREAGE	277.6
OVERALL RESIDENTIAL DENSITY	4.27

<b>OPEN SPACE CALCULATIONS</b>	
PA-I OPEN SPACE ACREAGE	39.5
NEIGHBORHOOD PARK AND POCKET PARKS	11
TOTAL	50.5
*NOTE: SEE SHEET 7 FOR INDIVIDUAL OPEN SPACE REQUIREMENTS FOR LAND USES.	
*NOTE: TOTAL OPEN SPACE REQUIREMENTS WILL MEET MINIMUMS.	

THE POUUDRE HEIGHTS COMMUNITY WILL CONSIST OF A VARIETY OF LAND USES INCLUDING LOW INTENSITY INDUSTRIAL, MIXED USE, OPEN SPACE, PARKS, AND VARIOUS RESIDENTIAL TYPES AND DENSITIES. THIS PROPOSED PUD ZONING WILL IDENTIFY THE LAND USES FOR EACH PLANNING AREA AND THE RELATIVE USES THAT CAN OCCUR FOR THAT AREA. ALSO, MAXIMUM ALLOWABLE RESIDENTIAL UNIT DENSITIES ARE SHOWN FOR EACH PLANNING AREA HOWEVER, THE APPLICANT IS REQUESTING DENSITY TRANSFERS SO THAT UNITS THAT ARE NOT CONSTRUCTED IN A PLANNING AREA CAN BE TRANSFERRED INTO OTHER PLANNING AREAS WITHIN THE PROJECT. THE MAXIMUM UNIT COUNT FOR THE ENTIRE PROJECT SHALL NOT EXCEED 1,185 UNLESS AN AMENDMENT OF THE PUD IS APPROVED BY THE CITY.

**POUDRE HEIGHTS COMMUNITY PUD GOALS**

THE POUUDRE HEIGHTS COMMUNITY MASTER PLAN, GUIDELINES AND STANDARDS HAVE BEEN WRITTEN TO PROVIDE A UNIFIED, COHESIVE AND QUALITY DEVELOPMENT. THE MAIN DESIGN INTENT IS TO CREATE MIXED-USE COMMUNITY THAT INCLUDES RESIDENTIAL AND NON-RESIDENTIAL USES. LOW INTENSITY INDUSTRIAL USES ARE PLANNED ON THE WESTERN AREA (PLANNING AREA B) OF THE PROJECT AND PROGRESSING EAST TRANSITIONS TO A MIX OF USES. THE MIXED-USE PLANNING AREAS WILL INCLUDE COMMERCIAL, RETAIL AND VARIOUS TYPES OF ATTACHED AND DETACHED RESIDENTIAL (I.E. MULTI-FAMILY, TOWNHOMES, SINGLE FAMILY ATTACHED AND DETACHED). THE NORTH SECTION OF THE PROPERTY WILL BE PRIMARILY RESIDENTIAL, TRANSITIONING FROM MEDIUM DENSITY NEXT TO THE MIXED USE AREA AND LOWER DENSITY RESIDENTIAL ADJACENT TO THE BLUFFS. POUUDRE HEIGHTS WILL BE A PEDESTRIAN FRIENDLY COMMUNITY AND CONNECT THE MIX OF USES INTO A COHESIVE, WELL PLANNED PROJECT. A CENTRAL PARK WILL BE THE CENTER OF THE RESIDENTIAL AND MIXED USE AREAS AND TRAILS WILL CONNECT THIS PARK TO THE GREATER COMMUNITY VIA TRAILS AND WALKWAYS ALONG ROAD CORRIDORS. THE BLENDING OF USES AND PEDESTRIAN FACILITIES WILL REDUCE THE RELIANCE ON AUTOMOBILE TRAFFIC WITHIN THE COMMUNITY AND ENCOURAGES ALTERNATIVE MODES OF TRANSPORTATION. THIS PUD DOCUMENT ILLUSTRATES AND DEMONSTRATES THE FUNCTION AND AESTHETIC APPEARANCE FOR THIS COMMUNITY. BECAUSE SOME OF THE PRINCIPLES AND DESIGN IDEAS ARE MARKET DRIVEN AND INNOVATIVE, MODIFICATIONS OF THE CITY OF GREELEY CODE WILL BE NECESSARY TO IMPLEMENT THE VISION FOR THE COMMUNITY.

CONSISTENT WITH THE CITY OF GREELEY CODE AS AMENDED - PURPOSE AND INTENT, THE PUD ZONING FOR THE POUUDRE HEIGHTS COMMUNITY WILL: "ENCOURAGE DEVELOPMENT OF MIXED LAND USES, OR FOR USES AND SITE DESIGNS WHICH CANNOT OTHERWISE BE ACCOMMODATED WITHOUT PUD APPROVAL, THROUGH FLEXIBILITY AND CREATIVITY AND TO PRODUCE PLANNED UNIT DEVELOPMENTS WHICH ARE IN KEEPING WITH THE OVERALL GOALS AND OBJECTIVES OF THE CITY'S COMPREHENSIVE PLAN. THE INTENT IS TO PERMIT SUCH FLEXIBILITY AND PROVIDE PERFORMANCE CRITERIA WHICH:

1. ALLOW A DIVERSITY OF USES, STRUCTURES, FACILITIES, HOUSING TYPES, OPEN SPACE AND BUFFERS IN A MANNER COMPATIBLE WITH EXISTING AND PLANNED USES ON ADJACENT PROPERTIES;
2. ENCOURAGE AND ALLOW FOR GREATER INNOVATIVE DESIGNS THAT PROMOTE MORE EFFICIENT AND ENVIRONMENTALLY SENSITIVE USE OF THE LAND THAN GENERALLY ACHIEVABLE THROUGH CONVENTIONAL ZONING AND DEVELOPMENT REGULATIONS;
3. PROTECT THE ENVIRONMENT BY AFFORDING OPPORTUNITIES AND INCENTIVES FOR THE PRESERVATION OF ENVIRONMENTALLY SENSITIVE AND IMPORTANT NATURAL OR HISTORIC AREAS;
4. PROMOTE THE MEANINGFUL INTEGRATION OF COMMON OPEN AREA NETWORKS AND DEVELOPED RECREATION AREAS;
5. PROMOTE FURTHER CREATIVITY IN DEVELOPMENT LAYOUT, DESIGN AND CONSTRUCTION;
6. ENCOURAGE DEVELOPMENT TO OCCUR IN ACCORDANCE WITH THE COORDINATED AND PLANNED EXTENSION OF EXISTING AND PROGRAMMED COMMUNITY FACILITIES AND INFRASTRUCTURE; AND
7. WHILE THE PUD MAY PERMIT DEVELOPMENT OF LAND IN A WAY WHICH MIGHT NOT BE PERMITTED UNDER TRADITIONAL ZONING REGULATIONS, THE PUD IS NOT INTENDED TO MODIFY OR IN ANY WAY ALTER OR REDUCE THE REQUIREMENTS OF ANY BUILDING AND/OR ZONING CODE REQUIREMENTS, UNLESS COMMENSURATE BENEFITS TO THE COMMUNITY ARE PROVIDED AS PART OF THE PUD PLAN AND ALTERNATIVE PROTECTIONS ARE PROVIDED."

AND PER CITY CODE AS AMENDED

THE CITY COUNCIL MAY AUTHORIZE, BY ITS APPROVAL OF A PRELIMINARY PLANNED UNIT DEVELOPMENT PLAN, A MIX OF LAND USES, AS WELL AS VARIATIONS IN DENSITY, SETBACK, HEIGHT, LOT SIZE, LOT COVERAGE, OPEN SPACE, STREET WIDTH, PARKING AND LANDSCAPING. ANY SUCH VARIATIONS GRANTED BY THE CITY COUNCIL SHALL BE BASED UPON THE FINDINGS BY THE COUNCIL THAT THE PUD PLAN:

1. PROVIDES AN INNOVATIVE DESIGN WHICH WOULD BE EQUAL TO OR BETTER THAN DEVELOPMENT WHICH WOULD OCCUR UNDER BASE STANDARD ZONING DISTRICT REQUIREMENTS;
2. ACCOMPLISHES SPECIFIC GOALS AND OBJECTIVES OF THE LAND USE CHAPTER OF THE CITY'S COMPREHENSIVE PLAN;
3. INCLUDES LAND USES WHICH ARE REQUIRED TO BE IN A PUD;
4. MEETS THE OVERALL INTENT OF THIS CODE; OR
5. PROVIDES EQUIVALENT SITE DESIGN TRADE-OFFS FOR THE EXCEPTIONS GRANTED (I.E., MORE OPEN SPACE FOR HIGHER DENSITY, ETC.).

FOLLOWING THE INTENT OF THE CITY CODE AS AMENDED, THE GOALS OF THE POUUDRE HEIGHTS COMMUNITY WILL ALIGN WITH THOSE PRINCIPLES BY:

1. ENCOURAGING INNOVATION THROUGH FLEXIBILITY IN SITE DESIGN WITH RESPECT TO BUILDING SPACING, SETBACKS, HEIGHTS AND DENSITY OF BUILDINGS, OPEN SPACE, AND PARKING;
2. PROMOTE THE IMPLEMENTATION OF THE CITY'S COMPREHENSIVE PLAN, AND LONG RANGE PLANNING FOR THE AREA;
3. PROPOSE A VARIETY OF CREATIVE SOLUTIONS TO PROJECT DESIGN THAT MAY NOT BE POSSIBLE THROUGH THE APPLICATION OF THE LOCAL ZONING ORDINANCE AND SUBDIVISION REGULATIONS;
4. ENCOURAGING A MIXED-USE, MASTER PLANNED COMMUNITY PROVIDING FOR RESIDENTIAL, RECREATIONAL, INDUSTRIAL AND MIXED USES ALIGNING WITH THE GREELEY COMPREHENSIVE PLAN;
5. ENCOURAGING INNOVATIONS IN LAND USE THAT RESULT IN THE AVAILABILITY OF ATTRACTIVE DEVELOPMENT OPPORTUNITIES DRIVEN BY CURRENT MARKET TRENDS;
6. PROMOTING MORE EFFICIENT USE OF LAND AND ENERGY THROUGH REASONABLE INFRASTRUCTURE DESIGN AND IMPLEMENTATION;
7. RESPECT AND INCORPORATE THE UNIQUE PHYSICAL FEATURES OF THE SITE;
8. CREATING DEVELOPMENT PATTERNS AND PROJECT DESIGN THAT FURTHER THE GOALS AND POLICIES OF THE CITY OF GREELEY;
9. PROVIDING APPROPRIATE TRANSITIONS BETWEEN LAND USES AND ADJACENT PROPERTIES WHILE ENCOURAGING AN OVERALL COMMUNITY FOCUS;
10. PROVIDING FLEXIBILITY FOR BOTH LAND USE TYPE AND DENSITY TO BE TRANSFERRED BETWEEN PLANNING AREAS, RESPONDING BETTER TO THE NEEDS OF THE CHANGING MARKET CONDITIONS OVER A LONG PERIOD OF TIME;
11. ENCOURAGE FLEXIBILITY IN THE DESIGN OF STREETS TO ALLOW DEPARTURE FROM STRICT ENFORCEMENT OF PRESENT CODES REGARDING DESIGN STANDARDS, STREET WIDTHS, DRAINAGE, CURB AND GUTTERS, STREET LIGHTING, LANDSCAPING, UTILITIES, AND SIMILAR ASPECTS; AND
12. PROVIDE A COMMUNITY AMENITY IN THE FORM OF NEIGHBORHOOD PARKS AND OPEN SPACE, WITH REQUIRED CONNECTION TO THE CACHE LA POUUDRE REGIONAL TRAIL SYSTEM.

UPON COMPLETION, THE PUD WILL PROVIDE A MORE APPEALING RESIDENTIAL AND PEDESTRIAN FRIENDLY COMMUNITY THAN WOULD OTHERWISE BE ATTAINABLE UNDER CONVENTIONAL PRACTICES AND REGULATIONS. THEREFORE, FLEXIBILITY IN THE DESIGN HELPS TO PROVIDE A MORE INNOVATIVE AND LIVABLE COMMUNITY, WHICH IS POSITIVE FOR FUTURE RESIDENTS. THIS MORE EFFICIENT DESIGN WITHIN THE POUUDRE HEIGHTS COMMUNITY WILL ALLOW FOR UNIQUELY POSITIONED AREAS OF NATURAL OPEN SPACE (A MINIMUM OF 30%), WHICH WILL ENABLE THE COMMUNITY ENGAGEMENT AND PROTECTION OF MORE AREAS OF THE NATURAL ENVIRONMENT.

**SHEET INDEX**

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- SHEET: 8 PRELIMINARY ARCHITECTURAL GUIDELINES
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**OWNER**

BRIAN SMERUD  
 POUUDRE BAY PARTNERS  
 212 POUUDRE WAY  
 WINDSOR, CO 80550  
 970-451-0538

**OWNER REPRESENTATIVE**

TODD JOHNSON  
 TERRA FORMA SOLUTIONS  
 303.257.7653

**PLANNER & LANDSCAPE ARCITECT**

HR GREEN DEVELOPMENT, LLC  
 5619 DTC PARKWAY STE 1150  
 GREENWOOD VILLAGE, CO 80111  
 PHIL STUEPFERT  
 720.602.4941

**CIVIL ENGINEER**

HR GREEN DEVELOPMENT, LLC  
 5619 DTC PARKWAY STE 1150  
 GREENWOOD VILLAGE, CO 80111  
 RYAN LITTLETON  
 720.602.4937

**LAND SURVEYOR**

AZTEC CONSULTANTS, INC  
 300 E. MINERAL AVE SUITE #1  
 LITTLETON, CO 80122  
 DANIEL DAVIS  
 303.327.7495

**TRAFFIC ENGINEER**

ALDRIDGE TRANSPORTATION CONSULTANTS, LLC  
 1082 CHIMNEY ROCK ROAD  
 HIGHLANDS RANCH, CO 80126  
 JOHN ALDRIDGE  
 303.703.9112

TITLE SHEET

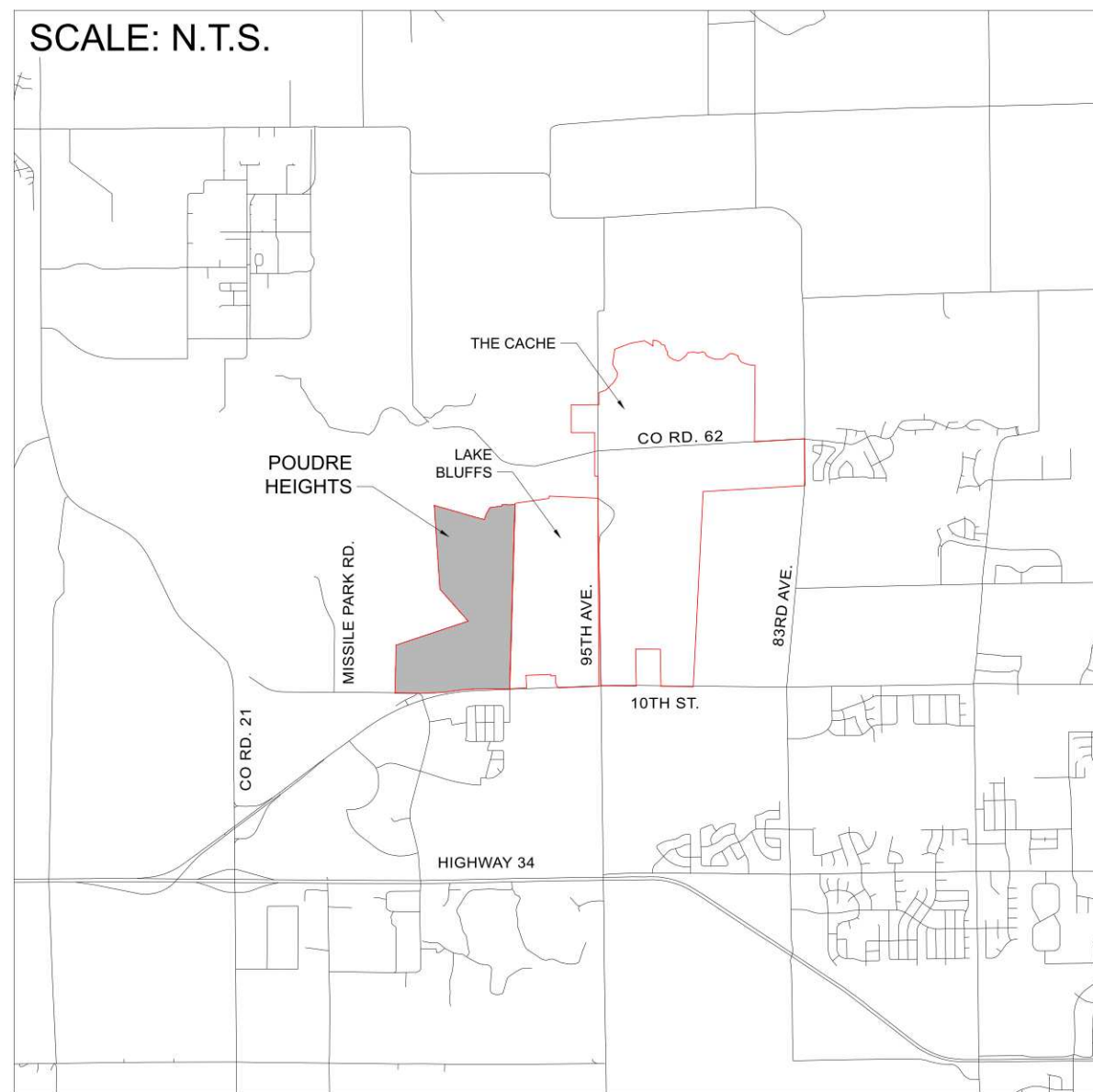
CASE NUMBER: PUD2019-0007



POUDRE HEIGHTS

# VICINITY MAP

SCALE: N.T.S.



### LEGAL DESCRIPTION - PUD BOUNDARY (LESS ROW)

A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN WARRANTY DEED RECORDED AT RECEPTION NUMBER 4369421, LYING WITHIN TRACT 2, JACKSON SUBDIVISION RECORDED AT RECEPTION NO. 3347377, BOTH IN THE OFFICIAL RECORDS OF THE CLERK AND RECORDER'S OFFICE, COUNTY OF WELD, STATE OF COLORADO, SITUATED IN THE WEST HALF OF SECTION 1 AND THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 5 NORTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF GREELEY, SAID COUNTY AND STATE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE SOUTHEAST CORNER OF SAID WEST HALF, WHENCE THE EAST LINE OF THE WEST HALF OF SAID SECTION 1 BEARS NORTH 01°41'09" EAST, A DISTANCE OF 5546.41 FEET, WITH ALL BEARINGS REFERENCED HEREIN RELATIVE THERETO;

THENCE ALONG SAID EAST LINE, NORTH 01°41'09" WEST, A DISTANCE OF 65.05 FEET TO THE NORTHERLY RIGHT-OF-WAY OF US 34 BUSINESS, AS DESCRIBED IN WARRANTY DEED RECORDED AT RECEPTION NUMBER 3508373, IN SAID OFFICIAL RECORDS AND THE **POINT OF BEGINNING**;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, THE FOLLOWING TWO (2) COURSES:

1. SOUTH 89°51'14" WEST, A DISTANCE OF 762.98 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 5,875.00 FEET;
2. WESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°31'12", AN ARC LENGTH OF 1,078.70 FEET TO THE NORTHERLY RIGHT-OF-WAY OF US 34 BUSINESS AS DESCRIBED IN RIGHT-OF-WAY DEED RECORDED AT BOOK 918 PAGE 465 IN SAID OFFICIAL RECORDS;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, SOUTH 87°32'57" WEST, A DISTANCE OF 745.89 FEET TO THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 1;

THENCE CONTINUING ALONG SAID NORTHERLY RIGHT-OF-WAY, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, SOUTH 04°08'49" WEST, A DISTANCE OF 0.19 FEET TO THE NORTHERLY RIGHT-OF-WAY OF STATE HIGHWAY 257 SPUR, AS DESCRIBED IN QUIT-CLAIM DEED RECORDED AT RECEPTION NUMBER 741532 IN SAID OFFICIAL RECORDS;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, NORTH 89°30'07" WEST, A DISTANCE OF 673.11;

THENCE DEPARTING SAID NORTHERLY RIGHT-OF-WAY, NORTH 01°24'45" EAST, A DISTANCE OF 1,366.25 FEET TO THE WESTERLY BOUNDARY OF SAID TRACT 2;

THENCE ALONG SAID WESTERLY BOUNDARY THE FOLLOWING SIXTEEN (16) COURSES:

1. NORTH 71°39'24" EAST, A DISTANCE OF 2,154.85 FEET;
2. NORTH 41°25'22" WEST, A DISTANCE OF 1,214.31 FEET
3. NORTH 03°52'55" WEST, A DISTANCE OF 2,375.77 FEET;
4. SOUTH 74°26'17" EAST, A DISTANCE OF 428.29 FEET;
5. SOUTH 74°20'30" EAST, A DISTANCE OF 323.81 FEET;
6. SOUTH 72°00'45" EAST, A DISTANCE OF 111.51 FEET;
7. SOUTH 73°45'25" EAST, A DISTANCE OF 277.33 FEET;
8. SOUTH 74°59'39" EAST, A DISTANCE OF 335.15 FEET;
9. NORTH 19°26'18" EAST, A DISTANCE OF 177.59 FEET;
10. NORTH 30°44'56" EAST, A DISTANCE OF 201.48 FEET;
11. NORTH 82°22'46" EAST, A DISTANCE OF 338.90 FEET;
12. NORTH 06°10'33" EAST, A DISTANCE OF 31.99 FEET;
13. NORTH 84°36'54" EAST, A DISTANCE OF 70.65 FEET;
14. NORTH 87°59'53" EAST, A DISTANCE OF 50.09 FEET;
15. SOUTH 79°28'41" EAST, A DISTANCE OF 71.41 FEET;
16. NORTH 82°09'43" EAST, A DISTANCE OF 182.08 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SECTION 1 AND THE EAST BOUNDARY OF SAID TRACT 2;

THENCE ALONG THE EAST BOUNDARY OF SAID TRACT 2 AND THE EAST LINE OF SAID WEST HALF, SOUTH 01°41'09" WEST, A DISTANCE OF 5,233.90 FEET TO THE **POINT OF BEGINNING**.

CONTAINING AN AREA OF 277.652 ACRES, (12,094,523 SQUARE FEET), MORE OR LESS.

ALL LINEAL DISTANCES ARE REPRESENTED IN U.S. SURVEY FEET.

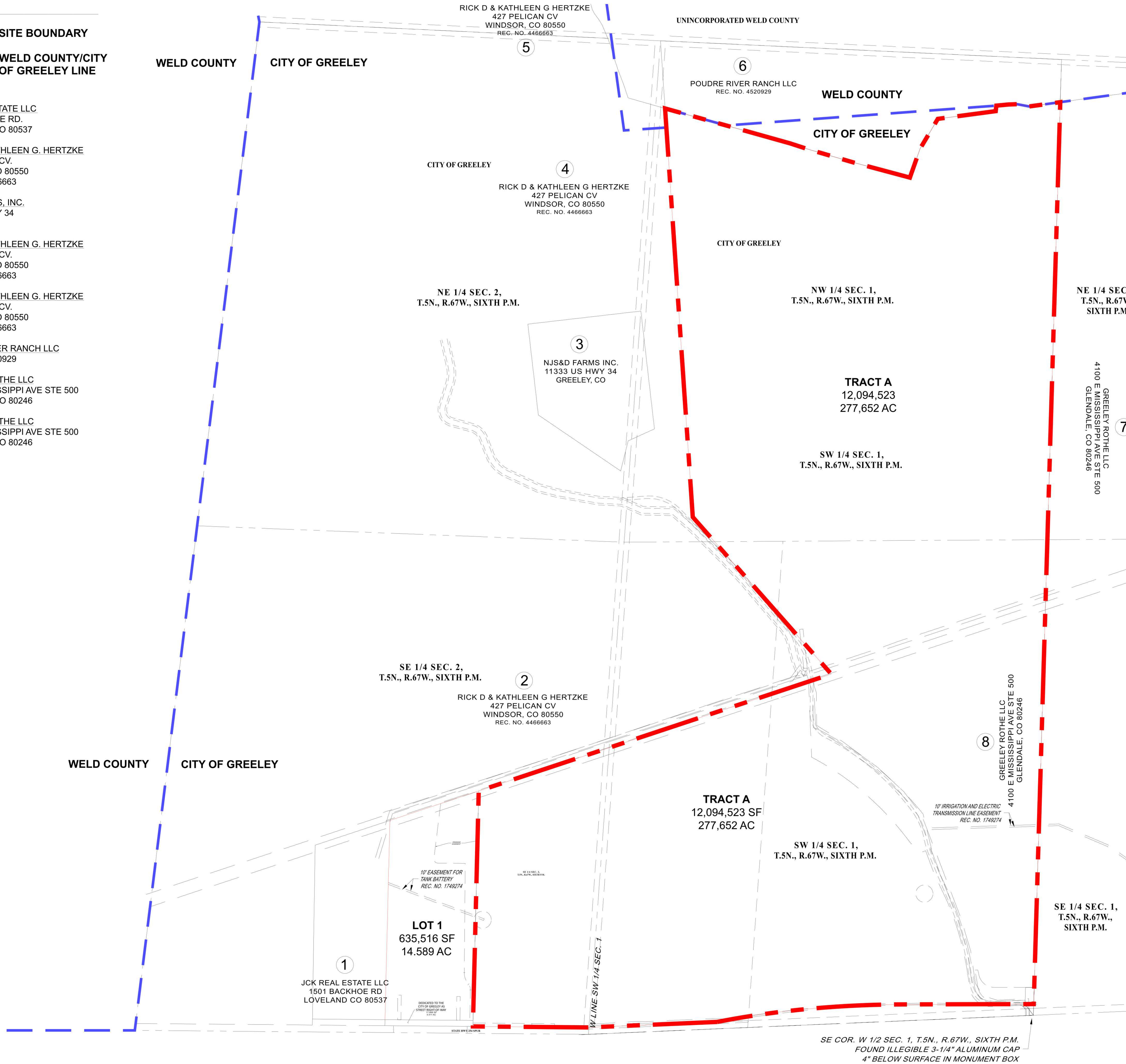
ILLUSTRATION ATTACHED AND MADE A PART HEREOF.

### LEGEND

**SITE BOUNDARY**

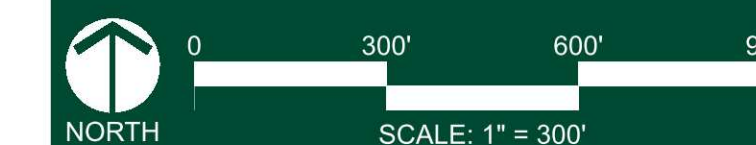
**WELD COUNTY/CITY OF GREELEY LINE**

1. JKC REAL ESTATE LLC  
1501 BACKHOE RD.  
LOVELAND, CO 80537
2. RICK D. & KATHLEEN G. HERTZKE  
427 PELICAN CV.  
WINDSOR, CO 80550  
REC. NO. 4466663
3. NJS&D FARMS, INC.  
11333 US HWY 34  
GREELEY, CO
4. RICK D. & KATHLEEN G. HERTZKE  
427 PELICAN CV.  
WINDSOR, CO 80550  
REC. NO. 4466663
5. RICK D. & KATHLEEN G. HERTZKE  
427 PELICAN CV.  
WINDSOR, CO 80550  
REC. NO. 4466663
6. POUFRE RIVER RANCH LLC  
REC. NO. 4520929
7. GREELEY ROTHE LLC  
4100 E MISSISSIPPI AVE STE 500  
GLENDALE, CO 80246
8. GREELEY ROTHE LLC  
4100 E MISSISSIPPI AVE STE 500  
GLENDALE, CO 80246



## PROPERTY BOUNDARY EXHIBIT

# POUDRE HEIGHTS



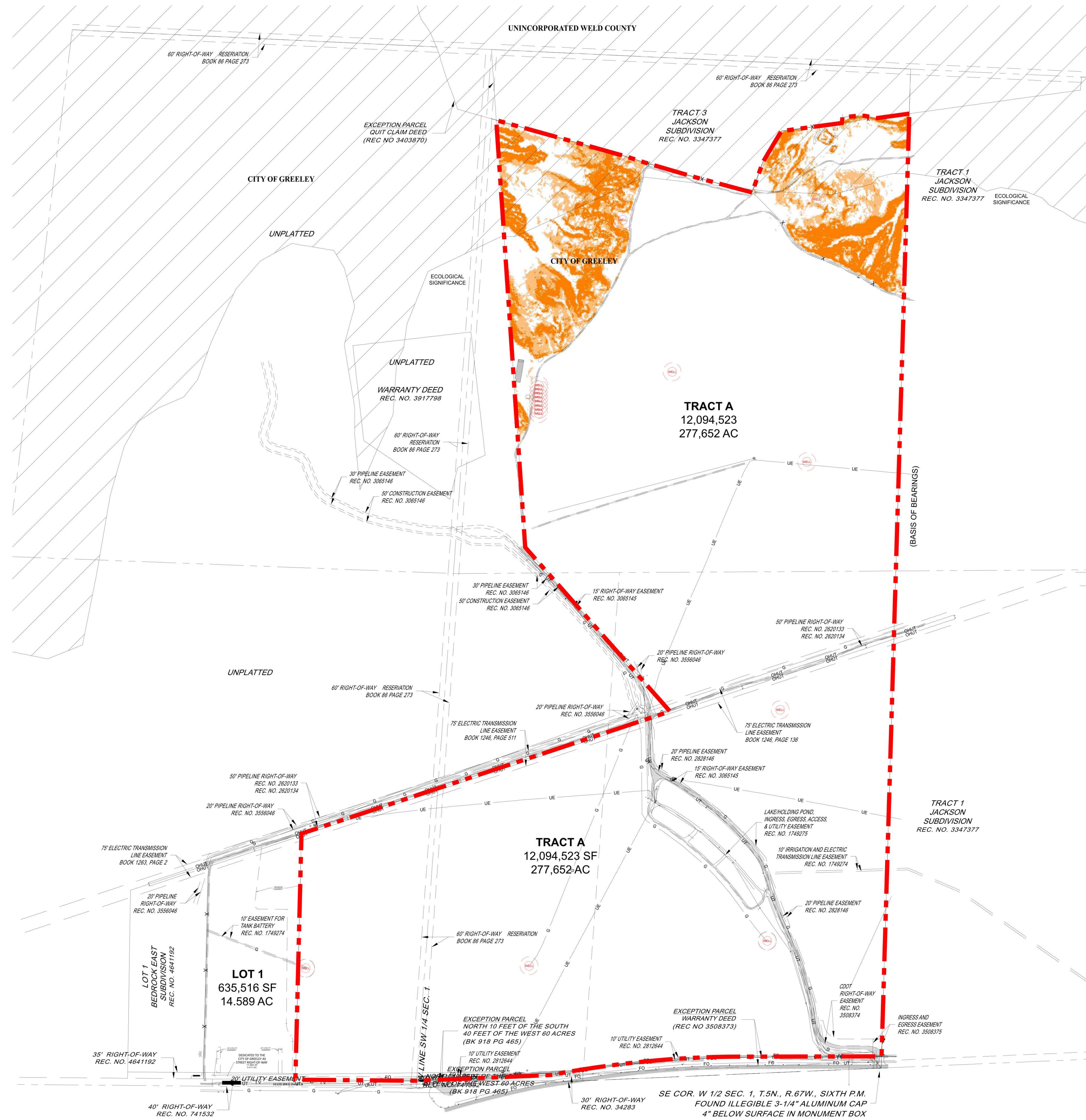


### CONSTRAINTS AND OPPORTUNITIES

THE POUDBRE HEIGHTS COMMUNITY HAS MANY OPPORTUNITIES AND SOME CONSTRAINTS REGARDING DEVELOPMENT. THESE HAVE BEEN CAREFULLY ANALYZED AND THE APPLICANT HAS DETERMINED IT IS WELL SITUATED FOR EXTENSION OF INFRASTRUCTURE AND IS A NATURAL EXPANSION TO THE WEST SIDE OF GREELEY. THE POUDBRE HEIGHTS COMMUNITY METROPOLITAN DISTRICT WILL CONTAIN ALL THE LAND WITHIN THE PROJECT. THE DISTRICT WILL ALSO BE THE FINANCING MECHANISM FOR EXTENDING THE INFRASTRUCTURE TO THE SITE. THE NORTHERN BOUNDARY OF THE PROPERTY IS DEFINED BY BLUFFS. THIS AREA IS PROJECTED TO BE OPEN SPACE AND INCLUDE BOTH PRIVATE AND PUBLIC TRAIL SYSTEMS WITH CONNECTIONS TO ADJACENT EXISTING TRAILS.

### EXISTING SLOPE:

THE POUDBRE HEIGHTS PROPERTY HAS SOME GENTLE SLOPE AREAS AND OTHER PORTIONS OF THE SITE HAVE SOME STEEPER TOPOGRAPHY. THE SLOPE MAP DEPICTS SLOPES AS DEFINED WITHIN THE GENERAL PROVISIONS OF THIS PUD AND IS BASED UPON SURVEYED USGS TOPOGRAPHY.



### LEGEND

--- SITE BOUNDARY

PLUGGED OR ABANDONED WELL LOCATION

WELL 50' ROAD AND BUILD SETBACK

ECOLOGICAL SIGNIFICANCE AREA

### SLOPE ANALYSIS LEGEND

SLOPE 15% - 25%

SLOPE 25% +

## EXISTING CONDITIONS/SITE ANALYSIS



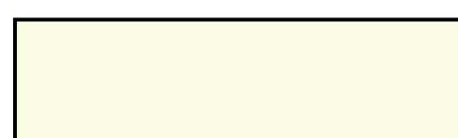




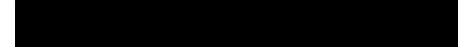



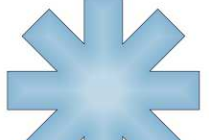

# POUDRE HEIGHTS

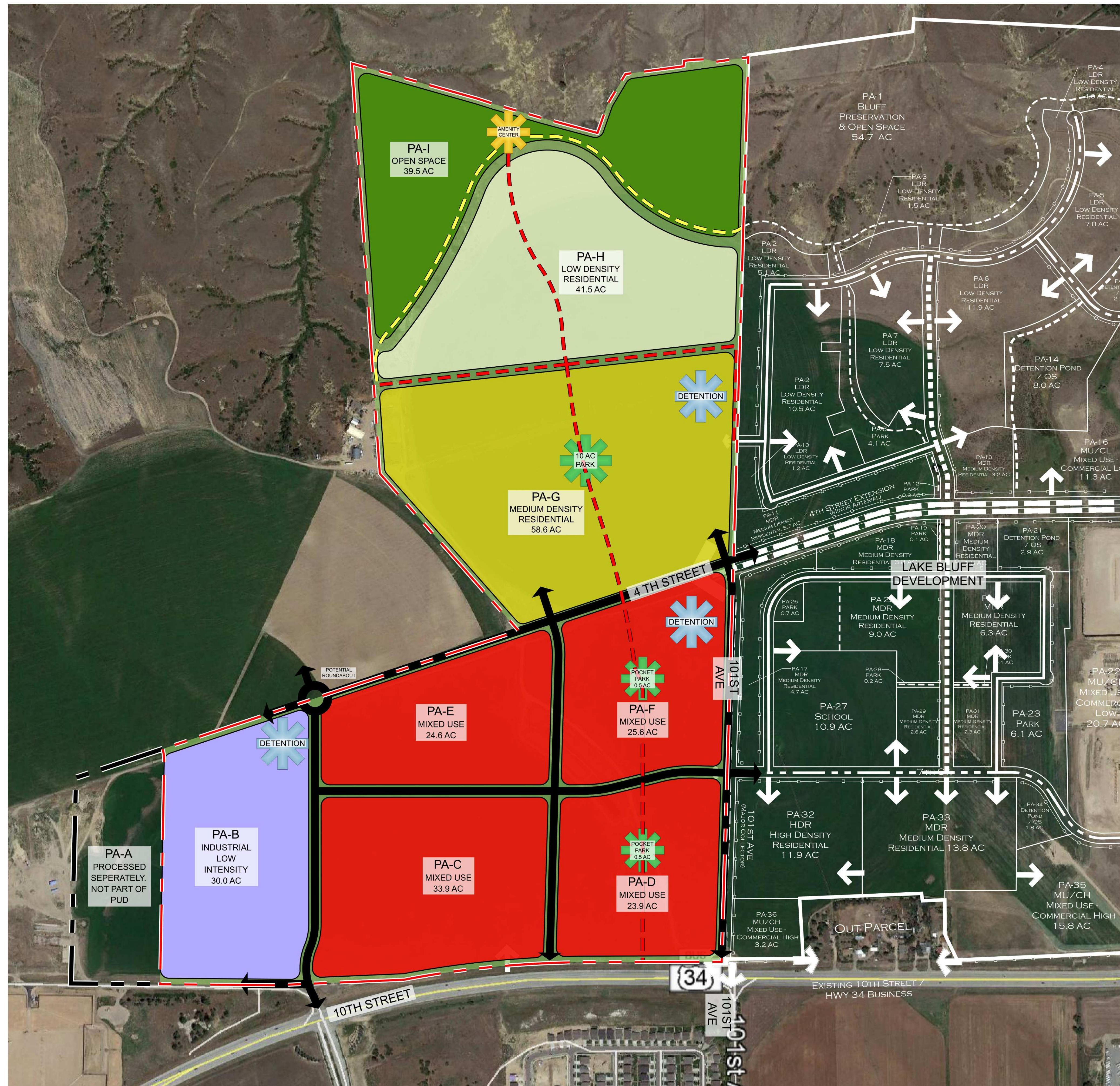


**PROPOSED MASTER PLAN APPROACH**

THE PROPOSED MASTER PLAN FOR THE PROPERTY DEMONSTRATES A WELL PLANNED COMMUNITY THAT WILL ENHANCE AND INTEGRATE INTO THE CITY OF GREELEY. THIS SUBMITTAL INCLUDES GENERAL DEVELOPMENT STANDARDS AND PROVISIONS AND SETS THE CORNERSTONES FOR A VIBRANT COMMUNITY WITHIN THE CITY OF GREELEY. THE ACREAGE, PROPOSED USES, RESIDENTIAL DENSITIES, AND FLOOR AREA RATIOS (FARS) HAVE BEEN IDENTIFIED FOR EACH PLANNING AREA AS DEPICTED ON THE PRELIMINARY PUD SITE MASTER PLAN. THIS PLAN HAS BEEN DESIGNED TO PROMOTE CREATIVITY AND FLEXIBILITY FOR THE OVERALL POU DRE HEIGHTS COMMUNITY AND ALSO PROVIDING DENSITY TRANSITIONS FROM THE MIXED USE AND INDUSTRIAL AREAS ALONG 10TH STREET TO THE NORTH WHERE RESIDENTIAL AND OPEN SPACE AREAS WILL EXIST.

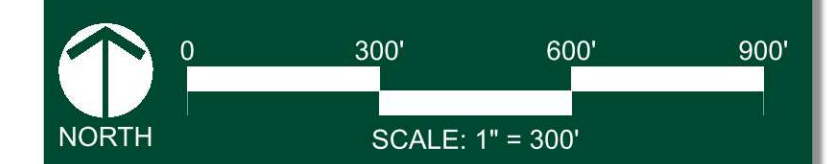
**LEGEND**

-  PRESERVED OPEN SPACE
-  GENERAL OPEN SPACE
-  LOW DENSITY RESIDENTIAL
-  MEDIUM DENSITY RESIDENTIAL
-  MIXED USE
-  INDUSTRIAL LOW INTENSITY
-  PROPOSED ROADWAY
-  SITE BOUNDARY
-  PROPOSED DETACHED SIDEWALK/TRAIL
-  PROPOSED PUBLIC NATURE TRAIL
-  PROPOSED PARK/POCKET PARK
-  PROPOSED DETENTION
-  PROPOSED AMENITY CENTER



PRELIMINARY PUD SITE MASTER PLAN

**POUDRE HEIGHTS**



## 1. DEVELOPMENT STANDARDS, REGULATIONS AND PROVISIONS OF POUDRE HEIGHTS COMMUNITY

THE POUFRE HEIGHTS COMMUNITY WILL CONFORM TO THE CITY OF GREELEY APPROVED ORDINANCE AS AMENDED, AT THE TIME OF PLATTING AND BUILDING PERMIT APPLICATION, EXCEPT AS EXPRESSLY PROVIDED IN THIS PUD. THE DEVELOPMENT STANDARDS AND DETAILS OF THIS PUD (ALL NARRATIVE AND EXHIBITS) WILL GOVERN THE DEVELOPMENT OF THIS COMMUNITY IN PERPETUITY AND WILL SUPERSEDE CITY ZONING REQUIREMENTS; EXCEPT WHERE CERTAIN ASPECTS OF THE PUD DO NOT SPECIFICALLY ADDRESS DEVELOPMENT STANDARDS OR ZONING ITEMS THEN CITY OF GREELEY CODE AS AMENDED, SHALL PREVAIL AND GOVERN THIS PROJECT. THIS PUD ALLOWS THE FLEXIBILITY TO MIX THE VARIOUS LAND USES AND DEFINE BOUNDARIES DURING THE PLATTING PROCESS. EACH PLAT OR SITE PLAN SUBMITTED TO THE CITY WILL IDENTIFY THE USE AT THE TIME OF SUBMITTAL. ALL PLANNING AREAS WITHIN THE PUD WILL COMPLY WITH THE DEVELOPMENT STANDARDS OF THIS PUD.

### 2. TIME LIMIT FOR VALIDITY OF PRELIMINARY PUD/PLAN

THE POUFRE HEIGHTS COMMUNITY WILL FOLLOW CITY CODE, AS AMENDED, AS IT PERTAINS TO THE TIME LIMIT AND PROCESSING STEPS AND SCHEDULE.

### 3. PLANNING AREA BOUNDARIES AND FLEXIBILITY OF PLANNING AREA ACREAGES

BOUNDARIES FOR EACH PLANNING AREA ARE SHOWN ON THE PUD MASTER PLAN EXHIBIT. THE PLANNING AREA BOUNDARIES, LAND USES, AND ARRANGEMENT ARE GENERALLY SHOWN AND WILL BE MODIFIED AS MORE FINAL DESIGNS AND ENGINEERING IS COMPLETED. ANY CHANGES OR MODIFICATIONS TO THESE BOUNDARIES AND THE STREETS ARE PERMITTED AND WILL OCCUR AS NEEDED. THE FINAL PLANNING AREA BOUNDARIES WILL BE DETERMINED AT TIME OF THE SITE PLAN OR PLAT. THESE FINAL BOUNDARIES AND CHANGES FROM THE PUD MASTER PLAN WILL BE COMPLETED WITHOUT ANY AMENDMENT TO THE PUD FOR INDUSTRIAL OR MIXED-USE UP TO 10% CHANGE. RESIDENTIAL AREAS MAY CHANGE WITHOUT ANY AMENDMENT TO THE PUD IF LESS THAN 30% CHANGE FROM TOTAL ACREAGE OF EACH PLANNING AREA.

### 4. DENSITY TRANSFERS BETWEEN LAND USE PLANNING AREAS

#### RESIDENTIAL AREAS:

THE POUFRE HEIGHTS COMMUNITY WILL INCLUDE A VARIETY OF RESIDENTIAL PRODUCT TYPES AND SIZES FROM DETACHED SINGLE-FAMILY HOMES TO MULTI-FAMILY. THE TOTAL NUMBER OF MAXIMUM RESIDENTIAL UNITS APPROVED WITHIN ALL PLANNING AREAS SHALL NOT BE EXCEEDED. THE TOTAL NUMBER OF UNITS DEVELOPED IN A LAND USE PLANNING AREA MAY BE LESS THAN THE NUMBER ESTABLISHED ON THE PLANNED UNIT DEVELOPMENT MASTER PLAN. IF ALL UNITS ARE NOT UTILIZED FOR A PARTICULAR PLANNING AREA, THE UNITS MAY BE TRANSFERRED TO OTHER PLANNING AREAS. FOR PLANNING AREAS THAT ARE MIXED USE, DWELLING UNITS MAY BE TRANSFERRED IN UP TO A MAXIMUM DENSITY OF 24 DU/AC. THIS INCREASE IN THE NUMBER OF PERMITTED UNITS WITHIN THE MIXED USE AREA MAY BE ACCOMPLISHED THROUGH THE CITY ADMINISTRATIVELY.

#### NON-RESIDENTIAL AREAS:

THE NON-RESIDENTIAL USES AND STANDARDS HAVE BEEN DIVIDED INTO TWO CATEGORIES; MIXED USE, AND INDUSTRIAL FOR THE PURPOSE OF DEFINING DEVELOPMENT STANDARDS. SEE SHEET 6 AND 7 FOR NON-RESIDENTIAL PERMITTED USES AND STANDARDS WITHIN THE POUFRE HEIGHTS COMMUNITY.

### 5. PARKS AND OPEN SPACE

OPEN SPACE WITHIN THE POUFRE HEIGHTS COMMUNITY WILL CREATE A NETWORK OF TRAILS AND PARKS THAT CREATES DISTINCT NEIGHBORHOODS AND PROVIDES PEDESTRIAN WALKWAYS THROUGHOUT THE COMMUNITY. PER CITY CODE, THE OPEN SPACE REQUIREMENT IS 30% OF THE TOTAL GROSS ACREAGE OF THE RESIDENTIAL PLANNING AREAS ONLY AS DEFINED PER CITY CODE AS AMENDED. EXACT LOCATIONS OF PARKS, TRAILS, AND OPEN SPACE HAVE BEEN DETERMINED, HOWEVER, MINOR CHANGES IN LOCATION MAY BE ALLOWED. REFER TO MASTER PLAN FOR LOCATIONS. BLUFF PRESERVATION AREA WILL BE OWNED AND MAINTAINED BY THE CITY OF GREELEY AT THE TIME OF DEDICATION AND WILL COUNT TOWARDS OPEN SPACE CALCULATIONS. OPEN SPACE WITHIN THE POUFRE HEIGHTS COMMUNITY WILL BE BOTH PUBLIC AND PRIVATE. RESIDENTIAL PHASES MAY HAVE LESS THAN 30% OF THE GROSS AREA IN OPEN SPACE AS LONG AS THE TOTAL PROPERTY ACHIEVES THE REQUIRED AMOUNT FOR THE TOTAL PROJECT. CITY CODE REQUIREMENTS SHALL APPLY EXCEPT AS MODIFIED BELOW:

- PLAYGROUNDS WITH COMMERCIAL GRADE EQUIPMENT, PICNIC/BARBEQUE AREAS WITH COMMERCIAL GRADE EQUIPMENT, OR COURT GAMES (TENNIS, VOLLEYBALL OR BASKETBALL COURTS) AT LEAST EIGHT HUNDRED (800) SQUARE FEET IN SIZE SHALL COUNT AS ONE (1) RECREATIONAL AMENITY.
- ONE HUNDRED PERCENT OF STEEP SLOPES OVER 15% AND SPECIFICALLY THE BLUFF AREAS SHALL COUNT TOWARDS USABLE OPEN SPACE
- CREDIT MAY BE PROVIDED FOR OTHER FEATURES NOT INCLUDED WITHIN THIS LIST. SUCH CREDIT SHALL BE BASED ON THE DETERMINATION OF THE COMMUNITY DEVELOPMENT DIRECTOR, BASED ON A REVIEW OF THE LOCATION, EXTENT, BUILDING FORM, DESIRABILITY FOR FUTURE RESIDENTS AND VARIETY OF AMENITIES PROPOSED, AND WHOSE FINAL DECISION MAY ALSO BE APPEALED TO THE PLANNING COMMISSION.

### 6. ROADWAY DESIGN

THE ROADWAYS SHALL COMPLY WITH THE CITY'S 2015 DESIGN CRITERIA AND CONSTRUCTION SPECIFICATION STREET MANUAL VOLUME 1.  
REF([HTTP://GREELEYGOV.COM/DOCS/DEFAULT-SOURCE/CONSTRUCTION-STANDARDS/STREETS/STREET-MANUAL-2015.PDF](http://greeleygov.com/docs/default-source/construction-standards/streets/street-manual-2015.pdf))

### 7. CONSTRUCTION STANDARDS TO GOVERN THE COMMUNITY

CONSTRUCTION SHALL COMPLY WITH THOSE APPLICABLE CODES OUTLINED BY THE CITY OF GREELEY AS AMENDED.

### 8. HOMEOWNER ASSOCIATIONS OR METROPOLITAN DISTRICT FOR LONG TERM MAINTENANCE OF PRIVATE ELEMENTS

INITIALLY THE DEVELOPER WILL ESTABLISH EITHER A METROPOLITAN DISTRICT (MD) FOR LONG-TERM OWNERSHIP AND MAINTENANCE OR A HOMEOWNER ASSOCIATION (HOA) TO BE LATER CONTROLLED AND RUN BY THE PROPERTY OWNERS IN RESIDENTIAL AREAS OF THE COMMUNITY. THE MD OR HOA WILL OVERSEE THE IMPROVEMENT AND MAINTENANCE OF PROPERTIES AND FACILITIES WHICH IT OWNS OR ADMINISTERS. ADDITIONALLY, THE PURPOSES WILL BE TO PROTECT THE INVESTMENT, ENHANCE THE VALUE, AND REGULATE AND GOVERN THE USE OF THE MEMBERS PROPERTIES. ONE OR MULTIPLE MD OR HOA'S MAY BE CREATED FOR THE VARIOUS RESIDENTIAL USES AND THE NON-RESIDENTIAL USES IF NEEDED.

### 9. METROPOLITAN DISTRICTS

A METROPOLITAN DISTRICT (MD) FOR THIS PROPERTY WHICH AS A QUASI-GOVERNMENTAL AGENCY, SEPARATE FROM THE CITY OF GREELEY YET THE ACTIONS AND FUNCTION ARE SUBJECT TO REVIEW BY THE CITY ONLY AS THEY MAY DEVIATE FROM THE REQUIREMENTS OF THE SERVICE PLAN, CITY CODE, OR THE INTERGOVERNMENTAL AGREEMENT AS AMENDED. IT IS INTENDED THAT THE DISTRICT WILL PROVIDE A PART OR ALL OF THE PUBLIC IMPROVEMENTS FOR THE COMMUNITY AND TAXPAYERS OF THE ENTIRE DISTRICT. THE PRIMARY PURPOSE OF THE DISTRICT WILL BE TO FINANCE THE CONSTRUCTION OF IMPROVEMENTS WITHIN THE DISTRICT BUT WILL ALSO PROVIDE ONGOING OPERATIONS AND MAINTENANCE SERVICES AS SPECIFICALLY SET FORTH IN ITS SERVICE PLAN.

### 10. ADMINISTRATIVE PROCESS FOR VARIATIONS AND CHANGES TO PUD MASTER PLAN

THE PUD MASTER PLAN EXHIBITS AND DRAWINGS ASSOCIATED WITH THIS PUD DEMONSTRATE GENERAL LOCATIONS OF ROADS, LAND USE LOCATIONS, OPEN SPACE AREAS, AND OTHER MASTER PLAN ELEMENTS. THE LINES, NOTES, AND GRAPHICS SHOWN REPRESENT DESIGN CONCEPTS AND IDEAS THAT WILL EVOLVE AND CHANGE UNTIL FINAL BUILD OUT. THIS PUD DOCUMENT WITH EXHIBITS WILL SERVE AS THE GUIDING DOCUMENT FOR THE POUFRE HEIGHTS COMMUNITY. WITH THE APPROVAL OF THIS PUD, SOME FLEXIBILITY WILL BE ALLOWED AS DESCRIBED IN THIS DOCUMENT AS DEFINED IN THIS SECTION.

THEREFORE, THE PROPOSED LAND USE BOUNDARIES, FINAL PLANNING AREA BOUNDARIES (I.E. CONFIGURATIONS AND SHAPES), LOT LINES, ROAD LOCATIONS, SIGNAGE LOCATIONS, OPEN SPACE AREAS AND LOCATIONS, DENSITIES, PLANNING AREA ACREAGES, PLANNING AREA LINES, AND FLOOR AREA RATIOS (FARS) WILL BE ALLOWED TO CHANGE BY UP TO 10% WITHOUT THE NEED TO AMEND THIS PUD WITHIN INDUSTRIAL AND MIXED USE PLANNING AREAS. RESIDENTIAL MAY CHANGE WITHOUT ANY AMENDMENT TO THE PUD IF LESS THAN 30% CHANGE FROM THE TOTAL ACREAGE OF EACH PLANNING AREA. RESIDENTIAL UNITS THAT ARE NOT UTILIZED WITHIN A DEFINED PLANNING AREA CAN BE TRANSFERRED INTO OTHER LAND USE PLANNING AREAS AS LONG AS THE TOTAL UNIT MAXIMUM AND DENSITY FOR THE OVERALL PROJECT IS NOT EXCEEDED. THERE ARE NO MINIMUM UNIT REQUIREMENTS ON A GIVEN PLANNING AREA. IN NO EVENT WILL A TOTAL ALLOWABLE UNIT BE EXCEEDED AT THE POUFRE HEIGHTS COMMUNITY WITHOUT AN AMENDMENT OF THE PUD. THE CHANGES AND VARIATIONS CAN BE ADMINISTRATIVELY APPROVED BY THE CITY WITHOUT AMENDING THIS PUD.

### 11. DEVELOPMENT IN HILLSIDE DESIGNATED AREAS

SOME BLUFF AREA EXISTS IN THE NORTHERN PART OF THE PROPERTY AS SHOWN ON THE EXISTING CONDITIONS PLAN. MUCH OF THE STEEPER SLOPES WILL BE PRESERVED IN OPEN SPACE AND WILL FOLLOW THE CITY OF GREELEY HILLSIDE DEVELOPMENT STANDARDS AS AMENDED. SOME PARTS OF THE SITE HAVE SLOPES OVER 25% AND SHALL ALLOW MINIMAL GRADING WITHIN THE LAND USE AND OPEN SPACE PLANNING AREAS DEFINED ON THIS PUD. ALL AREAS DISTURBED BY GRADING SHALL BE RESTORED AND RE-VEGETATED.

## GENERAL DEVELOPMENT STANDARDS AND PROVISIONS

# POUDRE HEIGHTS

**DESIGNATION MATRIX**

LAND USES	I-L	MU	MU	MU	MU	R-M	R-L	C-D
PARCELS	PA-B	PA-C	PA-D	PA-E	PA-F	PA-G	PA-H	PA-I
<b>RESIDENTIAL USES</b>								
SINGLE-FAMILY DWELLING		P	P	P	P	P	P	
TWO-FAMILY DWELLINGS		P	P	P	P	P		
ROW HOUSING DWELLINGS		P	P	P	P	P		
MULTI-FAMILY DWELLINGS		P	P	P	P			
MIXED-USE DWELLINGS		P	P	P	P			
ACCESSORY DWELLING UNIT		P	P	P	P	P	P	
BOARDING HOUSE & SINGLE ROOM OCCUPANCIES		P	P	P	P			
FARMING	P	P	P	P	P	P	P	P
RESIDENTIAL CARE	P	P	P	P	P			
<b>PUBLIC &amp; CIVIC USES</b>								
ASSEMBLY		P	P	P	P			
CEMETERIES, COLUMBARIUM	P							
GOLF COURSE & COUNTRY CLUBS (NO LIGHTS)	P	P	P	P	P	P	P	
LIBRARIES, MUSEUMS, PUBLIC OR QUASI-PUBLIC	P	P	P	P	P	S	S	
POLICE, FIRE STATIONS, AMBULANCE DISPATCH & STORAGE	P	P	P	P	P	S	S	
PARKS, OPEN SPACE & COMMON AREAS	* SEE SECTION 24-302 AND 24-504 FOR STANDARDS APPLICABLE.							
SCHOOLS		P	P	P	P	P	P	
TRANSPORTATION (EXCLUDES HELIPAD)	P	P	P	P	P	S	S	
UTILITIES	P	P	P	P	P			
<b>COMMERCIAL USES</b>								
ANIMAL CARE	P	P	P	P				
AUCTION HOUSES (EXCLUDES LIVESTOCK)	P							
AUTOMOBILE - GAS STATION	P	P	S	P	P			
AUTOMOBILE - REPAIR/SERVICE	P	P	S	P	P			
AUTOMOBILE - SALES/RENTAL	P							
CHILD CARE	P	P	P	P	P	P		
DRIVE-THROUGH SERVICES - ACCESSORY	* SEE SECTION 24-403.E.							
ENTERTAINMENT / EVENT ESTABLISHMENTS	P	P	P	P	P			
FOOD & BEVERAGE - BAR, BREWERY OR WINERY	P	P	P	P	P			
FOOD & BEVERAGE - RESTAURANT	P	P	P	P	P			
HOME OCCUPATION - ACCESSORY	* SEE SECTION 24-403.C							
LODGING - SHORT TERM RENTAL						P	P	
LODGING - OTHER		P	P	P	P			
MEDICAL	P	P	P	P	P			
MORTUARIES AND FUNERAL HOMES	P	P	P	P	P			
OFFICE	P	P	P	P	P			
PAWN SHOPS	P							
PERSONAL SERVICE	P	P	P	P	P			
RECREATION	P	P	P	P	P	P	P	P
RETAIL	P	P	P	P	P			
<b>INDUSTRIAL USES</b>								
AUTO DISMANTLING, JUNK & SALVAGE YARDS	S							
COMMERCIAL SERVICES	P	P	P	P	P			
FOUNDARIES	P							
MANUFACTURING	P	S		S				
OIL & GAS OPERATIONS	* SEE SECTION 24-1102 FOR STANDARDS AND PROCEDURES.							
RESEARCH & TESTING LABS	P	S		S				
WAREHOUSING - INDOOR	P	S		S				
WAREHOUSING - OUTDOOR	P	S		S				
WIRELESS COMMUNICATIONS FACILITIES	* SEE SECTION 24-1101 FOR STANDARDS AND PROCEDURES.							
(*) REFERENCE TO CODE SHALL BE CITY CODE AS AMENDED AS CODE IS SUBJECT TO CHANGES.								

LAND USE DESIGNATIONS AND MATRIX

POUDRE HEIGHTS

SINGLE FAMILY DETACHED RESIDENTIAL			
RESIDENTIAL LAND USE DEVELOPMENT STANDARDS MATRIX			
STANDARDS	LDR	MDR	SLR*
MINIMUM LOT SIZE	4500'	3500'	1200'
MINIMUM LOT FRONTAGE [NOTE 2 & 4]	45'	35'	20'
MINIMUM CORNER LOT FRONTAGE [NOTE 2 & 4]	55'	45'	25'
PARKING REQUIREMENTS	[NOTE 1]	[NOTE 1]	[NOTE 1]
MAXIMUM HEIGHT	30'	30'	30'
LOT COVERAGE (MAXIMUM)	70%	70%	80%
FLOOR AREA MINIMUM	N/A	N/A	N/A
OPEN SPACE REQUIREMENT	30%	30%	30%
PRIMARY USE			
FRONT SETBACK TO LIVING SPACE [NOTE 10]	15'	10'	5'
FRONT SETBACK TO GARAGE [NOTE 10]	20'	20'	[NOTE 12]
FRONT SETBACK TO SIDE LOADED GARAGE [NOTE 10]	15'	10'	10'
REAR SETBACK - FRONT LOAD [NOTE 9]	15'	15'	5'
REAR SETBACK - ALLEY LOAD GARAGE [NOTE 9]	4'	4'	4'
REAR SETBACK - BLUFFS	50'	50'	N/A
SIDE SETBACK MINIMUM [NOTE 3 & 9]	5'	5'	3'
SIDE SETBACK WITH ACCESS EASEMENT [NOTE 3 & 9]	0'	0'	0'
SIDE (CORNER) SETBACK [NOTE 9]	10'	10'	5'
SIDE (CORNER) SETBACK TO GARAGE DOOR [NOTE 9]	18'	18'	N/A
BUILDING SEPARATION [NOTE 9 & 10]	10'	10'	6'
ACCESSORY USE			
FRONT SETBACK [NOTE 10]	20'	20'	N/A
REAR SETBACK [NOTE 9]	5'	5'	N/A
REAR SETBACK (ALLEY LOAD GARAGE) [NOTE 9]	4'	4'	N/A
SIDE SETBACK [NOTE 9]	5'	3'	N/A
SIDE (CORNER) SETBACK [NOTE 9]	15'	15'	N/A
MAXIMUM HEIGHT	15'	15'	N/A
MAX SQ. FT. PERCENTAGE OF MAIN DWELLING HOUSE [NOTE 11]	30%	30%	30%
*SMALL LOT RESIDENTIAL			

SINGLE FAMILY ATTACHED RESIDENTIAL (TOWNHOME/DUPLEX)		
RESIDENTIAL LAND USE DEVELOPMENT STANDARDS MATRIX [NOTE 5]		
STANDARDS	MDR	MU
MINIMUM LOT SIZE	1200 SF	1200 SF
MINIMUM LOT FRONTAGE [NOTE 2 & 4]	16'	20'
CORNER LOT FRONTAGE [NOTE 2 & 4]	30'	30'
PARKING REQUIREMENTS	[NOTE 1]	[NOTE 1]
GUEST PARKING REQUIREMENTS	[NOTE 1]	[NOTE 1]
MAXIMUM HEIGHT	35'	40'
LOT COVERAGE	70%	70%
FLOOR AREA MINIMUM	900 SF	500 SF
MAXIMUM NUMBER OF UNITS ATTACHED	16	24
OPEN SPACE REQUIREMENT	30%	30%
PRINCIPAL USE		
FRONT SETBACK TO LIVING SPACE [NOTE 10]	12'	10'
FRONT SETBACK TO GARAGE [NOTE 10]	18'	18'
REAR SETBACK [NOTE 9]	10'	10'
REAR SETBACK - ALLEY LOAD GARAGE [NOTE 9]	4'	4'
SIDE SETBACK MINIMUM [NOTE 3 & 9]	5'	5'
SIDE SETBACK WITH EASEMENT [NOTE 3 & 9]	0'	0'
SIDE (CORNER) SETBACK [NOTE 3 & 9]	12'	10'
BUILDING SEPARATION [NOTE 9 & 10]	10'	10'
ACCESSORY USE		
FRONT SETBACK [NOTE 10]	20'	20'
REAR SETBACK (NO GARAGE) [NOTE 9]	5'	5'
REAR SETBACK (GARAGE) [NOTE 9]	4'	4'
SIDE SETBACK [NOTE 9]	5'	5'
SIDE (CORNER) SETBACK [NOTE 9]	15'	15'
MAXIMUM HEIGHT	20'	20'
MAX SQ. FT. PERCENTAGE OF MAIN DWELLING HOUSE [NOTE 11]	30%	30%

MULTI-FAMILY RESIDENTIAL [NOTE 5 & 6]	
LAND USE DEVELOPMENT STANDARDS MATRIX	
STANDARDS	MU
MINIMUM LOT SIZE	NONE
MINIMUM LOT FRONTAGE [NOTE 2 & 4]	NO MIN
PARKING REQUIREMENTS	[NOTE 1]
MAXIMUM HEIGHT	50'
OPEN SPACE REQUIREMENT	20%
PRINCIPAL USE (BUILDING)	
SETBACK FROM ARTERIAL ROAD [NOTE 9 & 10]	20'
SETBACK FROM COLLECTOR ROAD [NOTE 9 & 10]	15'
SETBACK FROM LOCAL ROAD [NOTE 9 & 10]	10'
SEBACK FROM PRIVATE ROAD OR TRACT [NOTE 9 & 10]	10'
SETBACK FROM PARKING LOT [NOTE 9 & 10]	10'
SETBACK FROM PROPERTY LINE [NOTE 9 & 10]	10'
BUILDING SEPERATION [NOTE 9 & 10]	20'
OPEN PARKING SETBACK FROM R.O.W.	15'
ACCESSORY USE	
SETBACK FROM LOCAL [NOTE 9 & 10]	15'
SETBACK FROM PRIVATE [NOTE 9 & 10]	10'
SETBACK FROM PARKING LOT [NOTE 9 & 10]	5'
SETBACK FROM PROPERTY LINE [NOTE 9 & 10]	20'
BUILDING SEPERATION [NOTE 9 & 10]	10'
MAXIMUM HEIGHT	15'
MAX SQ. FT. PERCENTAGE OF MAIN DWELLING HOUSE [NOTE 11]	30%
<small>NOTE: APARTMENT OR CONDO WILL FOLLOW CITY CRITERIA EXCEPT WHERE STANDARDS ARE INCLUDED IN THIS PUD.</small>	

COMMERCIAL [NOTE 7 & 8]	
NON-RESIDENTIAL LAND USE DEVELOPMENT STANDARDS MATRIX	
STANDARDS	MU
MAXIMUM FLOOR AREA RATIO [NOTE 8]	0.4
OPEN SPACE	20%
PARKING REQUIREMENTS	[NOTE 7]
PRINCIPAL USE	
SETBACK FROM ARTERIAL ROAD [NOTE 9 & 10]	50'
SETBACK FROM COLLECTOR ROAD [NOTE 9 & 10]	30'
SETBACK FROM LOCAL ROAD [NOTE 9 & 10]	15'
SETBACK FROM PRIVATE ROAD OR TRACT [NOTE 9 & 10]	10'
SETBACK FROM PARKING LOT [NOTE 9 & 10]	10'
SETBACK FROM PROPERTY LINE [NOTE 9 & 10]	20'
SETBACK FROM SINGLE FAMILY DETACHED [NOTE 9 & 10]	40'
SETBACK FROM SINGLE FAMILY ATTACHED [NOTE 9 & 10]	20'
SETBACK FROM MULTI-FAMILY [NOTE 9 & 10]	20'
MAXIMUM HEIGHT	50'
BUILDING SEPERATION [NOTE 9 & 10]	20'
SURFACE PARKING SETBACK FROM ROAD	20'
ACCESSORY USE	
SETBACK FROM COLLECTOR [NOTE 9 & 10]	30'
SETBACK FROM LOCAL [NOTE 9 & 10]	15'
SETBACK FROM PRIVATE [NOTE 9 & 10]	10'
SETBACK FROM PARKING LOT [NOTE 9 & 10]	10'
SETBACK FROM PROPERTY LINE [NOTE 9 & 10]	35'
MAXIMUM HEIGHT	25'

#### LAND USE DEVELOPMENT STANDARDS NOTES:

- REQUIRED PARKING SHALL MEET THE CITY OF GREELEY LAND DEVELOPMENT CODE PARKING STANDARDS, AS AMENDED, IF NOT COVERED BY THESE GUIDELINES. SHARED PARKING SHALL BE ALLOWED IN INSTANCES WHERE APPROPRIATE. SEE PARKING SECTION IN THIS DOCUMENT FOR DETAILS.
- LOT FRONTAGE MEASURED AT THE FRONT YARD SETBACK.
- A ZERO LOT LINE MAY BE UTILIZED WHEN A MAINTENANCE EASEMENT AND SIDE YARD EASEMENT ARE EXECUTED, SUBJECT TO IBC REQUIREMENTS.
- LOT FRONTAGE ON A CUL-DE-SAC MAY BE REDUCED BY TEN FEET (10').
- STANDARDS ARE PROVIDED FOR DUPLEX AND TOWNHOME USES. A DENSITY IS ALLOWED UP TO 12 DU/AC FOR ANY PROPOSED DUPLEX OR TOWNHOME PARCEL, HOWEVER, THE TOTAL DENSITY FOR THE ENTIRE PROJECT SHALL NOT EXCEED THE MAXIMUM DENSITY ALLOWED THE OVERALL PROJECT. HIGHER DENSITY APARTMENT AND CONDO PRODUCTS SHALL FOLLOW THE MULTI-FAMILY STANDARDS.
- MULTI-FAMILY STANDARDS ARE PROVIDED FOR APARTMENTS AND CONDOS. - FOR THE MIXED USE PARCELS, A DENSITY IS ALLOWED UP TO 24 DU/AC FOR ANY PROPOSED MULTI-FAMILY PARCEL, HOWEVER, THE TOTAL DENSITY FOR THE ENTIRE PROJECT SHALL NOT EXCEED THE MAXIMUM DENSITY ALLOWED FOR THE OVERALL PROJECT. STANDARDS FOR DUPLEX AND TOWNHOME PRODUCT ARE PROVIDED WITHIN THE SINGLE FAMILY ATTACHED STANDARDS.
- COMMERCIAL PARKING REQUIREMENTS SHALL FOLLOW THE CITY OF GREELEY LAND DEVELOPMENT CODE, AS AMENDED.
- COMMERCIAL FAR (FLOOR AREA RATIO) SHALL NOT EXCEED 0.4 FAR.
- ALLOWED SIDE & REAR ENCROACHMENTS: DECKS, STAIRS, COUNTERFORTS & WINDOW WELLS (3') - EAVES & BAY WINDOWS (2') - SIDING & CLADDING (0.5').
- ALLOWED FRONT ENCROACHMENTS: PORCHES, DECKS & STAIRS (5') - EAVES & BAY WINDOWS (2') - SIDING & CLADDING (0.5').
- MAXIMUM SQUARE FOOT PERCENTAGE IS THE PERCENT OF THE TOTAL LOT AREA.
- 10' WHEN NO GARAGE, 20' WITH GARAGE

#### GENERAL NOTES:

NOTE: ALL SETBACKS ARE MEASURED FROM R.O.W., PROPERTY LINE OR ALLEY.

INDUSTRIAL LOW INTENSITY	
INDUSTRIAL LAND USE DEVELOPMENT STANDARDS MATRIX	
STANDARDS	ILI
LOT SIZE RESTRICTION	NONE
ROAD WIDTH (LOCAL INDUSTRIAL ROAD)	37' / 50'
OPEN SPACE - % OF SITE	10%
SIDEWALK WIDTH (LOCAL ROADS - BOTH SIDES)	5'
PARKING	[NOTE 1]
LOT COVERAGE - MAX.	90%
BUILDING, STRUCTURE AND PROPERTY LINE SETBACKS	25'
BUILDING AND STRUCTURE HEIGHT	40'
SETBACK FROM ALL STREET TYPES [NOTE 9 & 10]	25'

LEGEND	
LDR	LOW DENSITY RESIDENTIAL
MDR	MEDIUM DENSITY RESIDENTIAL
SLR	SMALL LOT RESIDENTIAL
MU	MIXED-USE
ILI	INDUSTRIAL LOW INTENSITY

## SITE DEVELOPMENT STANDARDS

# POUDRE HEIGHTS

**NON-RESIDENTIAL ARCHITECTURAL STANDARDS AND GUIDELINES**

NON-RESIDENTIAL STANDARDS AND GUIDELINES WILL MEET CITY CODE AS AMENDED.

**SINGLE-FAMILY DETACHED RESIDENTIAL (LOW AND MEDIUM DENSITY)**

THE POUFRE HEIGHTS COMMUNITY SINGLE-FAMILY DETACHED RESIDENTIAL HOMES WILL BE GUIDED BY THESE GENERAL DESIGN AND ARCHITECTURAL STANDARDS TO ENSURE QUALITY AND COMPATIBILITY WITHIN AND THROUGHOUT THE COMMUNITY.

1. HOMES IN THIS DISTRICT SHALL BE STANDARD CONSTRUCTION, SINGLE FAMILY, DETACHED HOMES. HOUSES SHALL BE OF STANDARD WOOD FRAME CONSTRUCTION.
2. **SEE THE RESIDENTIAL LAND USE DEVELOPMENT STANDARDS MATRIX FOR ALL MINIMUM LOTS SIZE, LOT FRONTAGE, PARKING REQUIREMENTS, BUILDING HEIGHTS, AND ACCESSORY USE STANDARDS.**
3. THE ROOFS MUST HAVE A MINIMUM PITCH SLOPE OF 4 ON 12. ALL OTHER ROOFS, ALONG WITH ALL ASPECTS OF ALL EXTERIOR IMPROVEMENTS MADE TO ANY PROPERTY IN THE POUFRE HEIGHTS COMMUNITY, MUST BE APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE IN WRITING PRIOR TO COMMENCEMENT OF CONSTRUCTION.
4. MINIMUM OF TWO DIFFERENT MATERIALS ON THE FRONT ELEVATION AND ANY ELEVATION VISIBLE FROM A ROAD. OPTIONS INCLUDE BRICK, SIMULATED OR REAL STONE, STUCCO, SIDING OR OTHER APPROPRIATE MATERIALS.
5. MINIMUM OF TWO DIFFERENT COLORS ON EACH HOME AND NO TWO ADJACENT HOUSES MAY SHARE THE SAME COLOR PACKAGE.
6. ONE DETACHED GARAGE APARTMENT AND/OR CARRIAGE HOUSE SECONDARY HOUSE UNIT SHALL BE ALLOWED WITHIN THE SINGLE-FAMILY RESIDENTIAL DISTRICTS AS LONG AS THE STRUCTURE IS NOT TALLER IN HEIGHT THAN THE MAIN DWELLING HOUSE OR 15', WHICHEVER IS LESS. DETACHED GARAGE APARTMENT AND/OR CARRIAGE HOUSE SECONDARY HOUSE UNIT SHALL BE NO MORE THAN 30% OF THE SQUARE FOOTAGE OF THE MAIN DWELLING HOUSE.
7. PERMANENT FOUNDATIONS SHALL BE REQUIRED.

**ARCHITECTURAL FEATURES AND OPTIONS**

BUILDERS WITHIN THE POUFRE HEIGHTS COMMUNITY MUST IMPLEMENT NO LESS THAN 2 OF OF THE FOLLOWING ARCHITECTURAL TREATMENTS. THE DRC (DEVELOPMENT REVIEW COMMITTEE) WILL HAVE FINAL APPROVAL.

- MASONRY MAY BE USED AS AN EXCLUSIVE MATERIAL ON THE FRONT ELEVATION AND SHALL WRAP AROUND THE FRONT FAÇADE OF THE HOME BY AT LEAST TWO FEET OR UP TO THE SIDE-YARD FENCE.
- USE OF VARIOUS ARCHITECTURAL STYLES FOR EACH PRODUCT
- VARYING LOCATIONS AND PROPORTIONS OF FRONT PORCH ON THE SAME BLOCK.
- VARYING LOCATION AND PROPORTIONS OF GARAGE DOORS
- VARIATIONS IN THE FRONT PLANE AND ROOFLINE
- USE OF ROOF DORMERS.
- VARIATION OF BUILDING TYPES: RANCH, TWO-STORY AND SPLIT LEVEL.
- WALKOUT BASEMENTS.
- VARIOUS WINDOW SHAPES THAT ARE SUBSTANTIALLY DIFFERENT, INCLUDING BAY WINDOWS
- WINDOWS WITH GRIDS OR OTHER ENHANCED TREATMENT ON ALL FOUR ELEVATIONS.
- FRONT OR SIDE PORCH W/ A MIN. DEPTH OF 5' AND A MIN. FLOOR AREA OF 50 SF
- DECORATIVE SHUTTERS ON 80% OF THE STREET-FACING WINDOWS
- SECOND STORY PORCH, FRONT OR SIDE PORCHES
- ROOF OVERHANG ON THE FRONT ELEVATION W/DECORATIVE BRACKETS, BEAMS, OR EXPOSED RAFTER ENDS.
- FRONT PORCH LIGHTS
- MORE THAN ONE TREATMENT FOR THE PREDOMINANT SIDING SUCH AS ENGINEERED WOOD, CEDAR, OR OTHER SIDING MATERIAL
- ROOFS MAY BE ASPHALT, SLATE, CLAY OR CONCRETE TILE, ARCHITECTURAL METAL, OR DIMENSIONAL ASPHALT SHINGLES

**SINGLE-FAMILY ATTACHED RESIDENTIAL (TOWNHOME/DUPLEX OR PAIRED)**

THE POUFRE HEIGHTS COMMUNITY SINGLE-FAMILY ATTACHED (TOWNHOME/DUPLEX) RESIDENTIAL HOMES SHALL BE GUIDED BY THESE GENERAL DESIGN AND ARCHITECTURAL STANDARDS TO ENSURE QUALITY AND COMPATIBILITY WITHIN AND THROUGHOUT THE COMMUNITY.

1. HOMES IN THIS DISTRICT SHALL BE STANDARD CONSTRUCTION, SINGLE-FAMILY ATTACHED (TOWNHOME/DUPLEX) HOMES.
2. **SEE THE RESIDENTIAL LAND USE DEVELOPMENT STANDARDS MATRIX FOR ALL MINIMUM LOTS SIZE, LOT FRONTAGE, PARKING REQUIREMENTS, BUILDING HEIGHTS, FLOOR AREA MINIMUM, AND ASSESSOR USE STANDARDS.**
3. THE ROOFS MUST HAVE A MINIMUM PITCH SLOPE OF 4 ON 12. ALL OTHER ROOFS, ALONG WITH ALL ASPECTS OF ALL EXTERIOR IMPROVEMENTS MADE TO ANY PROPERTY IN THE POUFRE HEIGHTS COMMUNITY, MUST BE APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE IN WRITING PRIOR TO COMMENCEMENT OF CONSTRUCTION.
4. THE PRINCIPAL EXTERIOR ON THE FRONT FAÇADE OF THE HOME FACING THE PUBLIC STREET FOR ALL RESIDENTIAL STRUCTURES SHALL BE AT LEAST 30 PERCENT (30%) MASONRY AND THE OTHER 70 PERCENT (70%) BALANCE OF THE EXTERIOR MAY BE OF FRAME, WOOD, SHINGLES OR OTHER MATERIAL, WHICH MUST BLEND VISUALLY TOGETHER WITH THE MASONRY OR AS APPROVED BY THE ARCHITECTURAL REVIEW COMMITTEE.
5. MINIMUM OF TWO DIFFERENT MATERIALS ON THE FRONT ELEVATION AND ANY ELEVATION VISIBLE FROM A ROAD. OPTIONS INCLUDE BRICK, SIMULATED OR REAL STONE, STUCCO, SIDING OR OTHER APPROPRIATE MATERIALS.
6. PERMANENT FOUNDATIONS SHALL BE REQUIRED.

**ARCHITECTURAL FEATURES AND OPTIONS**

BUILDERS WITHIN THE POUFRE HEIGHTS COMMUNITY MUST IMPLEMENT NO LESS THAN 2 OF THE FOLLOWING ARCHITECTURAL TREATMENTS. THE DRC (DEVELOPMENT REVIEW COMMITTEE) WILL HAVE FINAL APPROVAL.

- MASONRY MAY BE USED AS AN EXCLUSIVE MATERIAL ON THE FRONT ELEVATION AND SHALL WRAP AROUND THE FRONT FAÇADE OF THE HOME BY AT LEAST TWO FEET OR UP TO THE SIDE-YARD FENCE.
- USE OF VARIOUS ARCHITECTURAL STYLES FOR EACH PRODUCT
- VARYING LOCATIONS AND PROPORTIONS OF FRONT PORCH ON THE SAME BLOCK.
- VARYING LOCATION AND PROPORTIONS OF GARAGE DOORS (GARAGES MAY BE REAR-LOADED FOR THE TOWNHOMES)
- VARIATIONS IN THE FRONT PLANE AND ROOFLINE
- USE OF ROOF DORMERS.
- VARIATION OF BUILDING TYPES: RANCH, TWO-STORY AND SPLIT LEVEL.
- WALKOUT BASEMENTS.
- VARIOUS WINDOW SHAPES THAT ARE SUBSTANTIALLY DIFFERENT, INCLUDING BAY WINDOWS
- WINDOWS WITH GRIDS OR OTHER ENHANCED TREATMENT ON ALL FOUR ELEVATIONS.
- FRONT OR SIDE PORCH W/ A MIN. DEPTH OF 5' AND A MIN. FLOOR AREA OF 50 SF
- DECORATIVE SHUTTERS ON 80% OF THE STREET-FACING WINDOWS
- SECOND STORY PORCH, FRONT OR SIDE PORCHES
- ROOF OVERHANG ON THE FRONT ELEVATION W/DECORATIVE BRACKETS, BEAMS, OR EXPOSED RAFTER ENDS.
- FRONT PORCH LIGHTS
- MORE THAN ONE TREATMENT FOR THE PREDOMINANT SIDING SUCH AS ENGINEERED WOOD, CEDAR, OR OTHER SIDING MATERIAL
- ROOFS MAY BE ASPHALT, SLATE, CLAY OR CONCRETE TILE, ARCHITECTURAL METAL, OR DIMENSIONAL ASPHALT SHINGLES

**MULTI-FAMILY RESIDENTIAL**

THE POUFRE HEIGHTS COMMUNITY MULTI-FAMILY BUILDINGS SHALL BE GUIDED BY THESE GENERAL DESIGN AND ARCHITECTURAL STANDARDS TO ENSURE QUALITY AND COMPATIBILITY WITHIN AND THROUGHOUT THE COMMUNITY.

1. **SEE THE RESIDENTIAL LAND USE DEVELOPMENT STANDARDS MATRIX FOR ALL MINIMUM LOTS SIZE, LOT FRONTAGE, PARKING REQUIREMENTS, BUILDING HEIGHTS AND ACCESSORY USE STANDARDS.**
2. MINIMUM OF TWO DIFFERENT MATERIALS ON THE FAÇADE ELEVATIONS VISIBLE FROM A ROAD. OPTIONS INCLUDE BRICK, SIMULATED OR REAL STONE, STUCCO, SIDING OR OTHER APPROPRIATE MATERIALS.
3. COMMON LANDSCAPE AREAS SHALL BE INSTALLED BY THE BUILDER
4. PERMANENT FOUNDATIONS SHALL BE REQUIRED.

**ARCHITECTURAL FEATURES AND OPTIONS**

BUILDERS WITHIN THE POUFRE HEIGHTS COMMUNITY MULTI-FAMILY PLANNING AREAS MUST IMPLEMENT NO LESS THAN 2 OF THE FOLLOWING ARCHITECTURAL TREATMENTS. THE DRC (DEVELOPMENT REVIEW COMMITTEE) WILL HAVE FINAL APPROVAL.

- VARIATIONS IN THE FRONT PLANE AND ROOFLINE
- PORCHES AND BALCONIES FOR AT LEAST 50% OF THE UNITS
- UTILIZING COVERED PARKING FOR A MINIMUM OF 50% OF THE REQUIRED PARKING
- AT LEAST TWO (2) DISTINCT ROOF LINES
- DECORATIVE SHUTTERS ON ALL STREET FACING WINDOWS
- DECORATIVE MATERIAL TREATMENT ON AT LEAST ONE GABLE END FACING THE STREET
- REAL OR SIMULATED CHIMNEYS
- MINIMUM OF TWO (2) PLANES ON REAR AND SIDE ELEVATIONS, EACH PLANE TO HAVE A MIN. 1FT DEPTH VARIATION
- USE OF ROOF DORMERS.

**PRELIMINARY ARCHITECTURAL GUIDELINES****POUDRE HEIGHTS**



**BLUFF SECTION NARRATIVE**  
 IT IS ANTICIPATED THAT THE LARGER LOTS WITHIN THE POUDBRE HEIGHTS COMMUNITY WILL BE LOCATED IN THE NORTHERN PORTION OF THE PROJECT, ADJACENT TO THE BLUFFS PRESERVATION AREA, AS CAN BE SEEN IN THE SECTION EXHIBIT. THIS AFFORDS THE OPPORTUNITY TO TAKE ADVANTAGE OF THE OPEN SPACE FRONTAGE AND ASSOCIATED VIEWS, YET WHILE RESPECTING THE NATURAL TOPOGRAPHY OF THE SITE AND PROTECTING THE BLUFFS. THE EXHIBIT DEMONSTRATES THE RESIDENTIAL LOTS WITH SEPARATION FROM THE HOUSE TO THE PRESERVED BLUFFS. ALSO DEMONSTRATED ON THE SECTION AN AREA FOR A STORM WATER SWALE AND TRAIL ARE SHOWN IN RELATIONSHIP TO THE LOT AND HOME. ALL FENCING USED ALONG THE BLUFFS, OPEN SPACE AND PARKS SHALL BE THREE (3) RAIL OPEN RAIL FENCING. THE BLUFF PRESERVATION TREATMENT PROVIDES AN AVERAGE OF 50' FROM THE REAR OF HOME TO THE TOP OF BLUFFS WHERE THE TOPOGRAPHY INCREASES IN STEEPNESS (I.E. BLUFF EDGE). AS ILLUSTRATED IN THE SECTION WHEN VIEWING FROM THE BOTTOM OF THE SLOPE TO THE TOP OF THE BLUFF THE VISIBILITY OF HOMES IS DIMINISHED AND IN SOME CASES WILL NOT BE SEEN.

**INTRODUCTION**  
 LANDSCAPE GUIDELINES HAVE BEEN CREATED FOR THE POUDBRE HEIGHTS PROPERTY BASED ON CITY CODE. THESE GUIDELINES SHALL HELP PROMOTE A QUALITY DEVELOPMENT THROUGH THE USE OF LANDSCAPE TREATMENTS THROUGHOUT THE COMMUNITY. THE POUDBRE HEIGHTS PLANTING REQUIREMENTS SHALL ADHERE TO THE CITY OF GREELEY CODE AS AMENDED WITHIN THIS PUD DOCUMENT. IN GENERAL, THE LANDSCAPE DESIGN, THEME, AND APPROACH WILL IMPLEMENT A CONTEXT SENSITIVE DESIGN SOLUTION AND THE PROPOSED LANDSCAPE WILL RESPECT THE LANDSCAPE VERNACULAR OF THE REGION. THE FOLLOWING DESCRIBES THE DESIGN, THEME, AND OVERALL APPROACH TO THE LANDSCAPE DESIGN.

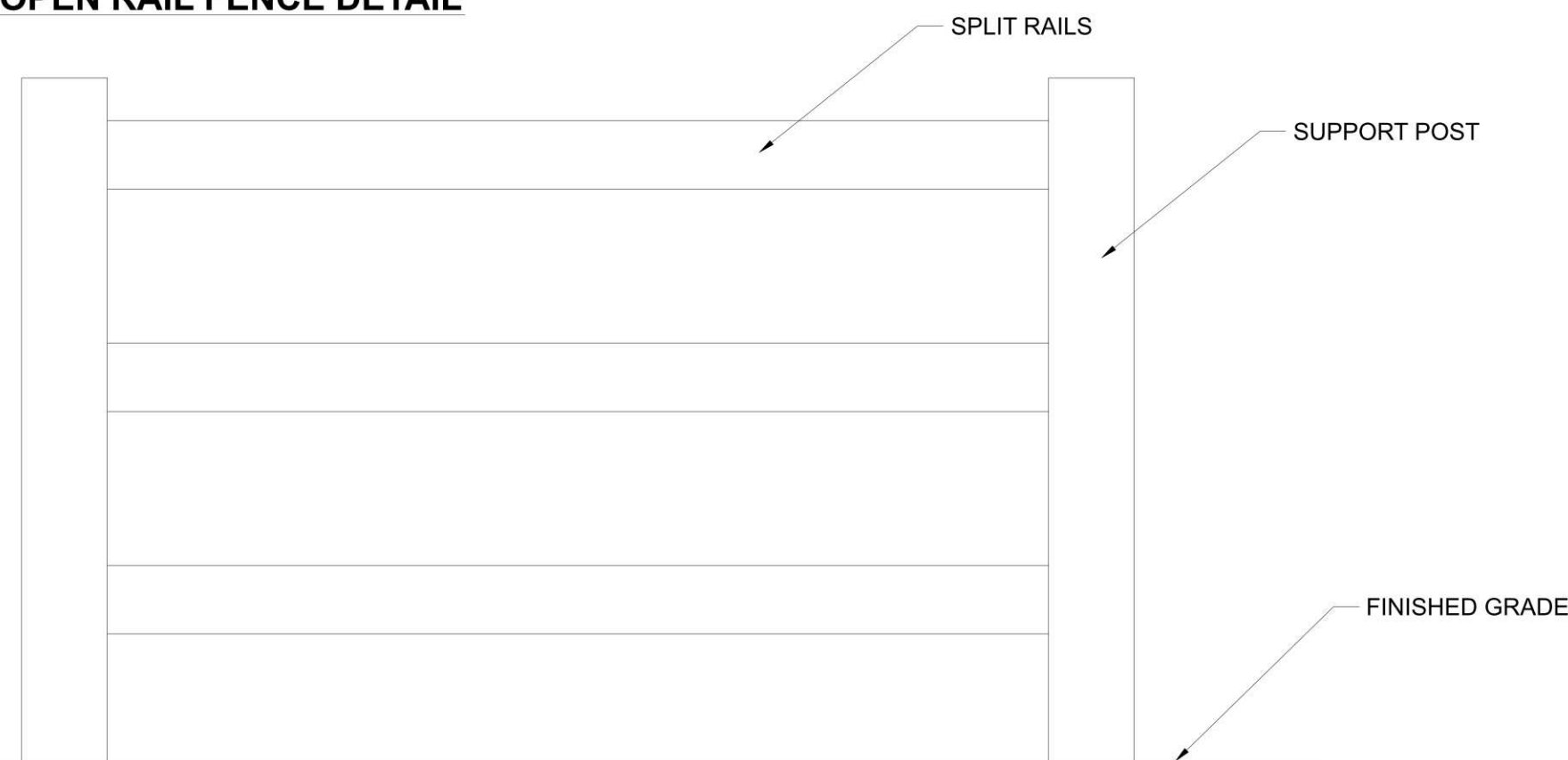
- USE NATIVE PLANTS AS MUCH AS FEASIBLE AND NON-NATIVE PLANTS THAT ARE DROUGHT TOLERANT AND FIT THIS REGION OF COLORADO (WESTERN HIGH PLAINS);
- PRESERVE AND RESTORE THE NATIVE LANDSCAPE, AS MUCH AS FEASIBLE, ALONG THE BLUFF AREAS AND ON THE NORTHERN PART OF THE SITE;
- UTILIZE "SIGNATURE" TREE AND SHRUB PLANT MATERIALS;
- UTILIZE A WATER CONSERVATION LANDSCAPE APPROACH THAT BALANCES AESTHETICS AND WATER WISE LANDSCAPING. LANDSCAPING WILL BE USED THAT REQUIRES MINIMAL IRRIGATION VERSUS IRRIGATED SOD/TURF AREAS. THE GOAL WILL BE TO MINIMIZE TOTAL WATER USAGE IN THE COMMUNITY WITH THE ADDITIONAL TECHNIQUES AND APPROACH:
  - GROUP PLANTS WITH SIMILAR WATER REQUIREMENTS TO PROMOTE EFFICIENCY OF IRRIGATION;
  - PLANT PALETTE CONSISTING OF LOW WATER USE NATIVE AND NON-NATIVE PLANTS;
  - INFILTRATE RAINWATER RUNOFF INTO THE LANDSCAPE (I.E. RAIN GARDENS) IN COMMON OPEN SPACE AREAS WHERE APPROPRIATE AND IF SOILS ARE APPROPRIATE;
  - UTILIZE DRIP IRRIGATION SYSTEMS WHENEVER FEASIBLE;
  - DESIGN FOR A LOW WATER, LOW-MAINTENANCE LANDSCAPE APPROACH;

- MANICURED LANDSCAPES (I.E. IRRIGATED SOD AND PERENNIALS) SHOULD BE LIMITED TO OUTDOOR LIVING AREAS AND ENTRIES WITHIN THE IMMEDIATE OUTDOORS OF THE HOME OR BUSINESSES;
- COLORFUL ACCENT NATIVE AND NON-NATIVE PLANTINGS AT KEY VISIBLE AREAS;
- LARGE GROUPINGS OF NATIVE AND ORNAMENTAL GRASSES, SHRUBS, PERENNIALS, WILDFLOWERS, AND GROUND COVERS;
- LOWER DENSITY RESIDENTIAL AREAS WILL UTILIZE A MORE NATURALIZED AND INFORMAL DESIGN;
- STREET TREE PLANTING WILL BE PROVIDED ALONG ALL PUBLIC STREETS TO ENSURE THAT AN APPROPRIATE MIX OF CHARACTER AND SPECIES DIVERSITY;
- UTILIZE LANDSCAPE FABRIC AND MULCHES (WOOD AND ROCK MULCH) TO RETAIN MOISTURE IN THE LANDSCAPE PLANTING AREAS;
- DRIP IRRIGATION WILL BE PROVIDED TO ALL STREET TREES IN TREE LAWNS AND MEDIANS, THAT DO NOT RECEIVE OVERSPRAY FROM TURF GRASS AREAS;
- TREES, SHRUBS, PERENNIALS, ORNAMENTAL GRASSES, GROUND COVERS, AND VINES SHOULD BE MASSES TO DEFINE OUTDOOR SPACES, REINFORCE THE PRIMARY ENTRY AND ENHANCE THE ARCHITECTURAL DESIGN, THE STREET, AND THE NEIGHBORHOOD;
- SEASONAL LANDSCAPE WILL BE UTILIZED TO PROVIDE SEASONAL COLOR AND INTEREST THROUGHOUT THE YEAR WITH THE GOAL OF MAXIMIZING COLOR AND BLOOM COVERAGE THROUGHOUT THE FOUR SEASONS;
- SOILS WILL BE MODIFIED WHEN NECESSARY TO INCREASE MINERAL AND ORGANIC MATTER CONTENT TO DETERMINE PROPER SOIL AMENDMENTS BASED ON RESULTS OF SOIL TEST.
- MASSING OF PLANTS INTO COHESIVE GROUPS IS HIGHLY RECOMMENDED TO PROVIDE STRONG IMAGES OF TEXTURE, COLOR, AND CONTRAST THROUGHOUT THE COMMUNITY;
- PROPOSED WALL DESIGNS WILL UTILIZE STONE, MASONRY OR APPROPRIATE BUILDING MATERIALS; AND
- FENCING WILL BE DESIGNED TO GENERALLY COORDINATE WITH THE ARCHITECTURAL STYLE, COLOR, AND MATERIALS OF THE ARCHITECTURE. MATERIALS WILL BE OF NATURAL TONES AND INCLUDE WOOD, VINYL, MASONRY OR IRON. THE FINISH WILL BE OF SEMI-TRANSPARENT OR SOLID COLOR STAIN, LATEX ACRYLIC STAIN OR SUITABLE OUTDOOR PAINT.

**RELATIONSHIP TO THE CITY OF GREELEY CODE**  
 THESE LANDSCAPE GOALS AND GUIDELINES FIT WELL WITH THE CITY OF GREELEY CODE, AS AMENDED, REQUIREMENTS AND WITHIN THE REGIONAL CLIMATE (WESTERN HIGH PLAINS SEMI-ARID). THE GOALS AND GUIDELINES AIM TO UTILIZE RESPONSIBLE IRRIGATION TECHNIQUES, WHICH IS ESSENTIAL FOR SUSTAINABILITY. AS DEFINED IN CITY CODE AS AMENDED, THESE LANDSCAPE STANDARDS ARE INTENDED TO ESTABLISH LANDSCAPING REGULATIONS THAT:

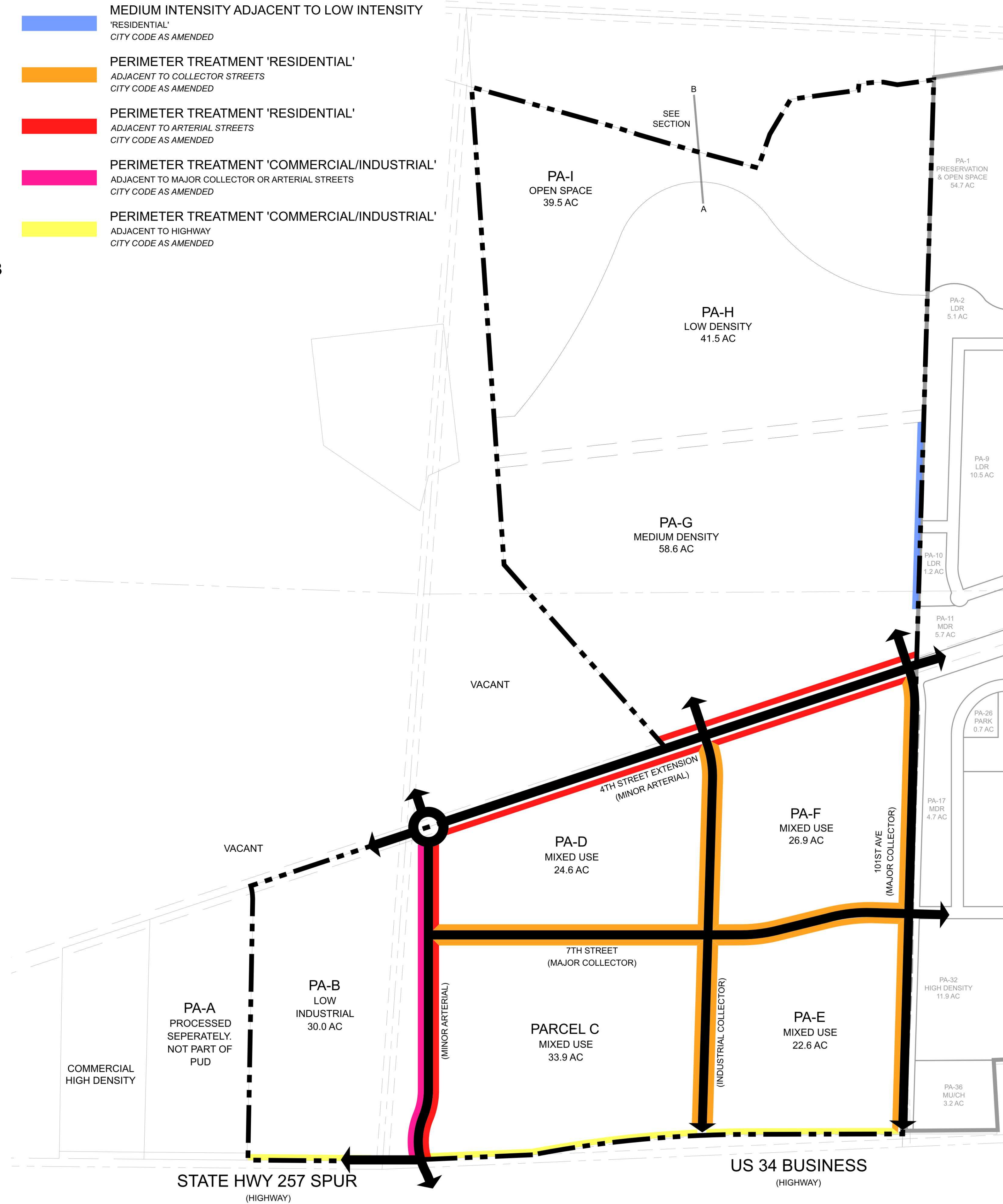
- IMPROVE THE AESTHETIC APPEARANCE OF SETBACK AREAS, COMMON OPEN SPACE AREAS, PUBLIC RIGHTS-OF-WAY, AND OFF-STREET VEHICULAR PARKING AREAS;
- PROMOTE COMPATIBILITY BETWEEN LAND USES OF DIFFERENT INTENSITIES;
- PROMOTE THE USE OF GENERALLY ACCEPTED LANDSCAPE DESIGN PRINCIPLES;
- PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE BY MINIMIZING THE IMPACT OF ALL FORMS OF PHYSICAL AND VISUAL POLLUTION, CONTROLLING SOIL EROSION, SCREENING UNSIGHTLY AREAS, PRESERVING THE INTEGRITY OF NEIGHBORHOODS, AND ENHANCING PEDESTRIAN AND VEHICULAR TRAFFIC AND SAFETY;
- PROMOTE WATER CONSERVATION THROUGH THE USE AND INCORPORATION OF LOW WATER ADAPTIVE VEGETATION AND BY USING WATER CONSERVATION PRINCIPLES;
- PROMOTE SHADED, TREE-LINED STREETS WITHIN ALL AREAS OF THE CITY;
- MAINTAIN THE CITY'S STANDING AS A "TREE CITY USA"; AND
- IMPLEMENT COMPREHENSIVE PLAN POLICY OF REDUCING "HEAT ISLANDS."

**THREE RAIL OPEN RAIL FENCE DETAIL**



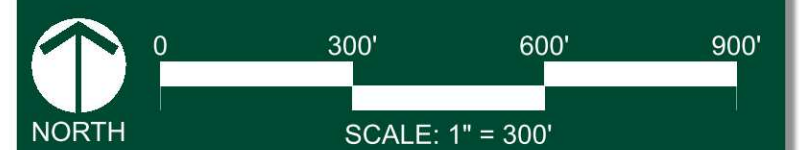
**LEGEND**

- MEDIUM INTENSITY ADJACENT TO LOW INTENSITY 'RESIDENTIAL' CITY CODE AS AMENDED
- PERIMETER TREATMENT 'RESIDENTIAL' ADJACENT TO COLLECTOR STREETS CITY CODE AS AMENDED
- PERIMETER TREATMENT 'RESIDENTIAL' ADJACENT TO ARTERIAL STREETS CITY CODE AS AMENDED
- PERIMETER TREATMENT 'COMMERCIAL/INDUSTRIAL' ADJACENT TO MAJOR COLLECTOR OR ARTERIAL STREETS CITY CODE AS AMENDED
- PERIMETER TREATMENT 'COMMERCIAL/INDUSTRIAL' ADJACENT TO HIGHWAY CITY CODE AS AMENDED



**PRELIMINARY LANDSCAPE MASTER PLAN AND GUIDELINES**

**POUDRE HEIGHTS**



**GENERAL PROVISIONS BASED ON CITY OF GREELEY CODE**

THE POUFRE HEIGHTS COMMUNITY LANDSCAPE GENERAL PROVISIONS UTILIZE THE CITY CODE AS AMENDED, AS THE BASIS OF THE APPROACH AND AS SUMMARIZED BELOW:

- LANDSCAPING SHALL BE PROVIDED TO ENHANCE OPEN SPACE, RECREATION AREAS, BUILDING FOUNDATIONS, AREAS OF LOW VISUAL INTEREST, AND SCREEN AND SHADE STREETS AND SIDEWALKS, PARKING, AND LOADING AREAS;
- THE LANDSCAPE PLAN SHALL USE COLORADO NATIVE PLANT SPECIES THAT ARE DROUGHT TOLERANT AND ARE SUITABLE IN THE COLORADO CLIMATE;
- THE LANDSCAPE PLAN SHALL BE DESIGNED IN CONJUNCTION WITH THE DRAINAGE PLAN FOR THE SUBJECT PROPERTY IN SUCH A MANNER AS TO MAXIMIZE STORM WATER RUNOFF ABSORPTION;
- PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY, ALL ON-LOT LANDSCAPING AND IRRIGATION SHALL BE INSTALLED, IF REQUIRED PURSUANT TO AN APPROVED LANDSCAPE PLAN;
- COMMON AREA LANDSCAPING AND IRRIGATION SHALL BE INSTALLED AROUND THE PERIMETER OF THE BUILDING ENVELOPE, HALFWAY TO THE ADJACENT BUILDING ENVELOPES, PURSUANT TO AN APPROVED LANDSCAPE PLAN PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY;
- IN THE CASE OF USABLE OR COMMON OPEN SPACE LANDSCAPING IN COMMON AREAS BETWEEN LOTS, ALL LANDSCAPING AND IRRIGATION SHALL BE COMPLETED PRIOR TO ISSUANCE OF A BUILDING PERMIT OR AS OTHERWISE APPROVED BY THE CITY IN A DEVELOPMENT AGREEMENT OR PHASING PLAN; AND
- WHEN PHASING DEVELOPMENT, A PROPORTIONATE SHARE OF LANDSCAPING ACCEPTABLE TO THE CITY, AS OUTLINED IN AN APPROVED DEVELOPMENT AGREEMENT OR PLANNED UNIT DEVELOPMENT (PUD) PLAN, SHALL BE INSTALLED AND MAINTAINED WITH EACH PHASE BASED ON THE SIZE OF THE PROPOSED PHASE AND SHALL BE CONSIDERED COMPLETED FOR THE PURPOSES OF THESE REGULATIONS WHEN SUCH PROPORTIONATE SHARE OF LANDSCAPING HAS BEEN INSTALLED PRIOR TO ISSUANCE OF A BUILDING PERMIT.
- GENERAL IRRIGATION REQUIREMENTS SHALL FOLLOW CITY CODE AS AMENDED:
  - (1) AN UNDERGROUND IRRIGATION SYSTEM SHALL BE INSTALLED AND MAINTAINED FOR ALL COMMON AREA IMPROVEMENTS, SUCH AS OUTLOTS, MEDIAN BOULEVARDS, TREE LAWNS, SCREENING, BUFFER YARDS AND PERIMETER TREATMENT AREAS, IN ORDER TO PROVIDE IRRIGATION FOR ALL PLANT MATERIALS, CONSISTENT WITH THE NATURE OF THE PLANT'S IRRIGATION NEEDS.
  - (2) SPRINKLERS SHALL BE PLACED SO AS NOT TO THROW WATER ONTO ADJACENT PAVED OR HARDSCAPED SURFACES.
  - (3) GREEN INDUSTRY BEST MANAGEMENT PRACTICES FOR THE CONSERVATION AND PROTECTION OF WATER RESOURCES IN COLORADO, PREPARED BY GREEN INDUSTRIES OF COLORADO (GREENCO), AND KEPT ON FILE IN THE CITY'S WATER DEPARTMENT, ARE GUIDELINES FOR THE CONSERVATION OF WATER RESOURCES AND PROTECTION OF WATER QUALITY AND ARE STRONGLY ENCOURAGED TO BE FOLLOWED.
  - (4) ALL MULTI-FAMILY, COMMERCIAL, INDUSTRIAL, MIXED USE AND INSTITUTIONAL PROPERTIES SHALL INSTALL RAIN SENSORS. REFER TO THE CITY'S WATER AND SEWER DEPARTMENT STANDARDS FOR MORE INFORMATION.

THE FOLLOWING PLANTING REQUIREMENTS, PER CITY CODE AS AMENDED, SHALL BE UTILIZED:

1. AT LEAST FIFTY PERCENT (50%) OF ANY REQUIRED YARD, EXCLUDING DRIVEWAY AND WALKWAY TO THE FRONT DOOR, SHALL CONTAIN LIVE PLANTINGS.
2. AT LEAST FIFTY PERCENT (50%) OF ANY PARKWAY OR RIGHT-OF-WAY PLANTING AREA, EXCLUDING DRIVEWAYS AND PUBLIC SIDEWALKS, SHALL CONTAIN LIVE PLANTINGS.
3. ALL YARDS NOT COVERED BY AN APPROVED BUILDING, DRIVEWAY, WALKWAY OR OTHER PERMANENT STRUCTURE SHALL BE LANDSCAPED.
4. FOR SINGLE-FAMILY AND TWO-FAMILY LOTS ONE (1) ACCEPTABLE STREET TREE PER RESIDENTIAL LOT STREET FRONTAGE IS REQUIRED. IF UTILITIES OR OTHER OBSTACLES MAKE PLACEMENT OF A STREET TREE IN THE RIGHT-OF-WAY NOT FEASIBLE, A SHADE TREE SHALL BE INSTALLED IN THE FRONT YARD.
5. FOR MULTI-FAMILY, COMMERCIAL, AND MIXED USE LAND USES - THE RIGHT-OF-WAY OR PARKWAY SHALL CONSIST OF ACCEPTABLE SHADE TREES PLANTED BETWEEN THE CURB AND SIDEWALK, OR WITHIN TEN (10) FEET OF THE BACK OF THE SIDEWALK IN THE CASE OF AN ATTACHED SIDEWALK, AT A REGULAR SPACING OF THIRTY-FIVE (35) FEET ON CENTER FOR SHADE TREES AND TWENTY-FIVE (25) FEET ON CENTER FOR ORNAMENTAL TREES.
6. WHERE TREES ARE NOT ALREADY REQUIRED PURSUANT TO CITY CODE, ONE (1) ADDITIONAL SHADE OR EVERGREEN TREE SHALL BE PROVIDED FOR EVERY TWO THOUSAND (2,000) SQUARE FEET OR FRACTION THEREOF OF COMMON OPEN SPACE. TWO (2) ORNAMENTAL TREES MAY BE SUBSTITUTED FOR EACH SHADE OR EVERGREEN TREE. LAKES OR OTHER WATER AREAS MAY BE EXCLUDED FOR PURPOSES OF CALCULATING REQUIRED TREE QUANTITIES.
7. FOR BUFFER REQUIREMENTS SEE THE PRELIMINARY LANDSCAPE MASTER PLAN.
8. FOR PARKING LOT LANDSCAPING STANDARDS CITY CODE AS AMENDED, SHALL BE FOLLOWED.
9. FOR PERIMETER LANDSCAPING CITY CODE AS AMENDED, PERIMETER TREATMENT SHALL BE FOLLOWED.

**THE POUFRE HEIGHTS COMMUNITY SIGNAGE**

THE NARRATIVE PROVIDED HERE WITHIN AND CITY CODE, AS AMENDED, WILL BE USED TO GUIDE SIGNAGE WITHIN THE POUFRE HEIGHTS COMMUNITY INCLUDING SIGN STANDARDS THAT ADDRESS SIZE, HEIGHT, DESIGN, LIGHTING, COLOR, MATERIALS, LOCATION, AND METHOD OF CONSTRUCTION OF ALL SIGNAGE TO ENSURE THAT ALL SUCH SIGNAGE IS DESIGNED IN A HARMONIOUS AND COMPATIBLE MANNER. ABSENT A SPECIFIC SIGN PLAN OR STANDARDS IN THIS DOCUMENT, THE CITY WILL APPLY SIGN STANDARDS CLOSEST TO THE ZONE DISTRICT THE PUD LAND USES REPRESENT.

THE CONTROL AND PLACEMENT OF ALL SIGNS IS ESPECIALLY IMPORTANT TO THE AESTHETIC HARMONY OF THE POUFRE HEIGHTS COMMUNITY. A CRITICAL COMPONENT OF A COHESIVE COMMUNITY IS THE SENSE OF PLACE AND IDENTITY. APPROVAL OF THIS PUD IS INTENDED TO PERMIT THE NUMBER AND LOCATIONS FOR THE PRIMARY INTERSECTIONS AND ENTRANCES TO THE COMMUNITY. PER CITY CODE AS AMENDED, THE PROPOSED SIGNS THAT REQUIRE A SIGN PERMIT ARE:

- (1) AWNING SIGN
- (2) CANOPY SIGN
- (3) ELECTRONIC MESSAGING DISPLAY
- (4) FREESTANDING AND MONUMENT SIGN
- (5) PROJECTING WALL SIGN
- (6) WALL SIGN.

THEREFORE, FOR THE POUFRE HEIGHTS COMMUNITY, THE FOLLOWING DETAILS OF SIGNAGE ARE PROPOSED. WHERE NOT ADDRESSED HERE, CITY CODE AS AMENDED WILL DICTATE THE SIGNAGE:

- MAIN ENTRANCE SIGNAGE IS INTENDED TO BE AN ARCHITECTURAL FEATURE WITH THE COMMUNITY LOGO TO CREATE A SENSE OF ARRIVAL AND IDENTIFY FOR THE PROJECT. UP TO TWO (2) MAIN ENTRANCE SIGNS ARE ALLOWED UP TO A MAXIMUM HEIGHT OF 20' (FOR A VERTICAL FEATURE) AND WIDTH OF 40'. 500 TOTAL SQUARE FEET IS THE MAXIMUM ALLOWABLE FOR MAIN ENTRANCE SIGNS. THESE SIGNS WOULD BE PLACED ALONG 10TH STREET.
- RESIDENTIAL SUBDIVISION ENTRANCE SIGNS (I.E. FREE-STANDING MONUMENT SIGNS FOR INDIVIDUAL NEIGHBORHOODS) - UP TO EIGHT (8) FREESTANDING MONUMENT SIGNS ARE ALLOWED. THE SIGNS WILL IDENTIFY THE SECONDARY ACCESS POINTS TO THE INDIVIDUAL NEIGHBORHOODS WITHIN THE OVERALL COMMUNITY. THESE SIGNS WILL BE SMALLER IN SCALE WHILE REMAINING CONSISTENT WITH THE THEME OF THE OVERALL SIGN PROGRAM. THESE SIGNS WILL HAVE A MAXIMUM HEIGHT OF 10' AND WIDTH OF 20' AND NOT EXCEED 200 TOTAL SQUARE FEET.

INDIVIDUAL NON-RESIDENTIAL LOTS ALONG 10<sup>TH</sup> STREET MAY REQUEST ADDITIONAL FREESTANDING MONUMENT SIGNS AND MULTI-TENANT SIGNS. ANY ADDITIONAL FREESTANDING SIGNS MUST COMPLY WITH THE SIGN DESIGN AND QUANTITY STANDARDS DESCRIBED IN CITY CODE AS AMENDED.

## LANDSCAPE GUIDELINES

## POUDRE HEIGHTS



**PROJECT THEME AND AMENITIES**

THE Poudre Heights Community Theme will be focused on the wide range of wildlife that calls Greeley home, yet a contemporary or modernistic twist will be applied to the various features. It seems fitting that the term 'heights' will be a nod to the majestic trees and revered raptors that patrol the skies above. In addition to the state tree, fish, and bird, the following names can be drawn from:

- ROUGH-LEG (HAWK)
- PEREGRINE (FALCON)
- BALD EAGLE
- LARK (HORNED, ETC.)
- BURROWING OWL
- LONGSPUR
- RED-TAILED (HAWK)
- GOLDEN EAGLE
- GREENBACK (CUTTHROAT TROUT)
- LOGGERHEAD
- PONDEROSA
- MAPLE
- AMUR
- ACER
- JUNIPER
- SPRUCE
- SAGE
- RAINBOW (TROUT)

At various intersections and local nodes, sleek sculptures and plaques will acknowledge the namesake of the area. To further honor the history of this area, the vision is to name parks, streets, and pavilion overlooks using features from the plants and animals native to Greeley and the front range. Natural materials will be used but in a modern rustic matter. Some potential naming of features could be based on the species listed earlier and naming convention may follow terms that highlight the keystone species that one may find in their own community:

- BIRD'S EYE VIEWPOINT
- THE BURROW
- VULTURE CIRCLE RIDGE
- COLUMBINE COURTYARD
- PONDEROSA POINT
- RAINBOW RIDGE
- CUTTHROAT POINT
- BROOK TROUT GULLEY
- CROPPIE CREEK
- EAGLE'S NEST OVERLOOK
- LARK LAWN

Other names may be utilized in naming within Poudre Heights based on the state symbols including:

- TIGER SALAMANDER (STATE AMPHIBIAN)
- BIGHORN SHEEP (ANIMAL)
- CLARET CUP CACTUS (PLANT)
- STEGOSAURUS (FOSSIL)
- BLUE GRAMA (GRASS)
- HAIRSTEAK (INSECT)
- PAINTED TURTLE (REPTILE)

Neighborhood names of sub-communities (neighborhoods) within Poudre Heights will derive from these names and will be marked by naturalistic or rustic signage that mimics the main entry feature design. For example, Columbine Prairie could be a housing area with an elegant well-lit sculpture or stencil laser-cut steel sheet with a single columbine or simple modern scene of the iconic flower set before an open prairie. Each neighborhood will be uniquely named and will offer a distinct living environment from higher density living on the south area and where other land uses are proposed. For example, the industrial area will have a varied yet cohesive feel and character from the commercial and mixed-use parcels.

There is also an opportunity to join the divisions of Poudre Heights through a family of modern sculptures. Commissioning a single artist or guild to create a series of pieces of a similar modern composition would accomplish this unity. The artist would be directed towards using metal or natural materials in a way that invokes a modern feel. This would demonstrate a proud statement that reflects the adoration Coloradoans share for our natural environment.

**COMMUNITY TRAILS AND INTERPRETATIVE SIGNAGE**

The open space on the north section of the site absorbs the commanding views of the area and Poudre River Valley and therefore an amenity center has been placed at a prominent location. The amenity center deck and architecture shall take full advantage of the view lines, create a unique experience and provide sufficient direction on natural assets. Trails will connect from that element to the east and west to provide fluidity between developments. The north/south trails through the residential community and parks shall incorporate the same aspects and create a sense of adventure within the development. Designated seating areas shall be strategically placed along the trails for resting and to frame elements of interest. These trails shall be paved to allow ease of travel from 10th Street to the Poudre River features. Further to the north and northeast the existing Poudre River Trail allows access to the section of the river corridor between Greeley and Windsor. The trail is a wide paved path through serene and quiet areas. Interpretative signage at the amenity center and along the trails will educate users about the unique natural assets and features of the immediate area. The community trails will connect the significant open space (minimum of 30% for residential areas) to the greater region and Poudre River Valley. Trails and interpretative signage will be consistent throughout the whole development.

**INCORPORATION OF THE THEME INTO THE COMMUNITY FEATURES:**

Utilizing a context sensitive design solution, the theme will be incorporated into the overall design. The theme will celebrate the rich natural and agricultural legacy of this area and may be integrated in the landscape (parks, trails and open space), community signage, or interpretive signage along trails. The theme will be displayed beginning at the main entrance signage that welcomes you to the community. Project signage will display organic, natural forms including natural stonework and earth tone colors that fit well into the context of the region but will be composed with contemporary style.

**AMENITY CENTER**

The Poudre Heights Amenity Center, mentioned above, will be a central home gathering place capitalizing on the 360° vistas embracing Colorado's essence of the Poudre River Valley. Trails will feed to and from this central and important core gathering place. The architecture and design of this feature will also mimic the naturalistic theme and focus on the "heights" and expansive views of the area. The architecture style will be more naturalistic yet modern with material, construction joinery, composition and more.

**LANDSCAPE, PARKS AND OPEN SPACE**

The landscape palette will be primarily Colorado native plants arranged in naturalistic and flowing forms. The diversity of the topography, existing vegetation and the dramatic vistas provide an opportunity to create a residential community which embraces the inherent beauty of the natural Colorado landscape. Areas within the community offer breathtaking views of the Poudre River Valley and therefore overlooks will be provided in multiple locations as mentioned previously. The proposed landscape improvements within the development are a critical element in the overall visual integrity and aesthetics, therefore, careful attention has been given to the plant palette and design to ensure it will be harmonious with the site.

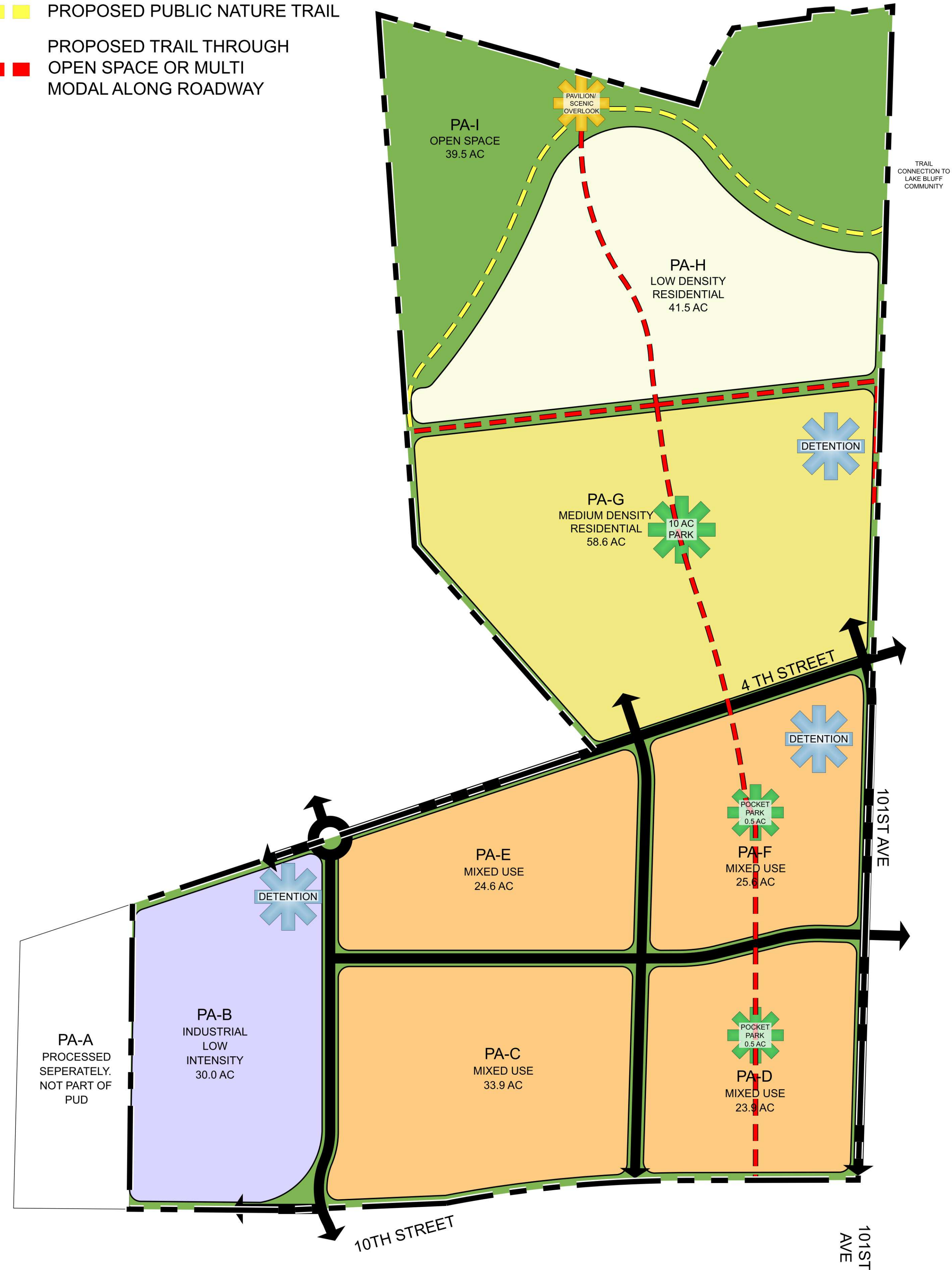
Small and large parks are provided throughout the community all connected with trails that ultimately connect to the Poudre River Trail. The open space system will provide amenities such as:

- AMENITY CENTER
- PARKS
- POCKET PARKS WITH LINKING TRAILS
- PLAYGROUNDS
- OPEN LAWNS
- TRAIL CONNECTIONS

The community theme may be emphasized in the pocket parks and central park by introducing modern programs that reference the site name. For example, if the park were to be dubbed "Lark Creek Park" then various features within the park could emulate the environment of a lark but with a modern twist: a modern-rustic bronze fire ring shaped like a lark's nest, sleek egg-inspired furniture, a modern sculpture of a fluttering lark or many larks in flight. Other nods to Colorado's regal state bird could come in the form of emblems plastered on pergolas or fence posts.

**LEGEND**

- ■ ■ ■ ■ SITE BOUNDARY
- ■ ■ ■ ■ PROPOSED PUBLIC NATURE TRAIL
- ■ ■ ■ ■ PROPOSED TRAIL THROUGH OPEN SPACE OR MULTI MODAL ALONG ROADWAY



**THEME & AMENITIES**

**POUDRE HEIGHTS**

**STREET, PEDESTRIAN AND BIKE CIRCULATION SYSTEM NOTES:**

THE POUDBRE HEIGHTS VEHICULAR AND PEDESTRIAN CIRCULATION SYSTEM PROVIDES ACCESS TO ALL PARTS OF THE PROJECT. ACCESS TO EACH PLANNING AREA WILL BE PROVIDED IN A LOGICAL MANNER AND TRAIL/PEDESTRIAN CORRIDORS WILL CONNECT PARKS AND OPEN SPACE AREAS TOGETHER IN A COHESIVE MANNER.

PEDESTRIAN CIRCULATION WILL BE A VITAL COMPONENT OF THE POUDBRE HEIGHTS COMMUNITY. THE DESIGN WILL ENCOURAGE AN ALTERNATIVE MODE OF TRANSPORTATION WITHIN THE MIXED-USE AREAS INCLUDING STRONG LINKS TO RESIDENTIAL COMPONENTS OF THE COMMUNITY. AS SHOWN ON THE PRELIMINARY PUD MASTER PLAN, CENTRALLY LOCATED PARKS AND MIXED USES WITHIN CLOSE WALKING DISTANCES OF ALL PROPOSED RESIDENTIAL AREAS PROVIDED. IN THE COMMERCIAL AND MIXED-USE LAND AREAS, SIDEWALKS WILL BE PROVIDED ALONG THE FRONT OF BUILDINGS THROUGH THAT AREA AND THOSE WALKWAYS WILL BE CONNECTED TO THE RESIDENTIAL WALKWAY SYSTEM IN AN ORGANIZED AND LOGICAL CIRCULATION PATTERN FOR EASY ACCESS BETWEEN THE USES AND TO ENCOURAGE PEDESTRIAN ACTIVITY VERSUS ALL VEHICULAR TRAFFIC. THE VEHICULAR AND PEDESTRIAN CIRCULATION SYSTEM WILL PROVIDE MULTIPLE ROUTES FOR CARS, BIKES, AND PEDESTRIANS TO MOVE THROUGHOUT THE POUDBRE HEIGHTS COMMUNITY. SIDEWALKS, WALKWAYS, AND TRAILS WILL PROVIDE THE PEDESTRIAN FRIENDLY ENVIRONMENT AND THE OPEN SPACE SYSTEM WITH TRAIL WILL PROVIDE THE CONNECTIVITY INTERNAL TO THE POUDBRE HEIGHTS COMMUNITY AND THE SURROUNDING AREA.

THE STREET AND VEHICULAR CIRCULATION SYSTEM AT POUDBRE HEIGHTS WILL BE A MODIFIED GRID SYSTEM TO ALLOW FOR MAXIMUM CONNECTIVITY THROUGHOUT THE PROJECT. WHILE THE EXACT PLANNING AREA LAYOUTS HAVE NOT YET BEEN DEFINED AT TIME OF THIS SUBMITTAL, THE DESIGN OF THE STREETS WILL RESPOND TO THE NATURAL TOPOGRAPHY OF THE SITE AS MUCH AS FEASIBLE. THE POUDBRE HEIGHTS COMMUNITY WILL PROVIDE INTERNAL STREET DESIGN CONFIGURATIONS WHICH FOSTER INTERCONNECTIVITY BETWEEN THE RESIDENTIAL AREAS AND THE COMMERCIAL/MIXED-USE DEVELOPMENT ON THE SOUTH AREA OF THE PROJECT.

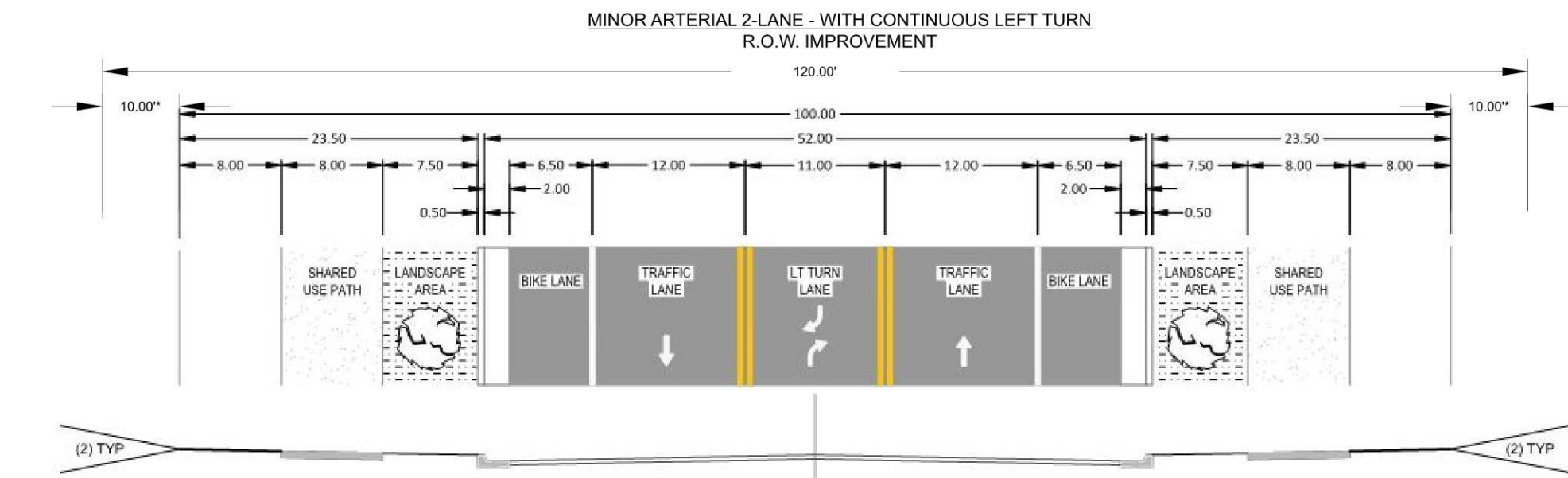
THE PROJECT WILL SATISFY ITS REQUIREMENTS OR SHARE OF THE FOLLOWING MAJOR ROADWAYS:

- 10TH STREET/HWY 34 BUSINESS (SOUTHERN BOUNDARY LINE).
- EXTENSION OF 101ST AVENUE NORTH ACROSS 10TH STREET ALONG EAST BOUNDARY LINE INTO RESIDENTIAL PLANNING AREAS.
- EXTENSION OF 257 NORTH ACROSS 10TH STREET INTERNAL TO SITE AND SOUTH WEST BOUNDARY.
- 4TH STREET EXTENSION (THE NORTH BOUNDARY OF THE INDUSTRIAL PLANNING AREAS AND MIXED USE) TO 10TH STREET.
- 7TH STREET EXTENSION (NORTH OF PLANNING AREAS C AND D AND SOUTH OF PLANNING AREAS E AND F)

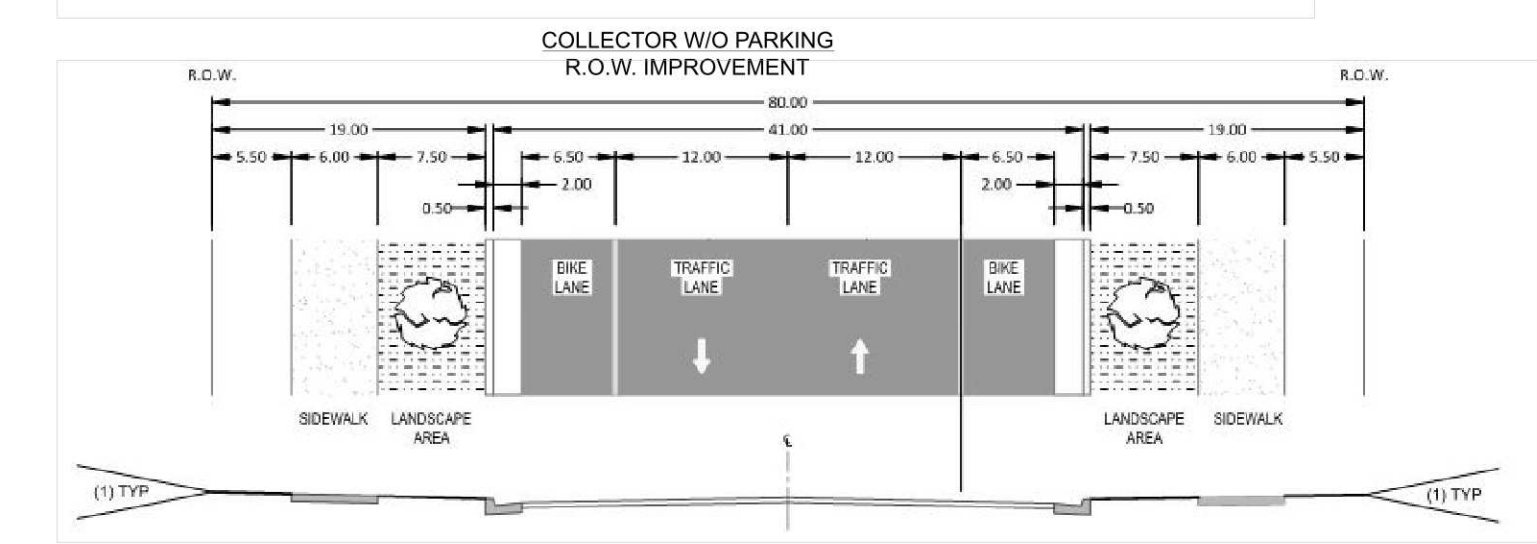
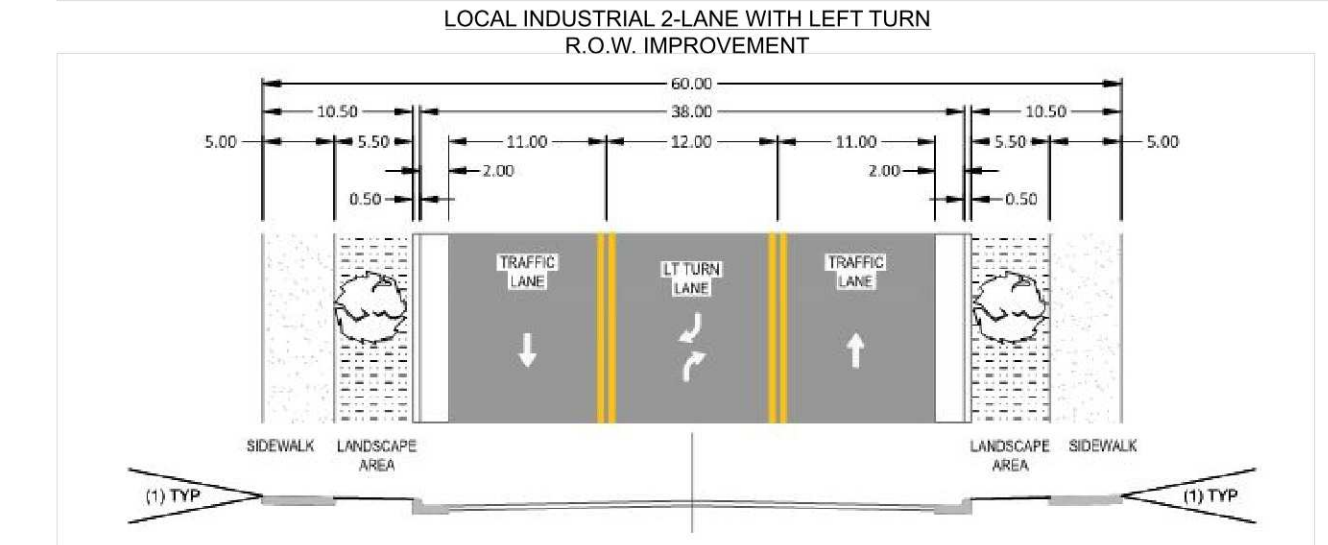
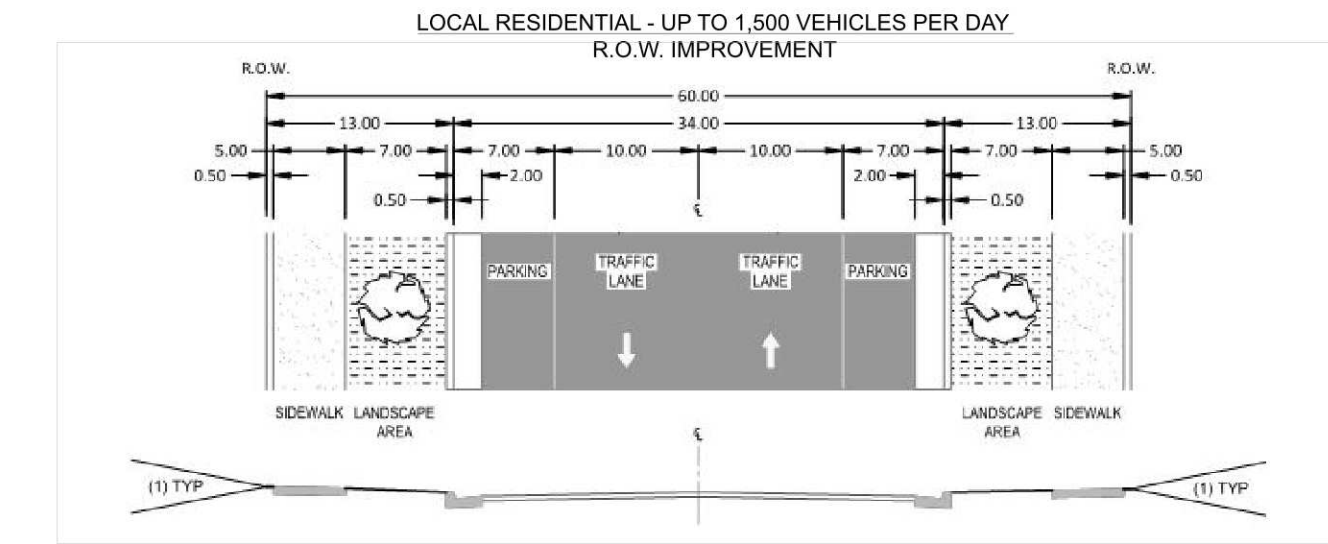
THESE ROADWAY EXTENSIONS AND IMPROVEMENTS WILL PROVIDE INTERCONNECTIVITY BETWEEN THE PROJECT, THE PROPOSED/APPROVED LAKE BLUFF PROJECT TO THE EAST, AND THE EXISTING PROPERTIES TO THE WEST.

**PARKING**

THE PARKING REQUIREMENTS FOR THE POUDBRE HEIGHTS COMMUNITY WILL FOLLOW CITY CODE AS AMENDED, OFF-STREET PARKING REQUIREMENTS\*.



\*ADDITIONAL RIGHT-OF-WAY RESERVATION FOR 4 LANE MINOR ARTERIAL PER TABLE 1.03.1 OF THE CITY'S DESIGN CRITERIA STREET VOLUME 1



**LEGEND**

- PROPOSED PUBLIC NATURAL TRAIL
- PROPOSED DETACHED SIDEWALK OR TRAIL
- SIDEWALK OR MULTI-MODAL

NOTE: SIDEWALKS SHALL FOLLOW ALONG ROADWAYS. TRAILS ARE SEPARATE AND WILL RUN THROUGH OPEN SPACE.



**STREET AND PEDESTRIAN CIRCULATION SYSTEM**

**POUDRE HEIGHTS**



## DEVELOPMENT COMMITMENTS MATRIX

AREA / IMPROVEMENT	PLAN PREPARATION AND APPROVAL	CONSTRUCTION TIMING	CONSTRUCTION RESPONSIBILITY	MAINTENANCE RESPONSIBILITY	OWNERSHIP
<b>OPEN SPACE</b>	AREA TO BE DEDICATED WILL BE DETERMINED IN CONJUNCTION WITH THE FINAL PLAN / FINAL PLAT FOR THIS AREA.	THE OPEN SPACE SHOULD BE CONSTRUCTED WHEN 50% OF THE LOTS IN PA-I HAVE BUILDING PERMITS IN PLACE.	TO BE DETERMINED	HOME OWNERS ASSOCIATION OR THE Poudre METROPOLITAN DISTRICT.	HOME OWNERS ASSOCIATION OR THE Poudre METROPOLITAN DISTRICT.
<b>BLUFF PRESERVATION</b>	AREA TO BE DEDICATED WILL BE DETERMINED IN CONJUNCTION WITH THE FINAL PLAN / FINAL PLAT FOR THIS AREA.	THE BLUFF AREAS LOCATED IN PA-I SHALL BE PRESERVED AND ANY DISTURBED AREAS SHALL BE REVEGETATED.	TO BE DETERMINED	CITY OF GREELEY (PUBLIC)	CITY OF GREELEY (PUBLIC)
<b>NEIGHBORHOOD PARK (PA-G) - 10 AC.</b>	FINAL LANDSCAPE PLANS WILL BE COMPLETED IN CONJUNCTION WITH THE FINAL PLAN AS REQUIRED FOR EACH SPECIFIC PORTION OF [COMMUNITY] BEING DEVELOPED.	PARKS WILL BE CONSTRUCTED WHEN 50% OF THE BUILDING PERMITS ARE IN PLACE WITHIN THE PARCEL WHERE THE RESPECTIVE PARK EXISTS.	NEIGHBORHOOD PARK IS TO BE CONSTRUCTED BY DEVELOPER, ITS SUCCESSORS & ASSIGNS OR MD.	CITY OF GREELEY (PUBLIC)	CITY OF GREELEY (PUBLIC)
<b>INTERNAL COMMUNITY TRAILS</b>	FINAL LANDSCAPE PLANS WILL BE COMPLETED IN CONJUNCTION WITH THE FINAL PLAN AS REQUIRED FOR EACH SPECIFIC PORTION OF [COMMUNITY] BEING DEVELOPED.	INTERNAL COMMUNITY TRAILS WILL BE CONSTRUCTED CONCURRENT WITH THE PARKS AND ADJACENT INFRASTRUCTURE TO THEM.	INTERNAL TRAILS ARE TO BE CONSTRUCTED BY DEVELOPER, ITS SUCCESSORS & ASSIGNS OR MD.	HOME OWNERS ASSOCIATION OR THE Poudre METROPOLITAN DISTRICT.	HOME OWNERS ASSOCIATION OR THE Poudre METROPOLITAN DISTRICT.
<b>10TH STREET ROAD AND SIGNAL IMPROVEMENTS</b>	FINAL ROADWAY PLANS WILL BE PREPARED PER CDOT STANDARDS FOR THE 10TH STREET ROW.	REQUIRED IMPROVEMENTS TO BE COMPLETED PER THE TRIGGERS SPECIFIED IN THE TRAFFIC IMPACT STUDY, WARRENTS ARE MET AND/OR AS IDENTIFIED BY CDOT	POUDRE, LLC, ITS SUCCESSORS & ASSIGNS OR Poudre HEIGHTS METROPOLITAN DISTRICT	CITY OF GREELEY (PUBLIC)	CITY OF GREELEY (PUBLIC)
<b>ROADWAYS</b>	FINAL ROADWAY PLANS WILL BE PREPARED PER THE CITY OF GREELEY STANDARDS AS REQUIRED FOR EACH SPECIFIC PORTION OF Poudre HEIGHTS BEING DEVELOPED AT THAT TIME.	ROADWAYS SHALL BE CONSTRUCTED PER APPROVED FINAL CONSTRUCTION PLANS PRIOR TO THE ISSUANCE OF THE 1ST CERTIFICATE OF OCCUPANCY FOR THE SPECIFIC PORTION OF Poudre HEIGHTS BEING DEVELOPED AT THAT TIME.	POUDRE, DEVELOPER, ITS SUCCESSORS & ASSIGNS OR Poudre HEIGHTS METROPOLITAN DISTRICT	CITY OF GREELEY (PUBLIC)	CITY OF GREELEY (PUBLIC)
<b>UTILITIES</b>	FINAL UTILITY PLANS WILL BE PREPARED PER THE CITY OF GREELEY STANDARDS AS REQUIRED FOR EACH SPECIFIC PORTION OF Poudre HEIGHTS BEING DEVELOPED AT THAT TIME.	UTILITIES SHALL BE CONSTRUCTED PER APPROVED FINAL CONSTRUCTION PLANS PRIOR TO THE ISSUANCE OF THE 1ST CERTIFICATE OF OCCUPANCY FOR THE SPECIFIC PORTION OF Poudre HEIGHTS BEING DEVELOPED AT THAT TIME.	POUDRE, LLC, ITS SUCCESSORS & ASSIGNS OR Poudre HEIGHTS METROPOLITAN DISTRICT	CITY OF GREELEY (PUBLIC)	CITY OF GREELEY (PUBLIC)
<b>STORM SEWER FACILITIES</b>	FINAL STORM SEWER PLANS WILL BE PREPARED PER THE CITY OF GREELEY STANDARDS AS REQUIRED FOR EACH SPECIFIC PORTION OF Poudre HEIGHTS BEING DEVELOPED AT THAT TIME.	STORM SEWER SHALL BE CONSTRUCTED PER APPROVED FINAL CONSTRUCTION PLANS PRIOR TO THE ISSUANCE OF THE 1ST CERTIFICATE OF OCCUPANCY FOR THE SPECIFIC PORTION OF Poudre HEIGHTS BEING DEVELOPED AT THAT TIME.	POUDRE, LLC, ITS SUCCESSORS & ASSIGNS OR Poudre HEIGHTS METROPOLITAN DISTRICT	CITY OF GREELEY (PUBLIC)	CITY OF GREELEY (PUBLIC)
<b>STORM WATER FACILITIES (PONDS)</b>	FINAL POND PLANS WILL BE PREPARED PER THE CITY OF GREELEY STANDARDS AS REQUIRED FOR EACH SPECIFIC PORTION OF Poudre HEIGHTS BEING DEVELOPED AT THAT TIME.	PONDS SHALL BE CONSTRUCTED PER APPROVED FINAL CONSTRUCTION PLANS PRIOR TO THE ISSUANCE OF THE 1ST CERTIFICATE OF OCCUPANCY FOR THE SPECIFIC PORTION OF Poudre HEIGHTS BEING DEVELOPED AT THAT TIME.	POUDRE, LLC, ITS SUCCESSORS & ASSIGNS OR Poudre HEIGHTS METROPOLITAN DISTRICT	POUDRE HEIGHTS METROPOLITAN DISTRICT OR HOMEOWNERS ASSOCIATION.	POUDRE HEIGHTS METROPOLITAN DISTRICT OR HOMEOWNERS ASSOCIATION.
<b>POCKET PARKS (PA-D, PA-F) - 0.5 AC.</b>	FINAL LANDSCAPE PLANS WILL BE COMPLETED IN CONJUNCTION WITH THE FINAL PLAN AS REQUIRED FOR EACH SPECIFIC PORTION OF [COMMUNITY] BEING DEVELOPED.	PARKS WILL BE CONSTRUCTED WHEN 50% OF THE BUILDING PERMITS ARE IN PLACE WITHIN THE PARCEL WHERE THE RESPECTIVE PARK EXISTS.	POUDRE, LLC, ITS SUCCESSORS & ASSIGNS OR Poudre HEIGHTS METROPOLITAN DISTRICT	POUDRE HEIGHTS METROPOLITAN DISTRICT OR HOMEOWNERS ASSOCIATION.	POUDRE HEIGHTS METROPOLITAN DISTRICT OR HOMEOWNERS ASSOCIATION.
<b>AMENITY CENTER (PA-I)</b>	AREA TO BE DEDICATED WILL BE DETERMINED IN CONJUNCTION WITH THE FINAL PLAN / FINAL PLAT FOR THIS AREA.	THE AMENITY CENTER LOCATED WITHIN PA-I WILL BE CONSTRUCTED AT THE THRESHOLD OF 450 UNITS BEING CONSTRUCTED.	POUDRE, LLC, ITS SUCCESSORS & ASSIGNS OR Poudre HEIGHTS METROPOLITAN DISTRICT	POUDRE HEIGHTS METROPOLITAN DISTRICT OR HOMEOWNERS ASSOCIATION.	POUDRE HEIGHTS METROPOLITAN DISTRICT OR HOMEOWNERS ASSOCIATION.

## DEVELOPMENT COMMITMENTS MATRIX

# POUDRE HEIGHTS

**LEGEND:**

- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- PROJECT BOUNDARY
- DETENTION POND
- OPEN CHANNEL CONVEYANCE
- PROPOSED BASIN LINE
- FLOW ARROW  →
- EMERGENCY OVERFLOW ARROW  ←

**BASIN LABEL**

100	BASIN DESIGNATION
5.0	HISTORIC % IMPERVIOUS
45.0	PROPOSED % IMPERVIOUS

**PROPOSED BASIN CHARACTERISTICS**

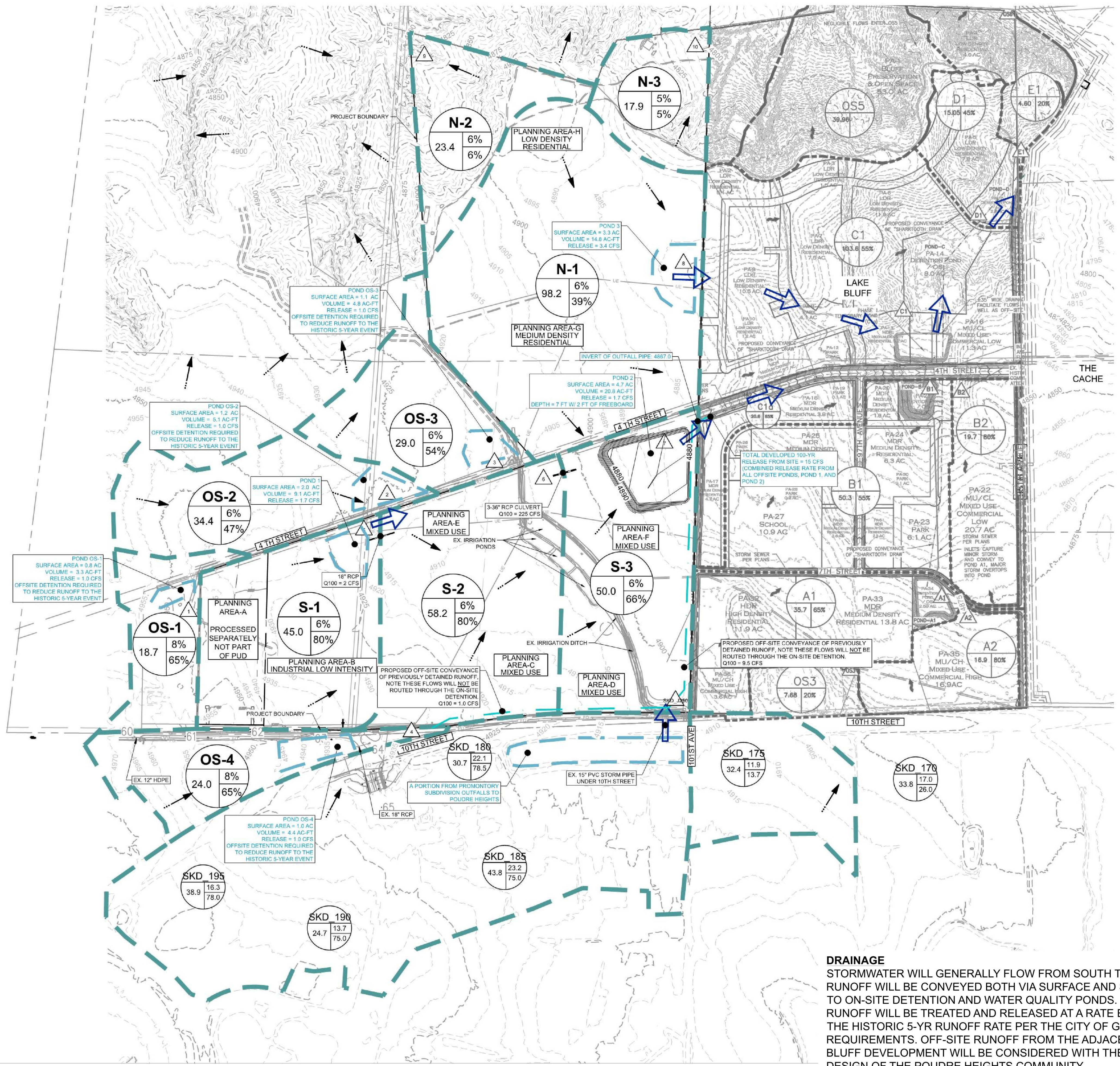
BASIN LABEL	AREA (AC)	IMP. %	2-YEAR Q <sub>2</sub> (CFS)	5-YEAR Q <sub>5</sub> (CFS)	100-YEAR Q <sub>100</sub> (CFS)
OS-1	18.7	8.1	0.3	0.8	26.6
OS-2	34.4	6.3	0.2	0.7	32.4
OS-3	29.0	6.3	0.4	0.9	33.0
OS-4	24.0	8.1	0.0	0.6	19.3
S-1	45.0	80.0	42.6	64.6	175.5
S-2	58.2	80.0	56.2	76.8	225.0
S-3	50.0	65.9	33.0	44.0	155.2
N-1	98.2	39.0	27.1	41.6	236.1
N-2	23.4	6.0	0.8	1.6	47.2
N-3	17.9	6.0	0.6	1.2	35.9

\*EXISTING CONDITIONS ARE USED FOR ALL OFFSITE BASINS FOR THE PROPOSED CONDITIONS TO SIMULATE OFFSITE DETENTION REDUCING RUNOFF TO THE HISTORIC 5-YEAR EVENT.

**EXISTING BASIN CHARACTERISTICS**

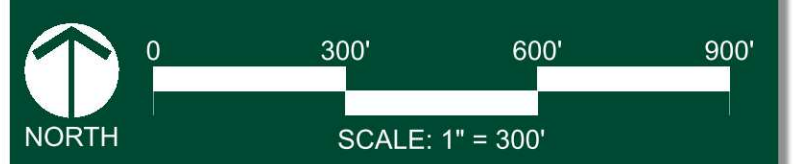
BASIN LABEL	AREA (AC)	IMP. %	2-YEAR Q <sub>2</sub> (CFS)	5-YEAR Q <sub>5</sub> (CFS)	100-YEAR Q <sub>100</sub> (CFS)
OS-1	18.7	8.1	0.3	0.8	26.6
OS-2	34.4	6.3	0.2	0.7	32.4
OS-3	29.0	6.3	0.4	0.9	33.0
OS-4	24.0	8.1	0.0	0.6	19.3
0.0					
S-1	45.0	8.1	0.4	1.7	58.4
S-2	58.2	6.3	0.3	0.8	51.3
S-3	50.0	6.3	0.2	0.9	45.5
N-1	98.2	6.0	1.2	3.4	136.0
N-2	23.4	6.0	0.8	1.5	47.2
N-3	17.9	6.0	0.6	1.2	35.9

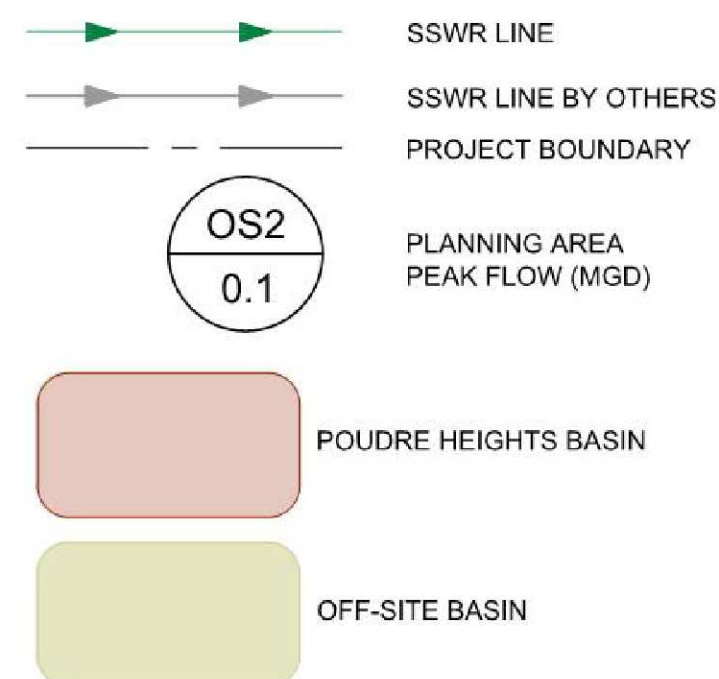
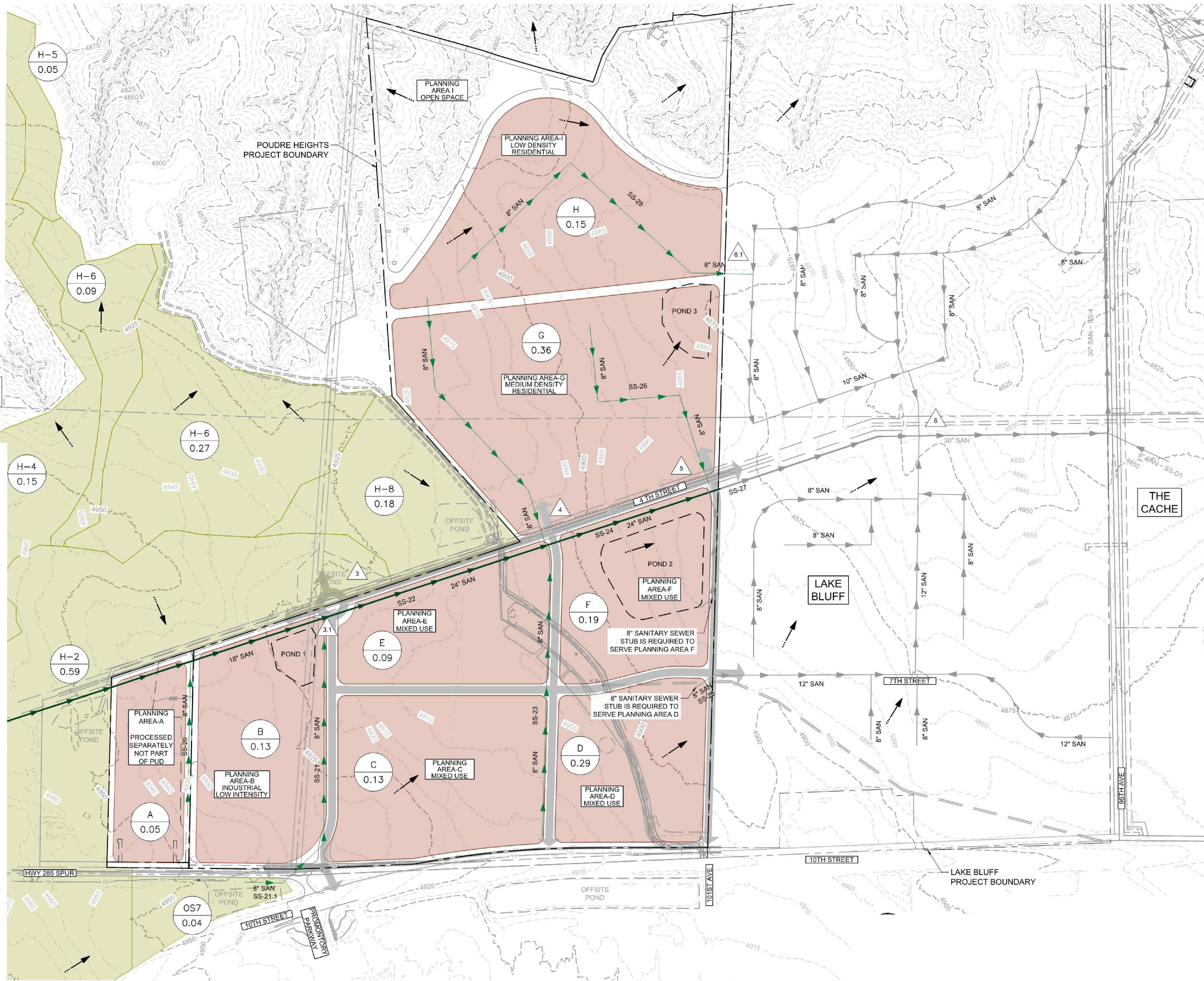
NOTE: ALL PONDS ARE ESTIMATED TO BE 8 FEET DEEP WITH AN ADDITIONAL 1 FOOT OF FREEBOARD ABOVE THE 100-YR WSEL, UNLESS OTHERWISE SPECIFIED.



**DRAINAGE**  
 STORMWATER WILL GENERALLY FLOW FROM SOUTH TO NORTH. RUNOFF WILL BE CONVEYED BOTH VIA SURFACE AND SUBSURFACE TO ON-SITE DETENTION AND WATER QUALITY PONDS. DEVELOPED RUNOFF WILL BE TREATED AND RELEASED AT A RATE EQUAL TO THE HISTORIC 5-YR RUNOFF RATE PER THE CITY OF GREELEY REQUIREMENTS. OFF-SITE RUNOFF FROM THE ADJACENT LAKE BLUFF DEVELOPMENT WILL BE CONSIDERED WITH THE SITE PLAN DESIGN OF THE POUDE HEIGHTS COMMUNITY.

# CONCEPTUAL DRAINAGE PLAN POUDRE HEIGHTS





NOTE: BASINS H-3 TO H-7 DRAIN TO INTERCEPTOR VIA LIFT STATION

**SANITARY SEWER:**  
 THE POUDBRE HEIGHTS DEVELOPMENT IS IDENTIFIED TO BE WITHIN THE POUDBRE BLUFFS BASIN IN THE STANTEC POUDBRE TRUNK SEWER PHASE II PROJECT-SUB-BASIN MASTER PLAN. WASTEWATER FLOWS FROM THE POUDBRE BLUFFS BASIN CAN BE CONVEYED BY GRAVITY TO GREELEY'S EXISTING 83RD AVENUE AND COUNTY ROAD 62 INTERCEPTOR.

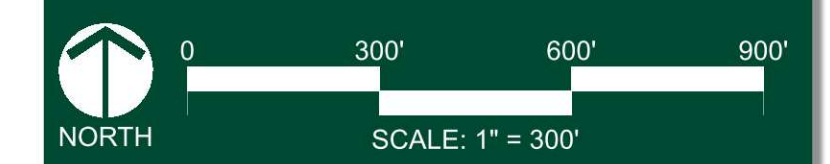
A 30-INCH SEWER TRUNK MAIN HAS RECENTLY BEEN DESIGNED BY STANTEC TO CAPTURE ALL SANITARY SEWER AT THE INTERSECTION OF 95TH AVENUE AND WELD COUNTY ROAD 62. THIS LINE WILL TRANSPORT SEWAGE APPROXIMATELY 1.5 MILES TO AN EXISTING LINE AT POUDBRE HEIGHTS SUBDIVISION.

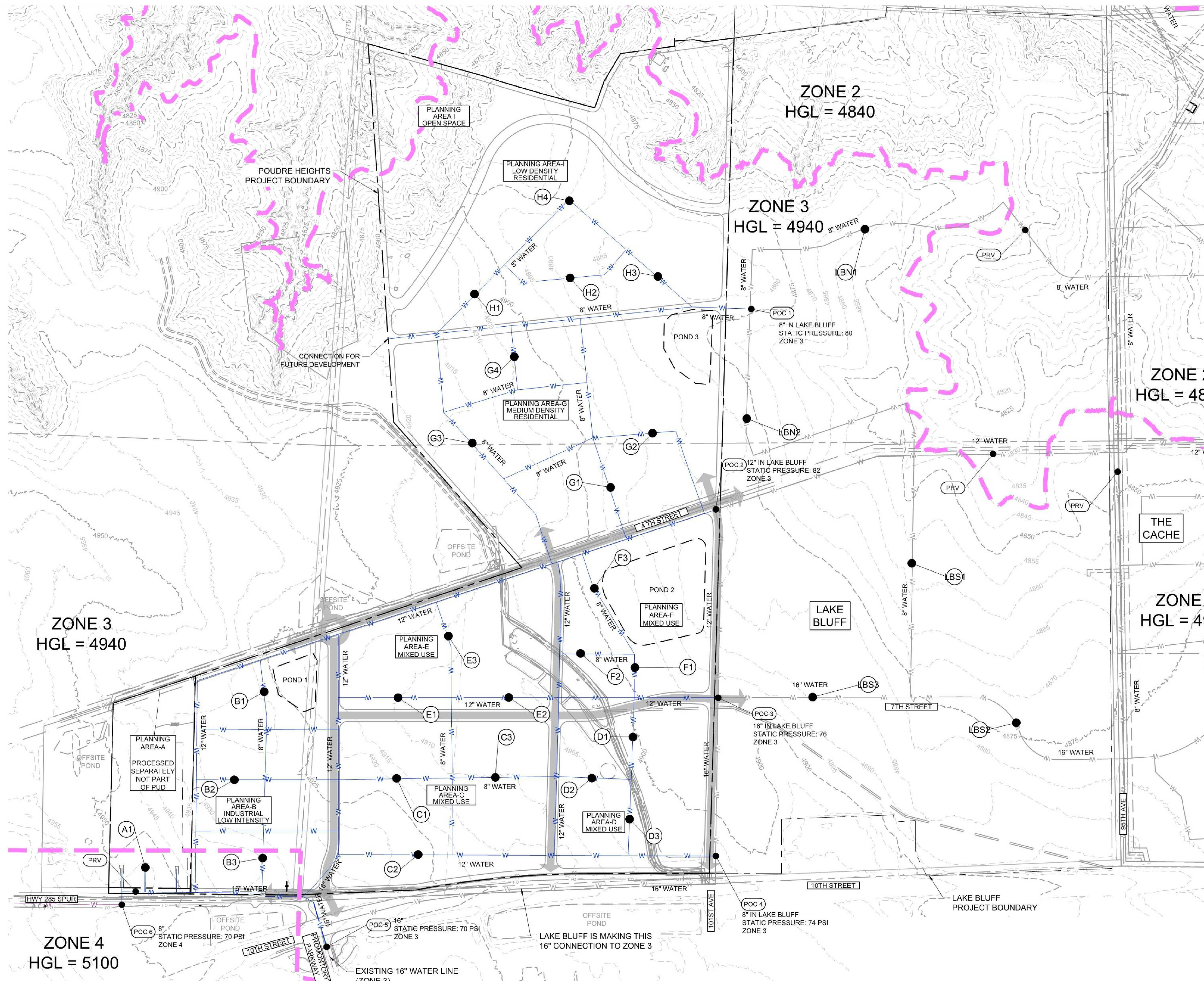
**SERVICES**  
 THE FOLLOWING SERVICES WILL BE PROVIDED BY THE FOLLOWING ORGANIZATIONS:

- FIRE PROTECTION SERVICES WILL BE PROVIDED BY THE CITY OF GREELEY FIRE DEPARTMENT AND BY OWNER PROVIDED BUILDING SPRINKLER SYSTEMS WHERE REQUIRED BY BUILDING CODES IN INDIVIDUAL STRUCTURES.
- POLICE SERVICES WILL BE PROVIDED BY THE GREELEY POLICE DEPARTMENT.
- WATER AND WASTEWATER WILL BE PROVIDED BY THE CITY OF GREELEY.
- ELECTRIC WILL BE PROVIDED BY XCEL ENERGY.
- NATURAL GAS WILL BE PROVIDED BY ATMOS ENERGY.
- THE SITE WILL BE SERVED BY WINDSOR RE4 SCHOOL DISTRICT.

# CONCEPTUAL SANITARY PLAN

## POUDRE HEIGHTS





- WATER LINE
- WATER LINE BY OTHERS
- EX. WATER LINE
- APPROXIMATE PRESSURE ZONE BNDY
- PROJECT BOUNDARY
- PRESSURE REDUCING VALVE
- POINT OF CONNECTION
- WATER DEMAND NODE

NOTES:

1. UTILITY LOCATIONS SHOWN ON THIS PLAN ARE SCHEMATIC IN NATURE AND WILL BE ADJUSTED WITH FINAL PLANNING/DESIGN
2. THE INFORMATION PRESENTED IN THE POTABLE WATER MODELING SCHEMATIC REPRESENTS THE PEAK HOUR SCENARIO.

**POTABLE WATER:**  
SIX POINTS OF CONNECTION WILL BE MADE FOR THE POTABLE WATER SYSTEM ADJACENT TO THE PROPOSED DEVELOPMENT.

REFER TO THE GRAPHIC FOR POINTS OF CONNECTION.

POUDRE HEIGHTS IS LOCATED WITHIN PRESSURE ZONE 3.

**SERVICES**  
THE FOLLOWING SERVICES WILL BE PROVIDED BY THE FOLLOWING ORGANIZATIONS:

- FIRE PROTECTION SERVICES WILL BE PROVIDED BY THE CITY OF GREELEY FIRE DEPARTMENT AND BY OWNER PROVIDED BUILDING SPRINKLER SYSTEMS WHERE REQUIRED BY BUILDING CODES IN INDIVIDUAL STRUCTURES.
- POLICE SERVICES WILL BE PROVIDED BY THE GREELEY POLICE DEPARTMENT.
- WATER AND WASTEWATER WILL BE PROVIDED BY THE CITY OF GREELEY.
- ELECTRIC WILL BE PROVIDED BY XCEL ENERGY.
- NATURAL GAS WILL BE PROVIDED BY ATMOS ENERGY.
- THE SITE WILL BE SERVED BY WINDSOR RE4 SCHOOL DISTRICT.

**ZONE 4**  
HGL = 5100

**ZONE 3**  
HGL = 4940

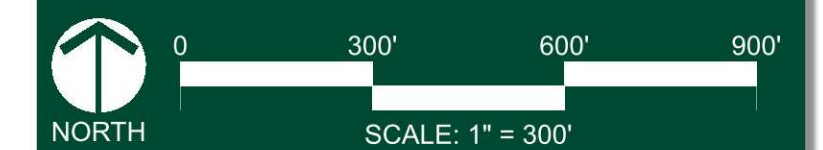
**ZONE 2**  
HGL = 4840

**ZONE 3**  
HGL = 4940

**ZONE 2**  
HGL = 4840

**ZONE 3**  
HGL = 4940

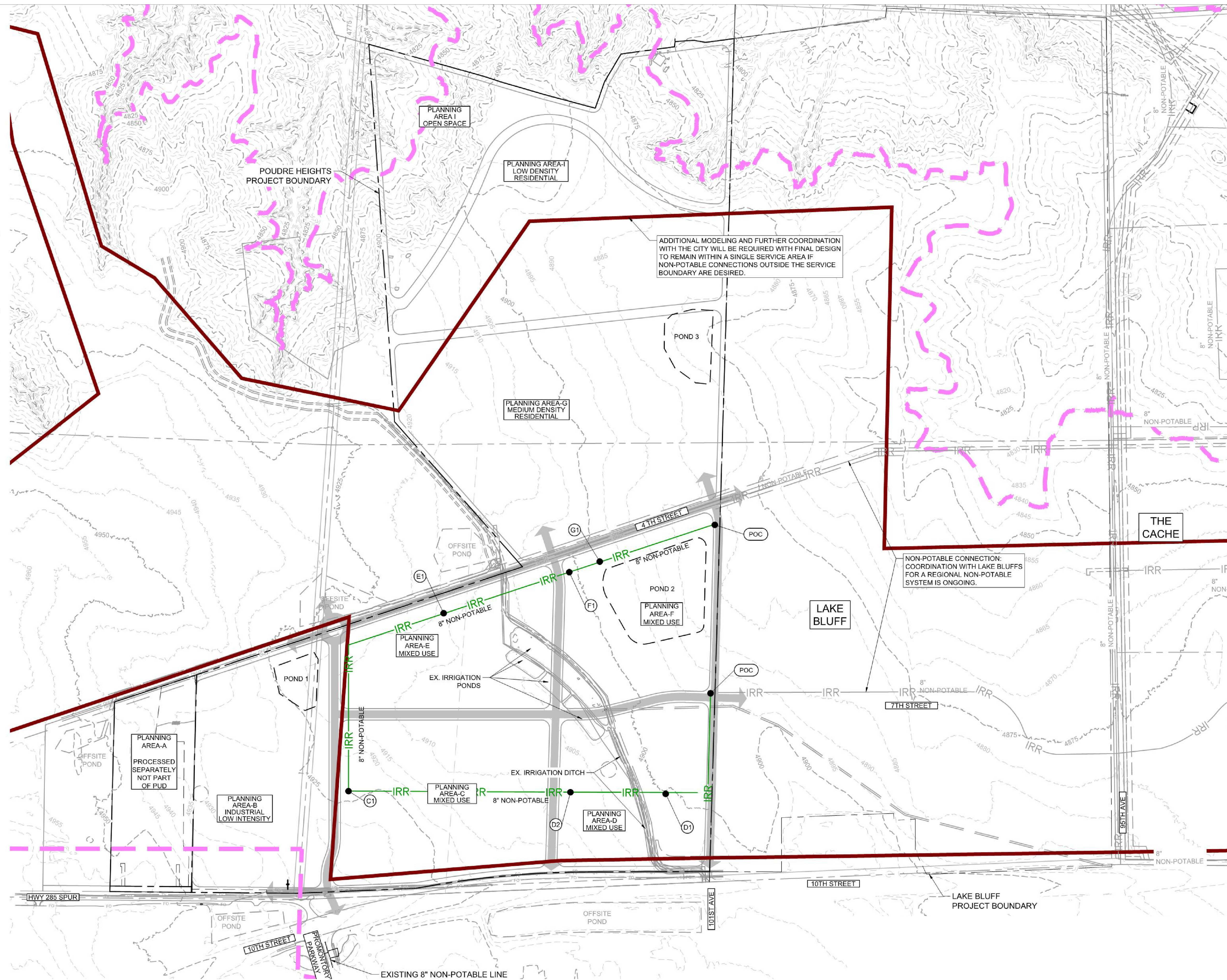
# CONCEPTUAL WATER PLAN POUDRE HEIGHTS



- IRR NON-POTABLE WATER LINE
- IRR NON-POTABLE WATER LINE BY OTHERS
- IRR EX. NON-POTABLE WATER LINE
- APPROXIMATE NON-POTABLE SERVICE BOUNDARY
- - - APPROXIMATE PRESSURE ZONE BNDY
- - - PROJECT BOUNDARY
- POC POINT OF CONNECTION
- D2 NON-POTABLE DEMAND NODE

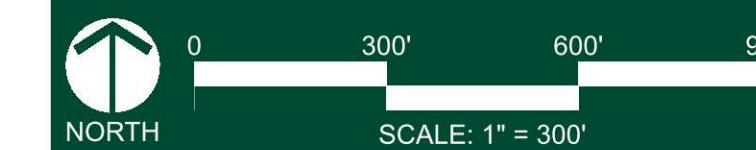
NOTES:

1. THE NON-POTABLE PLAN WILL CONTINUE TO BE REFINED AS DESIGN ADVANCES TOWARDS FINAL.
2. INTERNAL LOOPING WILL BE ADDED TO SCHEMATIC LINES SHOWN AS TO SERVE REQUIRED PARCELS.



## CONCEPTUAL NON-POTABLE WATER PLAN

# POUDRE HEIGHTS



# Council Agenda Summary

March 15, 2022

## **Agenda Item Number**

Key Staff Contact: John Karner, Finance Director, 350-9732

### Title:

First reading of an ordinance appropriating additional sums to defray the expenses and liabilities of the City of Greeley for the balance of the fiscal year of 2022 and for funds held in reserve for encumbrances at December 31, 2021.

### Summary:

This is the first additional appropriation ordinance modifying the 2022 budget.

This appropriation will fund the City of Greeley's contribution for a down payment on the ShurView Property.

The ShurView property consists of approximately 978 acres of land located north of US HWY 34 Business and bisected by State Hwy 257 and represents the last large tract of land that separates Greeley and Windsor. Long seen as a common community separator, the site is identified as open lands on Greeley's Land Use Guidance map and described as a shared planning area by two communities.

A unique feature of the site is the location of Missile Park, an abandoned cold era missile silo site, now campground owned by Weld County. The County has indicated its willness to lease the land to the City for its further development as a recreational trail head area and, to that end, the Poudre River Trail Corridor Board funded and developed a concept plan with Greeley and Windsor staff , which would also include a link to the Poudre Trail to the north of the site. The site has a commanding vista of the front range; bluffs, riparian, and arroyo features; and distinctive archeological, geological and historic elements unique to this site and area.

Greeley staff has investigated ways to acquire this unique site for its unique open space, community separator and entryway attributes for better than 20 years. In conjunction with the Trust for Public Land (TPL) and the endorsement of Windsor and Weld County, acquisition is now possible.

The negotiated purchase price for the site is \$8.5M subject to a March 31, 2022 closing date. TPL will use its funds to buy and hold the property and then immediately lease the property back to Greeley, acting as the lender for the subsequent purchase of the site by Greeley. Greeley will provide a portion of the funds it had identified for its share of the purchase price at closing (\$3M of \$5M pledged) which helps offset the TPL funds in the project and reduce the interest on these borrowed funds. Greeley and TPL have been successful in securing two significant grants from Great Outdoors Colorado and the Land and Water Conservation Fund of approximately \$2.5M that will also be applied to the property acquisition. Funding of the acquisition has been tentatively



pledged by the Town of Windsor and other partnership funding is also anticipated. Once the balance of the funding is in place the property will be transferred to public ownership.

**Fiscal Impact:**

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	\$ 3,000,000
What is the annual impact?	\$ 3,000,000
What fund of the City will provide Funding?	General Fund
What is the source of revenue within the fund?	Fund Balance & Operating Transfer.
Is there grant funding for this item?	Yes
If yes, does this grant require a match?	Yes
Is this grant onetime or ongoing?	Onetime
Additional Comments:	Funding source is available by approving a transfer of \$3M from the General Fund 2021 carry over dollars into the Quality of Life CIP 318 and appropriating those dollars for use in the down payment of the ShurView Property purchase in fiscal year 2022.

**Legal Issues:**

City Charter prohibits actual expenditures from exceeding appropriations at the fund level. This ordinance will ensure that this does not occur.

**Applicable Council Priority and Goal:**

*Image:* Reinforce Greeley's vision as an attractive and vibrant community in which to live, learn, work and play.

**Decision Options:**

- 1) Introduce the ordinance as presented; or
- 2) Amend the ordinance and introduce as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

**Council's Recommended Action:**

A motion to introduce the ordinance and schedule the public hearing and final reading for March 29, 2022.

**Attachments:**

- Ordinance
- Detail Supporting Schedule

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

AN ORDINANCE APPROPRIATING ADDITIONAL SUMS TO DEFRAY THE EXPENSES AND LIABILITIES OF THE CITY OF GREELEY FOR THE BALANCE OF THE FISCAL YEAR OF 2022 AND FOR FUNDS HELD IN RESERVE FOR ENCUMBRANCES AT DECEMBER 31, 2021.

**WHEREAS**, the City of Greeley has or will incur expenses for certain activities described below during the 2022 fiscal year, and

**WHEREAS**, the revenues received in the City of Greeley in 2021, exceeded the amount of revenues estimated in the 2021 Budget by more than the total amount of the expenditures in the same year;

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

**Section 1.** In accordance with section 5-17 of the Greeley Charter, from actual and anticipated revenues which exceed the revenue estimates in the 2022 budget and amounts held in fund balance reserves from 2021, there is hereby appropriated the following designated sums to be allocated for use during the remainder of 2022:

<b>Fund</b>	<b>Total</b>
100 General	\$ 3,000,000
318 Quality of Life	\$ 3,000,000

**Section 2.** All actions heretofore taken (not inconsistent with the provisions of this ordinance) by the officers, agents and employees of the City in connection with this appropriation are hereby ratified, approved and confirmed.

**Section 3.** This Ordinance shall become effective five (5) days after its final publication as is provided by Section 3-16 of the Greeley Charter,

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

ATTEST:

THE CITY OF GREELEY

\_\_\_\_\_  
Interim City Clerk

BY \_\_\_\_\_  
Mayor



## City of Greeley 2022 Appropriation No. 1 City Council Meetings: March 15th & 29th

Fund	Funding Source	Description	Fund Balance	Revenue	Expenditures	Net Impact
<b>100 - GENERAL FUND</b>						
1	Fund Balance	<p>The ShurView property consists of approximately 978 acres of land located north of US HWY 34 Business and bisected by State Hwy 257 and represents the last large tract of land that separates Greeley and Windsor. Long seen as a common community separator, the site is identified as open lands on Greeley's Land Use Guidance map and described as a shared planning area by two communities.</p> <p>A unique feature of the site is the location of Missile Park, an abandoned cold era missile silo site, now campground owned by Weld County. The County has indicated its willingness to lease the land to the City for its further development as a recreational trail head area and, to that end, the Poudre River Trail Corridor Board funded and developed a concept plan with Greeley and Windsor staff, which would also include a link to the Poudre Trail to the north of the site. The site has a commanding vista of the front range; bluffs, riparian, and arroyo features; and distinctive archeological, geological and historic elements unique to this site and area.</p> <p>Greeley staff has investigated ways to acquire this unique site for its unique open space, community separator and entryway attributes for better than 20 years. In conjunction with the Trust for Public Land (TPL) and the endorsement of Windsor and Weld County, acquisition is now possible.</p> <p>The negotiated purchase price for the site is \$8.5M subject to a March 31, 2022 closing date. TPL will use its funds to buy and hold the property and then immediately lease the property back to Greeley, acting as the lender for the subsequent purchase of the site by Greeley. Greeley will provide a portion of the funds it had identified for its share of the purchase price at closing (\$3M of \$5M pledged) which helps offset the TPL funds in the project and reduce the interest on these borrowed funds. Greeley and TPL have been successful in securing two significant grants from Great Outdoors Colorado and the Land and Water Conservation Fund of approximately \$2.5M that will also be applied to the property acquisition. Funding of the acquisition has been tentatively pledged by the Town of Windsor and other partnership funding is also anticipated. Once the balance of the funding is in place the property will be transferred to public ownership.</p>	3,000,000	-	3,000,000	-
<b>100 - GENERAL FUND</b>			<b>3,000,000</b>	<b>-</b>	<b>3,000,000</b>	<b>-</b>
<b>TOTAL (Less Additional Operating Expenditures Between Funds)</b>			<b>3,000,000</b>	<b>-</b>	<b>3,000,000</b>	<b>-</b>
<b>OPERATING TRANSFERS</b>						
1	Operating Transfer	Operating Transfer from General Fund to the Quality of Life Fund for an internal loan to complete the down payment on the ShurView Property.	-	3,000,000	3,000,000	-
<b>TOTAL ADDITIONAL OPERATING EXPENDITURES BETWEEN FUNDS</b>			<b>-</b>	<b>3,000,000</b>	<b>3,000,000</b>	<b>-</b>

# Council Agenda Summary

**Title:**

Pulled Consent Agenda Items

**Summary:**

Pulled Consent Agenda items will be considered in the order they appeared on the consent agenda.

# Council Agenda Summary

March 15, 2022

## **Agenda Item Number**

Key Staff Contact: Becky Safarik, Interim Community Development Director/Deputy City Manager, 350-9786

## Title

Public Hearing and Final Reading of an Ordinance Amending Title 2 of the Greeley Municipal Code relating to Special Districts by adding a new Chapter 16.

## Summary

At its January 25, 2022 worksession City Council was presented with an overview of Special Districts, their authority and purpose, and relationship to specific improvements and services. Of particular note was the option to allow the establishment of a 'Parks and Recreation District' that would allow the imposition and use of a mill levy assessed against district properties to create certain open space and recreational improvements in an area not fully served with similar municipal services. Special districts are considered quasi-governmental and political subdivisions and are governed by a board that manages the improvements of and services for the life of the district.

To allow for such districts the City of Greeley would first need to amend its municipal code to create the legislative framework to provide the criteria and process for consideration of a Parks and Recreation District, which could be modeled generally after the City's Metropolitan District standards. If such code amendments are approved any other interested party could petition to establish a Parks and Recreation District (or other special district) in the city of Greeley. The City is not obliged to approve an application to proceed to an election if it is not satisfied that the proposal is in the community's best interest after completing its review and analysis of the proposed district.

At the conclusion of the worksession discussion, Council indicated it would be willing to advance such a code amendment to allow for the consideration of Special Districts. Attached is an ordinance to accomplish that objective. If introduced, the ordinance would proceed to a public hearing on March 15, 2022.

If the ordinance is enacted and before a district could be formed, a full application and subsequent review would be considered by Council to establish a district for property within the municipal boundaries. Such an application would include a service plan and analysis. If acceptable to Council the applicant would then present the establishment of the district to

landowners within the proposed boundaries of the District which would be set for an election. Election cycles are set forth in state statute and a vote in favor of the district by a majority of the property owners authorizes the district.

This item was introduced at the March 1, 2022 Council meeting and was also referred to the March 8, 2022 Council worksession for further discussion.

Fiscal Impact

Does this item create a fiscal impact on the City of Greeley?	No
If yes, what is the initial or onetime impact?	
What is the annual impact?	
What fund of the City will provide funding?	
What is the source of revenue within the fund?	
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

Legal Issues

The City Attorney's Office has reviewed this draft ordinance and no issues have been identified.

Other Issues and Considerations

None

Applicable Council Goal or Objective

*Infrastructure & Growth:* Establish the capital and human infrastructure to support and maintain a safe, competitive, appealing and successful community.

Access & Connection to Recreational, Cultural, Educational, Natural Resources and Human Services.

Decision Options

1. Adopt the ordinance and publish by reference to title only;
2. Amend the ordinance and adopt the amended ordinance and publish in full;
3. Deny the ordinance;
4. Continue consideration of the ordinance to a date certain;
5. Suspend development of such Special District legislation in the Greeley Municipal Code indefinitely.

Council's Recommended Action

A motion to adopt the ordinance and publish with reference to title only

Attachments

Ordinance

Power point summary

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

**AN ORDINANCE AMENDING TITLE 2 OF THE GREELEY MUNICIPAL CODE RELATING  
TO SPECIAL DISTRICTS BY ADDING A NEW CHAPTER 16.**

WHEREAS, the Greeley City Charter describes the powers of the City and City Council related to adoption of the function and operation of general municipal public works, parks, water and sewer, and fire facilities; and

WHEREAS, Colorado State law authorizes the creation of Special Districts that may provide one or more of such services as fire protection, mosquito control, parks and recreation, safety protection, sanitation, solid waste disposal facilities or collection and transportation of solid waste, street improvements, television relay and translation, transportation, and water; and

WHEREAS, the City of Greeley's Metropolitan District regulations require a district to provide two or more services; and

WHEREAS, the City of Greeley Municipal Code does not authorize the formation and operation of a single service Special District; and

WHEREAS, the Greeley City Council desires to establish regulatory standards which balance the expectations and impacts of Special Districts; and

WHEREAS, members of development community have requested the City to allow the use of Special Districts as a financing tool for installation of infrastructure of Park and Recreation facilities; and

WHEREAS, the City Council has determined certain limited uses of Special Districts may be allowed on a case-by-case basis as an alternative financing mechanism for infrastructure development if a public benefit can be clearly demonstrated;

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

Section 1. That the Greeley Municipal Code be amended by adding thereto a new Chapter 16 of Title 2 as shown in Appendix A.

Section 2. This ordinance shall become effective five (5) days following its final publication, as provided by the Greeley City Charter.



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

**ATTEST:**

**CITY OF GREELEY**

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

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

## Appendix A

### CHAPTER 16. – SPECIAL DISTRICTS

#### **Sec. 2-1125. - Legislative declaration.**

(a) Special district (districts) organized under C.R.S. title 32, article 1 (the Special District Act), under appropriate circumstances, provide an economic alternative to the development of municipal infrastructure at the expense and risk of the city. The provisions of this chapter are intended to provide procedures for the processing and review of proposals for formation of new districts and to define the restrictions and limitations which may be imposed by the city as a condition to the approval of such districts consistent with the policy and intent of this chapter.

(b) The adoption of this chapter is necessary, requisite and proper for the government and administration of local and municipal matters pursuant to the city's home rule powers granted by article XX of the Colorado Constitution. The city council specifically finds that the determination of whether to use districts to provide for the development of capital facilities and incurring of debt to finance such facilities is purely a matter of local concern and shall determine the merits of allowing the formation of a district for development of municipal infrastructure to allow a district on a case-by-case basis.

#### **Sec. 2-1126. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Board* means the board of directors of a district.

*District* means a district proposed to be established and organized under the Special District Act whose service plan is to be approved by the city under applicable state law, and also means any existing district that is located wholly within the corporate limits of the city as of the effective date of the ordinance from which this chapter is derived.

*Petitioners* means those persons proposing the formation of a district, a service plan for a district or an amendment to an approved service plan of a district.

#### **Sec. 2-1127. - Reservation and construction.**

The city reserves all the powers and authority granted to municipalities by the Special District Act. The provisions of this chapter shall be construed and applied to supplement the applicable provisions of the Special District Act and, to the extent provided herein, supersede the Special District Act pursuant to the home rule powers granted the city by article XX of the Colorado Constitution.

**Sec. 2-1128. - Permitted district improvements.**

A district shall only be permitted to construct those capital and infrastructure improvements which are identified within an approved service plan, which may include but are not limited to, required off-site improvements and/or improvements required by [section 24-1055](#) of the Development Code.

**Sec. 2-1129. - District minimum size.**

A district shall consist of an area of at least one square mile in area size with all property included in the district contiguous, except streets, ditches and other similar easements or features. A district may be less than one square mile if it can be demonstrated that the development substantially accomplishes the land use mix and connectivity with adjacent parcels required by [section 24-1055](#) of the Development Code.

**Sec. 2-1130. - Use of eminent domain by a district.**

The District shall not exercise its statutory power of eminent domain without first obtaining resolution approval from the City Council. This restriction on the District's exercise of its eminent domain power does not otherwise limit the District's sovereign powers and shall not negatively affect the District's status as a political subdivision of the State as conferred by the Special District Act.

**Sec. 2-1131. - District's application for grants.**

A district may be permitted to apply for grant funds for which the city is also eligible only after review and approval by the city council of the application for said grant proposal by the district.

**Sec. 2-1132. - Disclosure.**

As part of any sale of real property located within a district, there shall be a written disclosure statement which accompanies the sales transaction that identifies and describes the increased property tax burden of the property due

to its location in the district. The document shall be executed as part of the title work associated with the sale of the property, shall be signed by the seller and purchaser of the property and shall be recorded promptly with the county clerk and recorder by the district.

**Sec. 2-1133. - Referral notice to other affected special districts.**

As part of the city review and approval of all proposed districts, a written notice from the city shall be forwarded to each existing special district located within the proposed district's boundary at least 30 calendar days prior to the public hearing. The purpose of the notice is to afford the special districts the opportunity to provide comment about the proposed district and any adverse impacts, including the district's proposed financing and mill levy, which the existing special district anticipates may arise from the district due to its anticipated development and its proposed location.

**Sec. 2-1134. - District fees and costs.**

(a) The application and processing fee for the city to review the creation of a district and service plan shall be set periodically by the city manager at a rate to recover administrative review expenses as well as reasonable direct costs incurred by the city related to such district and plan review, including, but not limited to, costs of the city's bond counsel.

(b) All owners of real property within any district shall be required to pay any and all applicable city fees, costs and expenses, including, but not limited to, building and development fees that apply to all properties citywide.

**Sec. 2-1135. - Required annual report.**

Not later than September 1 of each calendar year, each district shall file an annual report (the annual report) with the city clerk, the requirements of which may be waived in whole or in part by the city council, if such reporting requirements place an undue hardship on such district. The annual report shall reflect activity and financial events of the district through the preceding December 31 (the report year). The annual report shall include the following:

(a) A narrative summary of the progress of the district in implementing its service plan for the report year;

(b) Except when exemption from audit has been granted for the report year under the Local Government Audit Law, the audited financial statements of the district for the report year, including a statement of financial condition (i.e.,

balance sheet) as of December 31 of the report year, and the statement of operations (i.e., revenues and expenditures) for the report year or a copy of the audit exemption application;

(c) Unless disclosed within a separate schedule attached to the financial statements, a summary of the capital expenditures incurred by the district in development of public improvements in the report year, as well as any public improvements proposed to be undertaken in the five years following the report year;

(d) Unless disclosed within a separate schedule attached to the financial statements, a summary of the financial obligations of the district at the end of the report year, including the amount of outstanding debt, the amount and terms of any new debt issued in the report year, the amount of payment or retirement of existing debt of the district in the report year, the total assessed valuation of all taxable properties within the district as of January 1 of the report year and the current mill levy of the district pledged to debt retirement in the report year;

(e) A summary of residential and commercial development in the district for the report year;

(f) A summary of all fees, charges and assessments imposed by the district as of January 1 of the report year;

(g) Certification by the board of directors that no action, event or condition enumerated in [section 2-1142](#) has occurred in the report year; and

(h) The name, business address and telephone number of each member of the board of directors and its chief administrative officer and general counsel, together with the date, place and time of the regular meetings of the board of directors.

### **Sec. 2-1134. - Review of annual report.**

Annually, the city council, at a regular public meeting, may review the annual reports received from each district. In the event the annual report is not timely received by the city clerk, notice of such default shall be given by certified mail by the city clerk to the board of directors of such district at its last-known address. The failure of the district to file the annual report within 45 calendar days of the mailing of such default notice by the city clerk shall empower the city council to impose the sanctions authorized in [section 2-1138](#). The remedies

provided for noncompliance with the filing of the annual report shall be supplementary to any remedy authorized by the Special District Act.

**Sec. 2-1135. - Presubmittal meeting.**

Petitioners shall initiate a service plan proposal by scheduling a meeting with designated city staff representatives to discuss the procedures and requirements for a service plan. The city representative shall explain the administrative process and provide information to assist petitioners in the orderly processing of the proposed service plan.

**Sec. 2-1136. - Filing of proposed service plan.**

(a) Petitioners shall file a proposed service plan electronically with the Community Development Department. The proposed service plan shall substantially comply with the format of any model service plan which is maintained on file with the City.

(b) A copy of the proposed petition to be filed with the district court must be included with the proposed service plan filed with the city.

(c) The formal application and application fees must be received by the City no later than the third Tuesday of December in the preceding year for a spring election (May) or the third Tuesday of May for a fall election (November). The City cannot commit to timely processing of applications submitted after these dates for their respective elections.

**Sec. 2-1137. - Service plan contents.**

The proposed service plan shall include the following:

(a) The information required under C.R.S. § 32-1-202(2), and [section 24-1055](#) of the Development Code.

(b) A map of the proposed district boundaries with a legal description or lot and block description.

(c) An itemization of any costs which petitioners expect to be assumed by the city for the construction and maintenance of public improvements and the timing of said public expenditure.

(d) Proof of ownership for all properties within the district.

(e) A copy of any and all proposed, contractual and/or operations documents which would affect or be executed by the proposed district, including the form of any intergovernmental agreement between the district and the city.

(f) A capital plan including the following:

1. A description of the type of capital facilities to be developed by the district;
2. An estimate of the cost of the proposed facilities; and
3. A pro forma capital expenditure plan correlating expenditures with development of district infrastructure.

(g) A financial plan including the following:

1. The total amount of debt issuance planned for the five-year period commencing with the formation of the district;
2. All proposed sources of revenue and projected district expenses, as well as the assumptions upon which they are based, for at least a ten-year period from the date of the district formation;
3. The dollar amount of any anticipated financing, including capitalized interest, costs of issuance, estimated maximum rates and discounts and any expenses related to the organization and initial operation of the district;
4. A detailed repayment plan covering the life of any financing, including the frequency and amounts expected to be collected from all sources;
5. The amount of any reserve fund and the expected level of annual debt service coverage which will be maintained for any financing;
6. The total authorized debt for the district;
7. The provisions regarding credit enhancement, if any, for the proposed financing, including, but not limited to, letters of credit and insurance; and
8. A list and written explanation of potential risks of the financing.

(h) Such other information contained in the model service plan or as may reasonably be deemed necessary or appropriate by the city, including, but not limited to, potential impacts to other existing developments within the city.

**Sec. 2-1138. - Administrative review.**

An administrative Review Team will review the applicant submittal along with any follow-up documentation that is requested in order to assess the application according to this Policy and other appropriate City policy. Once the final review of the service plan by the city staff has been completed, a comprehensive analysis shall be made in written report form to the city council. The report shall evaluate the service plan and incorporate comments of the city staff as well as any consultants. The report shall set forth the recommendations made in accordance with the review criteria contained in [section 2-1137](#).

**Sec. 2-1139. - Public hearing and criteria applied to a service plan.**

Upon completion of the administrative report, a public hearing shall be scheduled for consideration at a regular city council meeting. Public notice shall be accomplished in accordance with the requirements of C.R.S. § 32-1-204.

(a) Any testimony or evidence which, in the discretion of the city council, is relevant to the organization of the district shall be considered.

(b) The city council shall apply the following criteria to consideration of the proposed service plan:

1. Whether there is a sufficient existing and projected need for organized service in the area to be serviced by the proposed district;
2. Whether the existing service in the area to be served by the proposed district is inadequate for present and projected needs;
3. Whether the proposed district is capable of providing economical and sufficient service to the area within its proposed boundaries;
4. Whether the area to be included in the proposed district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;
5. Whether adequate service is not, or will not be, available to the area through the city or other existing quasi-municipal corporations, including existing districts, within a reasonable time and on a comparable basis;



6. Whether the facility and service standards of the proposed district are compatible with the facility and service standards of the city;
7. Whether the facility and service standards offer an exceptional or special level of improvement or service that warrants the use of a Special District;
8. Whether the proposal is in substantial compliance with the city's comprehensive plan;
9. Whether the proposal is in substantial compliance with the county, regional or state long-range water quality management plans and wastewater plans for the area;
10. Whether the creation of the district will be in the best interests of the area proposed to be served;
11. Whether the creation of the district will be in the best interests of the residents or future residents of the area proposed to be served;
12. Whether the proposed service plan is in substantial compliance with this chapter; and
13. Whether the creation of the district will foster urban development that is remote from, or incapable of being integrated with, existing urban areas, or place a burden on the city or adjacent jurisdictions to provide urban services to residents of the proposed district.

(c). In addition to the criteria listed in section 2-1139(b), the city council shall apply the following criteria to consideration of the Park and Recreation District proposed service plan in accordance to C.R.S. § 32-1-1105.

1. The facility or service is not adequately provided in the district by private providers;
2. There is sufficient existing and projected need for the facility or service within the district;
3. The existing facilities or services in the district are inadequate for present and projected needs;
4. The district has or will have the financial ability to discharge any proposed indebtedness on a reasonable basis; and

5. The facility or service will be in the best interests of the district and of the residents of the district and the general public.

**Sec. 2-1140. - Findings and written determination regarding district service plan.**

If, after consideration of the applicant's submitted materials, staff reports and public testimony at the public hearing, the service plan is approved, a resolution of approval of the service plan, either as approved or as approved with conditions, shall be adopted by the city council. The resolution of approval of the service plan shall include findings that conclusively establish that the service plan is in substantial compliance with this chapter and, in particular, the criteria found in sections [2-1137](#) and [2-1139\(2\)](#). In all cases, the city council shall make findings for its determination of approval, approval with conditions or denial based on the criteria stated in [section 2-1139\(2\)](#).

**Sec. 2-1141. - Material modification.**

In addition to any material modifications made to any approved service plan, the occurrence of any of the following actions, events or conditions, subsequent to the date of approval of the service plan or most recent amendment thereto, shall constitute material modifications requiring a service plan amendment:

(a) Default in the payment of principal or interest of any district bonds, notes, certificates, debentures, contracts or other evidences of indebtedness or borrowing issued or incurred by the district which:

1. Persists for a period of 120 calendar days or more;
2. The defaulted payment exceeds the lesser of \$50,000.00 or ten percent of the outstanding principal balance of the indebtedness; or
3. The creditors have not agreed in writing with the district to forbear from pursuit of legal remedies.

(b) The failure of the district to develop, cause to be developed or consent to the development by others of any capital facility proposed in its service plan when necessary to service approved development within the district.

(c) Failure of the district to realize at least 75 percent of the development revenues (including developer contributions, loans or advances, fees, exactions and charges imposed by the district on residential and commercial

development, excluding taxes) projected in the financial portion of the service plan during the three-year period ending with the report year, provided that the disparity between projected and realized revenue exceeds \$50,000.00.

(d) The development of any capital facility in excess of \$100,000.00 in cost, which is not either identified in the service plan or authorized by the city in the course of a separate development approval, excluding bona fide cost projection miscalculations; and state or federally mandated improvements, particularly water, storm drainage and/or sanitation facilities.

(e) The occurrence of any event or condition which is defined under the service plan or intergovernmental agreement as necessitating a service plan amendment.

(f) The material default by the district under any intergovernmental agreement with the city.

(g) Any of the events or conditions enumerated in C.R.S. § 32-1-207(2).

**Sec. 2-1142. - Appeal hearing of material modification determination.**

Should the district dispute that one or more of the occurrences enumerated in [section 2-1141](#) is a material modification, the district may, within 60 calendar days of notice by the city, and after consultation with city staff, request in writing a hearing before the city council. After hearing and receipt of any relevant information presented by the district and the recommendation of city staff, the city council shall make a finding as to whether such occurrence constitutes a material modification. In the event it is found that a material modification has taken place, the district shall submit its request for an amendment in accordance with this chapter, unless waived by the city council. Upon a finding that no material modification has taken place, the district shall be relieved from obtaining an amendment. The city council may, however, require a later amendment if the change or deviation, on a cumulative basis, subsequently becomes a material modification. In making its determination, the city council shall consider, among other relevant information, whether the modification will have a probable adverse financial impact on the city.

**Sec. 2-1143. - Service plan amendment.**

(a) Except as otherwise provided in the approved service plan and except when the city council has determined that no material modification has occurred pursuant to [section 2-1142](#), within 90 calendar days of the

occurrence of an action, event or condition enumerated in [section 2-1143](#), the board of directors shall forward an appropriate petition to the city council for approval requesting a service plan amendment. The petition for amendment shall include:

1. Any information or documentation required under the applicable provisions of the Special District Act;
2. Any material changes since the service plan was last reviewed and approved by the city council to any of the information, assumptions or projections furnished in conjunction with the petition for approval of organization of a district or contained in the service plan;
3. A detailed explanation of the activity, events or conditions which resulted in the material modification, including what action was taken or alternatives considered, if any, by the district to avoid the action, event or condition;
4. The impact of the material modification on the district's ability to develop the capital facilities and infrastructure necessary to meet its capital development plan;
5. The effect of the material modification on the district's ability to retire, as scheduled, its outstanding financial obligations and its ability to issue and market additional indebtedness, if any;
6. A current financial plan for the district reflecting development absorption rates anticipated within the district's service area, projected annual revenues and expenditures based upon such projected absorption rates, debt issuance and amortization schedules and a projection of anticipated capital outlays;
7. The financial impact of the modification on existing residents of the district;
8. An updated five-year capital improvements plan; and
9. What alternatives or options are available to the district if the requested amendment is not approved.

(b) All of the required information shall be supported by appropriate technical analysis, reports and supporting documents of qualified professionals and consultants. The amendment shall be processed and reviewed in the same manner as prescribed by this chapter for an initial service plan, except that the submittal requirements of this section shall be substituted for those of [section 2-](#)

[1136](#), and the application fee shall be set by the city manager. This section shall not impair the right of the city to bring an action in the district court to pursue appropriate remedies, including, but not limited to, enjoining the activities of the district pursuant to C.R.S. § 32-1-207(3)(b).

(c) After the effective date of the ordinance from which this chapter is derived, all service plan amendments shall comply with this chapter.

#### **Sec. 2-1144. - Exemption from compliance with this chapter.**

If any district has not undertaken development of capital facilities or issued any indebtedness within one year after approval of the district by the city, it may apply to the city council within 30 calendar days of expiration of the one-year period for a one-time exemption from compliance with this chapter for a period of time not to exceed two years beginning from the end of the initial one-year performance period. The city council may grant, at its sole discretion, an exemption if the board of directors submits a resolution to the city council stating that, upon issuance of the exemption, the district's authorization under the service plan and the intergovernmental agreement with the city to undertake development of capital facilities or issue any indebtedness is temporarily suspended. Upon issuance of the exemption, the district shall be excluded from compliance with this chapter, except that the district annually, not later than September 1, shall submit financial statements from the previous year and the budget for the current year.

#### **Sec. 2-1145. - Review of financing.**

A district shall not issue any indebtedness that is not consistent with the service plan previously approved by the city, without first submitting the proposed financing to the city for review and comment. The city shall have 60 calendar days to review the proposed financing. The submission shall include the dollar amount of the issue, the estimated interest rate and other financing costs, the type of revenues pledged to repayment, including amount of the mill levy pledged, and a description of the credit enhancements, together with any preliminary official statement or other prospectus for the debt issue. The submission shall be accompanied by a certification of the board of directors that the proposed issuance or refinance of indebtedness is authorized by and in compliance with the service plan for the district.

#### **Sec. 2-1146. - Land use.**

Approval of a service plan does not guarantee the petitioner and/or the district any other land use approvals by the city required for the development of property within the district.

**Sec. 2-1147. - Capital facilities.**

Districts are prohibited from developing or constructing any capital facility unless such facility is authorized under the service plan and intergovernmental agreement and any applicable city ordinances.

**Sec. 2-1148. - Enforcement.**

Should any district fail to comply with any applicable provision of this chapter, the city council may impose one or more of the following sanctions, as it deems appropriate:

- (a) Exercise any applicable remedy under the Special District Act.
- (b) Withhold the issuance of any permit, authorization, acceptance or other administrative approval necessary for the district's development of public facilities or construction.
- (c) Exercise any legal remedy under the terms of any intergovernmental agreement under which the district is in default.
- (d) Exercise any other legal remedies, including, but not limited to, seeking injunctive relief against the district, to ensure compliance with the provisions of this chapter.
- (e) All remedies of the city are cumulative in nature.

**Sec. 2-1149. - Application to pending service plans and amendments.**

This chapter shall govern the processing, review and consideration of service plans for new districts or those existing districts required to submit service plans or service plan amendments which have not received approval by the city council prior to the effective date of the ordinance from which this chapter is derived.

**Secs. 2-1150—2-1200. - Reserved.**

# Special District Ordinance Overview

**City Council Meeting**  
**March 15, 2022**



# Context

- **Title 32 of CO State law sets out provisions that allow for the creation of “Special Districts” as an economic alternative to the development of municipal infrastructure (the Special District Act).**



# Key Provisions

- **Permitted improvements**
- **Minimum District size**
- **Use of eminent domain; application for grants**
- **Disclosure**
- **Referral notice**
- **Fees**
- **Annual Report**
- **Application process**
- **Service Plan**
- **Public hearing/application of criteria**
- **Amendment/modification process**
- **Financing, Land Use and Capital Facilities**
- **Enforcement**

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- **Public hearing/application of criteria**
- **Amendment/modification process**
- **Financing, Land Use and Capital Facilities**
- **Enforcement**

## Permitted Improvements

## Minimum District Size

- **May only construct improvements called out in the Service Plan**
- **Unless it can be demonstrated that the district can accomplish its goals with a smaller area the District must be at least one square mile in size with all land contiguous except for streets, ditches, similar easements**

## Eminent Domain

- **The use of eminent domain to acquire land is expressly prohibited without prior permission of the City Council**

## Grants

- **The District may not compete with the City for grants unless approved by the City Council.**

# Service Plan

***Key component of the application and basis for the physical and service delivery component of the District***

***Would be analyzed by Community Development, Finance, City Attorney, Culture Parks and Recreation and Public Works***

## ***Key Elements:***

- **District Boundary Map**
- **Itemization and timing of any costs petitioners expect to be assumed by the City**
- **Proof of ownership of all District property**
- **All proposed contractual/operational agreements**
- **A Capital plan of all planned improvements (description, cost est. pro-forma)**
- **Financial plan (total amount of planned debt issuance, sources of revenue, detailed repayment plan, reserve fund, total authorized debt, any credit enhancements, risk analysis)**
- **Other info as appropriate (such as potential impact of other developments)**

## Notice/Public Hearing

## Testimony

- **Once the administrative report is complete a public hearing is scheduled at a regular City Council meeting**
- **Any testimony deemed relevant by Council may be considered**

# Approval Criteria

*Council applies specific criteria to the proposed District & Service Plan*



## ***Key Elements:***

- Is there sufficient existing & projected need for District
- **Is the existing service in the area inadequate to meet existing and proposed needs**
- Is the District capable of providing economical and sufficient service within its boundaries
- **Is the proposed service not available currently or in a reasonable time to be provided by the City or equivalent**
- Will the District will provide exceptional or special improvements or service
- **Is the proposed District in compliance with City Comp Plan or other water or waste water plans**
- Is approval in the best interests of area residents or general public and able to be successfully integrated into other urban development and services

# Add'l Criteria

*Specific to a Parks and Recreation District*



## *Key Elements:*

- **The facility or service is not adequately provided by private providers;**
- **There is sufficient existing or projected need for the facility or district improvements;**
- **The existing facilities or services in the district are inadequate to meet present and projected needs;**
- **The District has or will have the financial ability to reasonably discharge any proposed debt;**
- **The facility or service will be in the best interests of the District, its residents and the general public**



# Process & Decisions

## Authority

- **Special District Ordinance in place**

## Eligibility

- **Is the proposed District land annexed?**
- **Is the District the minimum size of at least one square mile?**

## Review Process

- **Petitioners submits Special District application**
- **Staff reviews application with applicant and relevant departments; may refer to outside City entities for comment**
- **Completes analysis based upon ordinance criteria**
- **30 day notice sent to all other special districts located within the proposed district's boundary**

## Consideration

- **Application presented to City Council with staff comment/recommendation**
- **Public Hearing conducted to hear application and all public testimony of interest**

## Council Action

- **Council has full discretion to approve, approve with conditions, deny or suspend application indefinitely**
- **If Council approves the application, it advances to an election among District landowners to approve/deny**
- **If approved by land owners, District is established and may commence on its development/service plan as approved**

# Discussion....



# Council Agenda Summary

March 15, 2022

Key Staff Contact: Kathleen Hix, Human Resources Director, 970-350-9714

**Title:**

Public hearing and second reading of an Ordinance authorizing a salary increase for the Municipal Judge

**Summary:**

City Council conducted the annual performance review of the Municipal Judge on February 15, 2022. Based on this annual review, a merit increase of 8%, effective March 3, 2022 is being considered by Council.

Municipal Judge Current Salary	164,169
Value of 8% General Wage Increase for Municipal Judge	13,133.52
Fiscal Year 2022 Municipal Judge salary effective March 3, 2022	177,302.52

**Fiscal Impact:**

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	
What is the annual impact?	\$13,133.52
What fund of the City will provide Funding?	General
What is the source of revenue within the fund?	
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

**Legal Issues:**

Consideration of this matter is a legislative process.

**Other Issues and Considerations:**

None.

**Strategic Work Program Item or Applicable Council Priority and Goal:**

*Infrastructure & Growth:* Establish the capital and human infrastructure to support and maintain a safe, competitive, appealing and successful community.

**Decision Options:**

- 1) Adopt the ordinance as presented; or
- 2) Amend the ordinance and adopt as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

**Council's Recommended Action:**

A motion to adopt the ordinance and publish with reference to title only.

**Attachments:**

Ordinance  
Summary of City Council review comments

**CITY OF GREELEY, COLORADO**

**ORDINANCE NO. \_\_\_\_\_, 2022**

**AN ORDINANCE AUTHORIZING A SALARY INCREASE FOR  
THE MUNICIPAL JUDGE**

WHEREAS, Section 3-15 of the Greeley City Charter requires the fixing of compensation to be by ordinance, and salary and benefits are a part of the Municipal Judge’s compensation package; and

WHEREAS, on February 15, 2022 the City Council conducted the Municipal Judge’s annual review; and

WHEREAS, based on performance, the Municipal Judge will receive a salary merit increase of 8% to \$177,302.52 annually.

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

Section 1. The Municipal Judge’s salary is increased by eight percent (8%) to \$177,302.52.

Section 2. The above referenced ordinance shall be effective upon passage and shall be effective for the pay period beginning March 3, 2022.

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

**ATTEST:**

**THE CITY OF GREELEY, COLORADO**

**BY:** \_\_\_\_\_  
**Interim City Clerk**

**BY:** \_\_\_\_\_  
**Mayor**



**GREELEY CITY COUNCIL – COUNCIL EMPLOYEE - ANNUAL PERFORMANCE REVIEW for MUNICIPAL JUDGE - Fiscal Year 2021**

**RATING:** Use the following to determine the employee’s performance in each of the performance areas and overall performance.  
**Rarely Meets Expectations | Occasionally Meets Expectations | Regularly Meets Expectations | Occasionally Exceeds Expectations | Regularly Exceeds Expectations**

*Overall Performance Rating and Summary*

Regularly Exceeds Expectations  
Judge Gonzales performed in an exemplary manner throughout 2021. The Municipal Court continues to thrive under his leadership as evidenced by consistently high ratings from survey respondents. He led the courts through the pandemic without disruption, ensuring a safe and functional operation. Within this challenging environment, Judge Gonzales also worked with court staff to improve morale and increase engagement. He is a respected leader known for his fair, efficient approach to serving the people of Greeley. The City of Greeley benefits greatly from his continued service as Municipal Judge.

*Fiscal Year 2021 Performance Highlights – Note areas of excellence, areas for improvement, and goals (achieved or not achieved and any obstacles that influenced non-achievement).*

Judge Gonzales maintained a safe court environment during the pandemic and ensured continuing operations throughout 2021. He also led his team through the transition to the revised Municipal Code, again without disruption to court services. Judge Gonzales continues to make considerable progress in disposing of older cases, closing out over 120% of cases in 2021 while receiving strong reviews on almost every metric.

*Fiscal Year 2022 Performance Goals – highlight individual goals for the Municipal Judge’s performance that are of particular importance for the coming year.*

Explore and leverage technological solutions to streamline court functionality and efficiency.  
Update the queuing system to support text notification to defendants prior to their court dates; consider options for remote courtroom participation; and complete repairs/updates of the telephone amplification and recording system.  
Update Rule 211 notices to align with Municipal Code revisions.  
Continue providing outstanding customer service to all who interact with the Municipal Court.

**EMPLOYEE NAME & TITLE:**

**DATE:**



**GREELEY CITY COUNCIL – COUNCIL EMPLOYEE - ANNUAL PERFORMANCE REVIEW for MUNICIPAL JUDGE - Fiscal Year 2021**

**Performance Focus Areas:** Throughout the areas identified below, evaluate the employee’s general performance in the specific area and the extent to which the employee demonstrated (or struggled to demonstrate) the City’s Core Values as noted.

<p><b>Job Knowledge/ Skills</b> (<i>Applied Wisdom</i>) Operational/ functional/ technical expertise; technological literacy; analytical; vision; professional development; Business Acumen;</p>	<p>Rating: Regularly Exceeds Comments: Displays excellent knowledge of municipal law. Stays current with legal developments through avid pursuit of continuous education and implements legal updates in his courtroom in a timely manner. Remains engaged in the community; contributes his expertise to assisting legislators in drafting new laws as a member of the CMJA.</p>
<p><b>Interpersonal Relations</b> (<i>Principled Relationships</i>) Composure; Compassion; Savvy (interpersonal and political); Conflict Management;</p>	<p>Rating: Regularly Exceeds Comments: Receives consistently high marks in this area by all who rated him. Demonstrates strong communication skills and approachability; acts with humility. Ensures that all who enter his courtrooms are heard. Sets the example of how people should treat each other.</p>
<p><b>Customer Service</b> (<i>Integrity</i>) Effective service delivery; fostering diversity; compliance with and support of policies and programs; communication skills; integrity and trust; ethics and values;</p>	<p>Rating: Regularly Exceeds Comments: Models high-quality, consistent customer service and supports his staff in providing the same. Places a premium on ethical, trusted service. Continue evaluating how technology could enhance the court’s ability to serve the people of Greeley.</p>
<p><b>Accountability</b> Resource allocation; performance measure/ management; planning/ execution; fiscal responsibility; dependability; Decision Quality; Confronting Direct Reports; Self-Knowledge; Action Oriented</p>	<p>Rating: Regularly Exceeds Comments: Makes sound decisions and allocates resources appropriately. Approaches learning opportunities with professionalism and an eye toward continuous improvement. The Judicial Review Board report denotes very strong performance here.</p>
<p><b>Management and Supervision</b> (<i>Stewardship</i>) Managing and measuring work; organizing; process management; Building Effective Teams; Directing Others;</p>	<p>Rating: Regularly Exceeds Comments: Has built an effective team with employees who clearly enjoy working with him; his management and supervisory skills support a high-performing team.</p>
<p><b>Leadership</b> Command skills; strategic ability; perspective; innovation; managing vision and purpose; Peer Relationships; Motivating Others; Managerial Courage;</p>	<p>Rating: Regularly Exceeds Comments: Staff survey comments reveal respect and appreciation for Judge Gonzales’ leadership abilities; clearly communicated vision and purpose contributed to greatly enhanced team cohesion. Municipal Court continues to run efficiently under his leadership.</p>

**EMPLOYEE NAME & TITLE:**

**DATE:**



**GREELEY CITY COUNCIL – COUNCIL EMPLOYEE - ANNUAL PERFORMANCE REVIEW for MUNICIPAL JUDGE - Fiscal Year 2021**

<p><b>Excellence</b> Intellectual and action oriented horsepower; Creativity; Drive for Results</p>	<p>Rating: Regularly Exceeds Comments: Drives to continuously improve service, consistency and fairness within the court system. Displays creativity and inclusivity in his pursuit of excellence.</p>
<p><b>Courtroom Management</b></p> <ul style="list-style-type: none"> <li>▪ Technically competent in the administration of courtroom proceedings.</li> <li>▪ Exhibits a high degree of legal expertise and specific knowledge of the City Charter, City Ordinances, Colorado Uniform Traffic Code, Municipal Criminal Law, and Colorado Municipal Court Rules.</li> <li>▪ Maintains ability to be judicially neutral.</li> </ul>	<p>Rating: Regularly Exceeds Comments: The Judicial Review Board’s report clearly captures strengths in courtroom management. Runs a streamlined, user-friendly court and exhibits outstanding legal expertise. Creates an optimal environment for those who work for him and those who come before him in court.</p>

**OTHER COMMENTS** (Employee from performance meeting or self-evaluation; or Supervisor from performance meeting)

Judge Gonzales continues to do an outstanding job functioning as our Municipal Judge.

	SIGNATURE	DATE
<i>Employee</i>		
<i>Reviewer</i>		

**EMPLOYEE NAME & TITLE:**

**DATE:**



# Council Agenda Summary

March 15, 2022

Key Staff Contact: Kathleen Hix, Human Resources Director, 970-350-9714

**Title:**

Public Hearing and second reading of an Ordinance authorizing a salary increase for the City Attorney

**Summary:**

City Council conducted the annual performance review of the City Attorney on February 15, 2022. A summary of Council performance review comments is attached. Based on this annual review, the following adjustments are being considered by the City Council with an effective date of March 3, 2022:

- a merit increase of 5%; and
- increasing the City Attorney's Paid Time Off (PTO) accrual rate from 6.14 hours (4 hours) per pay period to 12.31 hours (8 weeks) per pay period.

City Attorney Current Salary	223,915.50
Value of 5% General Wage Increase for City Attorney	11,195.78
Fiscal Year 2021 City Attorney salary following adjustment	235,111.28

**Fiscal Impact:**

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	
What is the annual impact?	\$11,195.78
What fund of the City will provide Funding?	General
What is the source of revenue within the fund?	
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

**Legal Issues:**

Consideration of this matter is a legislative process.

**Other Issues and Considerations:**

None.

**Strategic Work Program Item or Applicable Council Priority and Goal:**

*Infrastructure & Growth:* Establish the capital and human infrastructure to support and maintain a safe, competitive, appealing and successful community.

**Decision Options:**

- 1) Adopt the ordinance as presented; or
- 2) Amend the ordinance and adopt as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

**Council's Recommended Action:**

A motion to adopt the ordinance and publish with reference to title only.

**Attachments:**

Ordinance  
Summary of City Council review comments

**CITY OF GREELEY, COLORADO**

**ORDINANCE NO.\_\_\_\_, 2022**

**AN ORDINANCE AUTHORIZING A SALARY INCREASE AND CHANGES TO CERTAIN BENEFITS FOR THE CITY ATTORNEY**

WHEREAS, Section 3-15 of the Greeley City Charter requires the fixing of compensation to be by ordinance, and salary and benefits are a part of the City Attorney's compensation package; and

WHEREAS, on February 15, 2022 the City Council conducted the City Attorney’s annual review; and

WHEREAS, based on performance, the City Attorney will receive a salary merit increase of 5% to \$235,111.80 annually.

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

Section 1. The City Attorney's salary is increased by five percent (5.0%) to \$235,111.80.

Section 2. The City Attorney shall accrue paid time off at the rate of 12.31 hours per pay period (i.e. 8 weeks per calendar year) and shall accumulate, hold, and utilize paid time off as if Employee has tenure with the City of Twenty-one years or more in accordance with City paid time off policies as described in the City’s employee handbook.

Section 3. The above referenced ordinance shall be effective upon passage and shall be effective for the pay period beginning March 3, 2022.

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

**ATTEST:**

**THE CITY OF GREELEY,  
COLORADO**

**BY:** \_\_\_\_\_  
**Interim City Clerk**

**BY:** \_\_\_\_\_  
**Mayor**



**GREELEY CITY COUNCIL – COUNCIL EMPLOYEE - ANNUAL PERFORMANCE REVIEW – CITY ATTORNEY – Fiscal Year 2021**

**RATING:** Use the following to determine the employee’s performance in each of the performance areas and overall performance.  
**Rarely Meets Expectations | Occasionally Meets Expectations | Regularly Meets Expectations | Occasionally Exceeds Expectations | Regularly Exceeds Expectations**

*Overall Performance Rating and Summary*

Occasionally Exceeds Expectations  
Council comments: Mr. Marek’s legal knowledge and commitment to acting in the best interest of the City of Greeley continued to be a strength throughout 2021. He is viewed by peers, direct reports, Council and the community as a skilled legal practitioner and intelligent thought partner. He constructs sound legal arguments and is adept at communicating complex legal issues in a clear, relatable manner. Mr. Marek is a respected leader at city and state levels, and is a trusted legal partner to the City of Greeley and the City Council. Of particular note is the agility Mr. Marek displayed throughout 2021 in adjusting to rapidly changing conditions surrounding city leadership and the pandemic.

*Fiscal Year 2021 Performance Highlights – Note areas of excellence, areas for improvement, and goals (achieved or not achieved and any obstacles that influenced non-achievement).*

Council comments: Council appreciates Mr. Marek’s flexibility in taking on new roles and responsibilities in order to meet or exceed community and organizational needs. Strategic hires and continuing success attracting strong legal talent to the CAO has enabled the legal team to provide effective and collaborative service.

*Fiscal Year 2022 Performance Goals – highlight individual goals for the City Attorney’s performance that are of particular importance for the coming year.*

Continue to utilize executive coaching in support of individual and team development.  
Leverage opportunities to communicate frequently with the City Council.  
Maintain sense of urgency and proactively manage expectations surrounding work product deliverables.  
Maintain enhanced cadence of staff check-ins implemented in 2021 and encourage staff to leverage opportunities for professional development.

**EMPLOYEE NAME & TITLE:**

**DATE:**



**GREELEY CITY COUNCIL – COUNCIL EMPLOYEE - ANNUAL PERFORMANCE REVIEW – CITY ATTORNEY – Fiscal Year 2021**

**Performance Focus Areas:** Throughout the areas identified below, evaluate the employee’s general performance in the specific area and the extent to which the employee demonstrated (or struggled to demonstrate) the City’s Core Values as noted.

<p><b>Job Knowledge/ Skills</b> (<i>Applied Wisdom</i>) Operational/ functional/ technical expertise; technological literacy; analytical; vision; professional development; Business Acumen;</p>	<p>Rating: Occasionally Exceeds Expectations Comments: Displays excellent job knowledge and skill level. Is well prepared and utilizes solid research to support his arguments.</p>
<p><b>Interpersonal Relations</b> (<i>Principled Relationships</i>) Composure; Compassion; Savvy (interpersonal and political); Conflict Management;</p>	<p>Rating: Occasionally Exceeds Expectations Comments: Interacts with employees, City Council, members of the Weld County Bar, the courts, and other stakeholders in a cordial, professional manner. Maintains composure and possesses excellent conflict management skills. Is a calming influence in heated situations and fosters principled professional relationships. Could be more proactive in communicating with Council members.</p>
<p><b>Customer Service</b> (<i>Integrity</i>) Effective service delivery; fostering diversity; compliance with and support of policies and programs; communication skills; integrity and trust; ethics and values;</p>	<p>Rating: Regularly Meets Expectations Comments: Displays the highest levels of integrity and ethical behavior. Responds well to customer questions and provides on-point answers with appropriate levels of detail. Guided his team to deliver effective customer service. Work quality is consistently outstanding.</p>
<p><b>Accountability</b> Resource allocation; performance measure/ management; planning/ execution; fiscal responsibility; dependability; Decision Quality; Confronting Direct Reports; Self-Knowledge; Action Oriented</p>	<p>Rating: Occasionally Exceeds Expectations Comments: Allocates resources well and has good measurement tools in place. Navigated leadership transitions with confidence over the past year. Is self-aware and owns his professional strengths and growth opportunities. Makes sound decisions for the City of Greeley and is a great leader in the City Attorney’s office.</p>
<p><b>Management and Supervision</b> (<i>Stewardship</i>) Managing and measuring work; organizing; process management; Building Effective Teams; Directing Others;</p>	<p>Rating: Occasionally Exceeds Expectations Comments: Managed his staff and City legal matters well during a time of great change in our City. Continue to optimize opportunities to build teams and guide staff.</p>

**EMPLOYEE NAME & TITLE:**

**DATE:**



**GREELEY CITY COUNCIL – COUNCIL EMPLOYEE - ANNUAL PERFORMANCE REVIEW – CITY ATTORNEY – Fiscal Year 2021**

<p><b>Leadership</b>                  Command skills; strategic ability; perspective; innovation; managing vision and purpose; Peer Relationships; Motivating Others; Managerial Courage;</p>	<p>Rating: Occasionally Exceeds Expectations                  Comments:                  Strong leadership skills in Greeley and at the state level are very apparent. Leads with vision and purpose. Continue to implement department vision in 2022.</p>
<p><b>Excellence</b>                  Intellectual and action oriented horsepower; Creativity; Drive for Results</p>	<p>Rating: Occasionally Exceeds Expectations                  Comments:                  Is fair, balanced and calm. These traits have been very powerful in a period of rapid change and serve him well in guiding the CAO to achieve strong results.</p>
<p><b>Research &amp; Legal Counsel</b></p> <ul style="list-style-type: none"> <li>▪ Provides accurate, concise and timely counsel to City Councilors, Boards and Commissions.</li> <li>▪ Protects the City’s interests from a legal standpoint; maintains confidentiality.</li> <li>▪ Provides all Councilors with the same information within the same time frame.</li> <li>▪ Exhibits a high degree of legal expertise.</li> <li>▪ Initiates legal action on behalf of and defends the City in any legal action initiated against it.</li> <li>▪ Provides accurate, concise and timely council to all City directors, supervisors and other appropriate staff.</li> <li>▪ Identifies any legal concerns with the City’s personnel and department policies.</li> </ul>	<p>Rating: Occasionally Exceeds Expectations                  Comments:                  Mr. Marek is an excellent attorney who provides accurate, concise counsel to City Councilors, Boards and Commissions, directors, supervisors and other appropriate staff. He exhibits a high degree of legal expertise and acts in the best interest of the City at all times.</p>

**EMPLOYEE NAME & TITLE:**

**DATE:**



**GREELEY CITY COUNCIL – COUNCIL EMPLOYEE - ANNUAL PERFORMANCE REVIEW – CITY ATTORNEY – Fiscal Year 2021**

**OTHER COMMENTS:** (Employee from performance meeting or self-evaluation; or Supervisor from performance meeting)

	<b>SIGNATURE</b>	<b>DATE</b>
<i>Employee</i>		
<i>Reviewer</i>		

**EMPLOYEE NAME & TITLE:**

**DATE:**

Public Hearing and Second Reading  
Ordinance Authorizing FY 2022  
Salary Increase for  
Municipal Judge  
and  
City Attorney





# City Charter §3-15

- **Requires that the City Council fix compensation by ordinance**
- **City Council directly appoints and sets compensation for:**
  - City Manager (Article IV)
  - City Attorney (Article VI)
  - Municipal Judge (Article VII)

# Proposed Wage Increases

	<b>Current Salary</b>	<b>Merit Increase (Percentage)</b>	<b>Merit Increase (Dollars)</b>	<b>Paid Time Off Accrual</b>	<b>FY 2022 Salary following adjustment</b>
<b>City Attorney</b>	<b>\$223,916.00</b>	<b>5%</b>	<b>\$11,195.80</b>	<b>12.31 hours per pay period</b>	<b>\$235,111.80</b>
<b>Municipal Judge</b>	<b>\$164,169.00</b>	<b>8%</b>	<b>\$13,133.52</b>	<b>N/A</b>	<b>\$177,302.52</b>
<b>City Manager</b>	<b>N/A</b>		<b>N/A</b>	<b>N/A</b>	<b>N/A</b>



# City Council Employee Performance Review Process

## Period of March 2021 – February 2022

Action
Direct Report Self-Appraisals
360-Surveys
City Council Appraisal Summary
City Council and Direct Report Discussion
Final Appraisal Summary



# QUESTIONS?



# Council Agenda Summary

March 15, 2022

Key Staff Contact: Sean Chambers, Water & Sewer Director, 970-350-9815

**Title:**

Public hearing and final reading of an ordinance authorizing the divestment of water rights from the Larimer and Weld Irrigation Company and Windsor Reservoir and Canal Company in exchange for water rights from the Water Supply and Storage Company.

**Summary:**

This ordinance authorizes the trade and divestment of City of Greeley-owned water rights through a Water Rights Trade Agreement (“Agreement”) with Longs Peak Dairy, LLC (“LPD”). The Agreement authorizes the trade of Greeley’s six shares of stock in the Larimer and Weld Irrigation Company (“LWIC”) and 12 shares of stock in the Windsor Reservoir and Canal Company (“WRCC”) for LPD’s two shares of stock in the Water Storage and Supply Company (“WSSC”). Staff and the Greeley’s outside water law legal counsel have analyzed the water rights, risks associated with change of water rights case and the water resource engineering to determine that trade would be favorable to Greeley now and into the future. Therefore, the staff recommends the trade, and cites the following reasons:

- 1) Among the water sources the Water & Sewer Department acquires, WSSC is the certain for use in the Greeley system and therefore our highest priority;
- 2) Asset prices of WSSC are escalating far more rapidly than LWIC and WRCC;
- 3) The market value of the two WSSC shares is \$1.0 million or more higher than the market value of the LWIC and WRCC shares;
- 4) WSSC shares include an allocation of trans-basin water that can be fully consumed and reused in the Greeley system;
- 5) The reliable water supply yields for WSSC water rights (i.e., the amount of water that can be reliably delivered to the city) are well-established, whereas yields from LWIC and WRCC rights are not established and have greater uncertainty;
- 6) Changing the WSSC rights from agricultural to municipal use in Water Court is relatively streamlined given the body of legal precedents set in numerous prior WSSC change of water rights cases; and
- 7) The asset trade allows the city to incorporate the additional two WSSC shares in a Water Court change case being prepared by filing in March 2022.

Water resource engineering estimates the LWIC and WRCC shares to yield 94 acre-feet more water than the WSSC shares. However, yield estimates for LWIC and WRCC are highly uncertain because these sources have never been through a change of use case, so there is no established case law for a change to municipal use. Staff assess that the advantages of the trade outweigh the drawback of potentially less yield.

Execution of the trade requires approval by ordinance to divest the LWIC and WRCC shares. **At their January 19, 2022, the Greeley Water & Sewer Board approved the**

**Agreement with LPD. In doing so, the Board recommended that City Council authorize the disposition of twelve shares of WRCC and six shares of LWIC.**

**Fiscal Impact:**

Does this item create a fiscal impact on the City of Greeley?	Yes
If yes, what is the initial, or, onetime impact?	<\$15,000 in diligence, inspection and closing costs
What is the annual impact?	
What fund of the City will provide Funding?	
What is the source of revenue within the fund?	
Is there grant funding for this item?	No
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	The trade of water rights does not include cash payment to either party. The only cost will be to perform inspection and due diligence of the water rights and for closing services.

**Legal Issues:**

Consideration of this matter is a legislative process. Section 17-4(c) of the City Charter requires that any sale or exchange of water, including the exchange of water rights previously acquired by the Water and Sewer Department with enterprise funds, be approved by City Council. The divestment of water rights not being used or held for a governmental purpose may be authorized by ordinance.

**Other Issues and Considerations:**

None

**Strategic Work Program Item or Applicable Council Priority and Goal:**

*Infrastructure & Growth:* Establish the capital and human infrastructure to support and maintain a safe, competitive, appealing and successful community.

**Decision Options:**

- 1) Adopt the ordinance as presented; or
- 2) Amend the ordinance and adopt as amended; or
- 3) Deny the ordinance; or
- 4) Continue consideration of the ordinance to a date certain.

**Council's Recommended Action:**

A motion to adopt the ordinance authorizing the divestment of water rights from the Larimer and Weld Irrigation Company and Windsor Reservoir and Canal Company in exchange for water rights from the Water Supply and Storage Company.

**Attachments:**

Ordinance  
Presentation  
Water Rights Trade Agreement and Exhibits

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

**AN ORDINANCE AUTHORIZING THE DIVESTMENT OF CITY-OWNED WATER RIGHTS REPRESENTED BY SHARES OF CAPITAL STOCK IN THE LARIMER AND WELD IRRIGATION COMPANY AND WINDSOR RESERVOIR AND CANAL COMPANY, AND ASSOCIATED LATERAL RIGHTS, IN EXCHANGE FOR WATER RIGHTS REPRESENTED BY SHARES OF CAPITAL STOCK IN THE WATER SUPPLY AND STORAGE COMPANY**

WHEREAS, between 2012 and 2015 the City of Greeley, acting by and through its Water and Sewer Board, purchased six (6) shares of capital stock in the Larimer and Weld Irrigation Company (evidenced by Stock Certificate Nos. 6155 and 6251), twelve (12) shares of capital stock in the Windsor Reservoir and Canal Company (evidenced by Stock Certificate Nos. 577, 662, 667, and 700), one (1) share of stock in the Roullard Lateral Company (evidenced by Stock Certificate No. 406), and eight (8) shares of stock in the Owl Creek Supply and Irrigation Company (evidenced by Stock Certificate No. 1900) (collectively "LWIC and WRCC Water Rights"); and

WHEREAS, since acquiring the LWIC and WRCC Water Rights, the City has leased the water rights back to tenant farmers for agricultural irrigation in order to maintain the historical use of the water rights; and

WHEREAS, the City recently received an offer to trade the LWIC and WRCC Water Rights for certain water rights represented by two (2) shares of stock in the Water Supply and Storage Company ("WSSC Water Rights"), as is described more particularly in the Water Rights Trade Agreement and exhibits attached hereto as Exhibit A ("Water Rights Trade Agreement"); and

WHEREAS, WSSC Water Rights offer several advantages over LWIC and WRCC Water Rights, including, among other benefits, higher monetary value, a large component of wholly consumable and reusable transbasin water, and proven ability to be changed to municipal use in Water Court; and

WHEREAS, Section 17-4(c) of the Charter for the City of Greeley requires that any sale or exchange of water, including the exchange of water rights 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 water rights that are not being used or held for a governmental purpose; and

WHEREAS, the Water and Sewer Board on January 19, 2022 made a finding that the LWIC and WRCC Water Rights are not currently being used or held for a governmental purpose, approved the Water Rights Trade Agreement, and recommended the same action to City Council; and

WHEREAS, the City Council has determined that a trade of the LWIC and WRCC Water Rights for the WSSC Water Rights, as is described more particularly in the Water Rights Trade Agreement, 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 finds that the LWIC and WRCC Water Rights are not being used or held for a governmental purpose, and are surplus property unnecessary to retain for any governmental purpose.

Section 2. The City Council authorizes the divestment of the LWIC and WRCC Water Rights, in accordance with the terms and conditions of the Water Rights Trade Agreement and 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 Water Rights Trade Agreement and exhibits, including, but not limited to, 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 LWIC and WRCC Water Rights, (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 Water Rights Trade Agreement, 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 MARCH 2022.**

**ATTEST**

**CITY OF GREELEY, COLORADO**

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

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



WATER RIGHTS TRADE AGREEMENT  
(Longs Peak Dairy, LLC)

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

RECITALS

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

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

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

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

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

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

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

“LWIC Water Rights”).

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

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

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

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

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

## AGREEMENT

### ARTICLE 1 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE 2

### TRADE OF WATER RIGHTS AND EXECUTION OF AGREEMENTS

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

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

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

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

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

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

ARTICLE 3  
TITLE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 4  
INSPECTION PERIOD

4.1 Inspections.

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

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

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



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

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

#### 4.2 Objections.

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

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

### ARTICLE 5 CLOSING CONTINGENCIES; CLOSING

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

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

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

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

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

5.3 Transactions at Closing.

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

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

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

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

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

- (5) Partial assignment of the Chalk Covenants, in the form attached as Exhibit K.
- (6) Assignment and Assumption of the J&E Investments Lease, in the form attached as Exhibit J.
- (7) Copy of the written notice from Greeley to 2370, LLC that the Water Lease Agreement dated June 23, 2014, is terminated.
- (8) Copy of the written notice from Greeley to Chalk & Associates, LLC and SRC Energy, Inc. that the Irrigation Water Lease Agreement dated June 2, 2015 is terminated as to the portion of the Windsor Reservoir Water Rights contained therein.
- (9) The Water Lease, in the form attached as Exhibit B.
- (10) The ROFR Agreement, in the form attached as Exhibit C.
- (11) Documentation in such form as may be satisfactory to Longs Peak and the Title Company, evidencing Greeley's full authority and capacity close on this transaction.
- (12) A final closing settlement statement executed by Greeley.
- (13) Such other documents as may be reasonably necessary and appropriate to complete the Closing of the transaction contemplated herein.

ARTICLE 6  
PRORATIONS; CLOSING COSTS

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

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

ARTICLE 7  
REPRESENTATIONS AND WARRANTIES

7.1 Longs Peak represents and warrants to Greeley as follows:

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

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

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

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

E. No Abandonment. The WSSC Water Rights have not been abandoned by Longs Peak.

F. Compliance with Law. To the best of Longs Peak's current actual knowledge, Longs Peak has complied in all material respects with all laws, rules, regulations, ordinances, orders, judgments and decrees applicable to the WSSC Water Rights, and to Longs Peak's current actual knowledge there is no proposed order, judgment, decree, governmental taking or other proceeding applicable to Longs Peak which might adversely affect the WSSC Water Rights.

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

7.2 Greeley represents and warrants to Seller as follows:

A. Ownership and Encumbrances. Greeley is now and will remain, until the conclusion of the Closing, the lawful owner of the Greeley Property. To the best of Greeley's knowledge, the Greeley Property is free of any liens, encumbrances and third party claims except the Permitted Exceptions and those of Longs Peak. From the Effective Date of this Agreement until the Closing, and except for the Permitted Exceptions, Greeley shall not encumber the Greeley Property or any interest therein in

any way nor grant any property or contract right relating to the Greeley Property or any other interests without the prior written consent of Longs Peak.

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

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

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

E. Compliance with Law. To the best of Greeley's current actual knowledge, Greeley has complied in all material respects with all laws, rules, regulations, ordinances, orders, judgments and decrees applicable to the Greeley Property, and to Greeley's current actual knowledge there is no proposed order, judgment, decree, governmental taking or other proceeding applicable to Greeley which might adversely affect the Greeley Property.

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

7.3 Water Rights Adjudication. The Parties acknowledge and agree that a change of the WSSC Water Rights and/or other water rights adjudications may be necessary to allow Greeley's use of the Longs Peak Property for its intended purpose. Unless this Agreement is terminated pursuant to the provisions herein, Longs Peak agrees that it shall not oppose, but shall cooperate with Greeley, in any actions Greeley files in Water Court or administrative or other proceedings for approval of the use of the WSSC Water Rights as part of an application for new water rights (including direct flow or storage rights), changes of water rights, exchanges or plans for augmentation or substitution or in connection with the WSSC Water Rights. Longs Peak agrees that Greeley may include the WSSC Water Rights in any such application before the Closing Date, provided that Greeley promptly withdraws the WSSC Water Rights from any such application if this Agreement is terminated and Closing does not occur. Longs Peak shall not be required to file briefs in support of Greeley's application or take any affirmative action other than to appear and testify honestly about the WSSC Water Rights and provide any documentation of use or other relevant historical use information. The terms and provisions set forth in this Section 7.3 and the covenants and obligations arising therefrom shall survive the Closing and shall not be deemed merged into the closing documents.

## ARTICLE 8 CONDITIONS TO CLOSING; REMEDIES

8.1 Longs Peak Conditions. The obligation of Longs Peak to convey the Longs Peak Property under this Agreement is subject to the satisfaction of the following conditions precedent

or conditions concurrent (the satisfaction of which may be waived only in writing by Longs Peak):

- A. Delivery and execution by Greeley of all monies, items, and other instruments required to be delivered by Greeley to the Closing.
- B. All of the actions by Greeley required by this Agreement shall have been completed.
- C. There shall be no uncured default by Greeley of any of its obligations under this Agreement.

8.2 Greeley Conditions. The obligation of Greeley to acquire the Longs Peak Property and convey the Greeley Property under this Agreement is subject to the satisfaction of the following conditions precedent or conditions concurrent (the satisfaction of which may be waived only in writing by Greeley):

- A. Satisfaction of the closing contingencies in Article 5 above.
- B. Delivery and execution by Longs Peak of all items and other instruments required to be delivered by Longs Peak to the Closing.
- C. All of the actions by Longs Peak contemplated by this Agreement shall have been taken.
- D. There shall be no uncured default by Longs Peak of any of its obligations under this Agreement.
- E. The representations and warranties made by Longs Peak as specifically set forth herein shall be true and correct as of the Closing Date and shall not be deemed waived in the event Greeley elects to close pursuant to Section 8.3A(3) below.

8.3 Failure of Condition.

A. Except as set forth in Section 8.3B below, in the event of a failure of any condition contained in Section 8.2, Greeley may in its sole discretion:

(1) Terminate this Agreement by notice to Longs Peak, in which event all materials exchanged by the Parties shall be returned and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement.; or

(2) Greeley may waive such default or condition and close the transaction; or

(3) If the failure of condition consists of a default by Longs Peak which can be cured by action within the reasonable control of Longs Peak, Greeley may

elect to treat this Agreement as being in full force and effect and Greeley shall have the right to specific performance, damages, or both.

B. In the event of a failure of any condition contained in Section 8.1 above, Longs Peak may in its sole discretion:

(1) Terminate this Agreement by notice to Greeley, in which event all materials exchanged by the Parties shall be returned and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement; or

(2) Longs Peak may waive such default or condition and close the transaction.

C. Longs Peak hereby waives any rights it may have to specific performance in the event of a default by Greeley. Except for the giving of notices, time being of the essence, neither Party shall be deemed in default hereunder unless such Party fails to cure such default within seven (7) days of written notice of default from the other Party.

#### ARTICLE 9 CONDEMNATION

If prior to Closing all or a Material Part of the Longs Peak Property is subject to a proposed taking by any public authority, Longs Peak shall promptly notify Greeley of such proposed taking and Greeley may terminate this Agreement by notice to Longs Peak within fourteen (14) days after written notice thereof. If prior to Closing all or a Material Part of the Greeley Property is subject to a proposed taking by any public authority, Greeley shall promptly notify Longs Peak of such proposed taking and Longs Peak may terminate this Agreement by notice to Greeley within fourteen (14) days after written notice thereof. If either Party so elects to terminate pursuant to this Article 9, and following the return all materials exchanged by the Parties, this Agreement (with the exception of those obligations which by their nature are intended to survive the termination of this Agreement) shall be of no further force and effect. If this Article 9 is triggered and a Party elects not to terminate this Agreement, or if the taking is as to a non-Material Part of the Property, that party shall accept title to the property subject to the taking without a reduction of modification to the consideration herein, and shall receive at Closing an assignment of all rights to any condemnation award. Such Party shall have the sole right after the Closing to negotiate and otherwise deal with the condemning authority in respect of such matter. A Material Part of the Property for purposes of this Article 9 shall mean a portion that would have a material adverse effect on use of the property by the acquiring Party, as determined by that Party in its sole good faith judgment.

#### ARTICLE 10 BROKERAGE

Longs Peak and Greeley hereby warrant to each other that there are no real estate agents or other brokers or finders involved in this transaction who are entitled to receive a brokerage or finder's fee. Longs Peak agrees to indemnify Greeley and hold Greeley harmless from any loss,



liability, damage, cost or expense (including, without limitation, reasonable attorneys' fees) paid or incurred by Greeley by reason of any claim to any broker's, finder's or other fee in connection with this transaction by any third party claiming by, through or under Longs Peak, excluding, however, any party claiming through Greeley, its successors or assigns. This obligation shall survive the Closing of this transaction.

ARTICLE 11  
NOTICES

Any notice or other communication given by any of the Parties hereto to another relating to this Agreement shall be in writing and shall be deemed to have been duly given by delivery to the respective addresses provided below, or such other address changed by the recipient by notice consistent with this Article: (i) on the date and at the time of delivery if delivered personally to the Party to whom notice is given at such address; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the Party to whom notice is given at such address; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the Party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed to such address; or (iv) if an e-mail address is specified, on the date and at the time shown on the e-mail message if sent to the e-mail address specified below, with no bounce-back received within three (3) days:

If to Longs Peak: Longs Peak Dairy, LLC  
Attention: Wade Potberg  
45490 County Road 39  
Pierce, Colorado 80524  
Telephone: (970) 539-4651  
Email: wadepodtburg@gmail.com

With a copy to: Otis & Bedingfield, LLC  
Attention: Jeff Bedingfield  
2725 Rocky Mountain Avenue, Suite 320  
Loveland, Colorado 80538  
Telephone: 970-663-7300  
Email: jbedingfield@nocoattorneys.com

If to Greeley: City of Greeley Water and Sewer Department  
Attention: Water Resources Division  
1001 11<sup>th</sup> Avenue, 2<sup>nd</sup> Floor  
Greeley, Colorado 80631  
Telephone: (970) 350-9812  
Email: adam.jokerst@greeleygov.com  
cole.gustafson@greeleygov.com

With a copy to: City of Greeley City Attorney's Office  
Attention: Environmental and Water Resources

1100 10<sup>th</sup> Street, Suite 401  
Greeley, Colorado 80631  
Telephone: (970) 350-9757  
Email: daniel.biwer@greeleygov.com  
jerrae.swanson@greeleygov.com

ARTICLE 12  
MISCELLANEOUS

12.1 No Waiver of Governmental Immunity/No Third Party Beneficiary. This Agreement shall not create any duty of care or liability with respect to any person or entity not a party to this Agreement, or waive any of the privileges or immunities Greeley or its officers, employees, successors and assigns may present pursuant to law, including, but not limited to, the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, as amended.

12.2 Time. Time is of the essence as to each provision of this Agreement and the performance of each Party's obligations hereunder, except where explicitly described to the contrary.

12.3 Attorneys' Fees. If any legal action, arbitration or other proceeding is commenced to enforce or interpret any provision of this Agreement or to enforce any indemnity, the prevailing party shall be awarded its attorneys' fees and expenses, in addition to any other relief granted. The phrase "prevailing party" shall include a party who receives substantially the relief desired whether by dismissal, summary judgment, judgment or otherwise. This provision shall survive the termination of this Agreement.

12.4 No Waiver. No waiver by either Party of the performance or satisfaction of any covenant or condition of this Agreement is valid unless in writing and shall not be considered to be a waiver by such Party of any other covenant or condition.

12.5 Entire Agreement. This Agreement contains the entire agreement between the Parties regarding the subject matter herein and supersedes all prior agreements, whether written or oral, among the Parties regarding this transaction, excluding only the closing documents executed in connection therewith. This Agreement may only be modified by mutual written agreement duly authorized and executed by the Parties.

12.6 Survival of Representations and Warranties. All representations, obligations, liabilities, warranties, covenants, agreements and monetary obligations of Longs Peak and Greeley as set forth in this Agreement shall survive the Closing and consummation of this transaction contemplated by this Agreement until the complete discharge thereof. All warranties of title set forth in any deed or assignment delivered or made hereunder shall survive without limit.

12.7 Successors. Subject to Section 12.8 below, this Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

12.8 Assignment. This Agreement is not assignable by Longs Peak or Greeley without first obtaining the prior written approval of the other Party. No assignment shall relieve either of

Item No. 19.

the Parties from its respective obligations if such obligations are not properly discharged by the assignee of such Party.

12.9 Relationship of the Parties. The Parties acknowledge that neither Party is an agent for the other and that neither Party can bind or enter into agreements for the other.

12.10 Governing Law and Construction. This Agreement and the legal relations between the Parties hereto shall be governed by the laws of the State of Colorado. Longs Peak and Greeley acknowledge that each Party had the opportunity to consult with legal counsel, and that the Agreement should not be construed nor interpreted against a drafting Party.

12.11 Possession. Longs Peak shall deliver to Greeley possession of the Longs Peak Property, on the Closing Date, upon release from escrow of all items to be delivered by Greeley at Closing. Greeley shall deliver to Longs Peak possession of the Greeley Property, subject to the Permitted Exceptions, on the Closing Date, upon release from escrow of all items to be delivered by Longs Peak at Closing.

12.12 Calendar Days. In the event any time period set forth in this Agreement commences, expires or is determined from a date which falls on a Saturday, Sunday, legal holiday of the State of Colorado or other non-business day, the date of such commencement, performance, expiration or determination shall automatically be extended to the next business day which is not a Saturday, Sunday, legal holiday of the State of Colorado or other non-business day.

12.13 Counterparts. This Agreement may be executed in any number of counterparts each of which, when taken together, shall constitute one agreement. This Agreement shall only be effective when counterparts are signed by both Longs Peak and Greeley. Executed copies of this Agreement may be delivered by electronic means. The Parties agree to accept and be bound by signatures hereto delivered by electronic means.

12.14 Approval Required by Board and City Council. THE OBLIGATIONS OF GREELEY UNDER THIS AGREEMENT ARE EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS AGREEMENT BY THE CITY OF GREELEY WATER AND SEWER BOARD AND CITY COUNCIL.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set opposite their respective signatures below.

LONGS PEAK DAIRY, LLC  
a Colorado limited liability company

By: Wade Podtburg  
Name: Wade Podtburg

Date: 1-12-22

Item No. 19.

Title: Managing Partner

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

DocuSigned by:  
By: Raymond C. Lee III  
City Manager

Date: 2/8/2022

As to Availability of Funds:

DocuSigned by:  
By: John Karner  
Director of Finance

As to Legal Form:

DocuSigned by:  
By: Daniel O. Bucci Jr  
City Attorney

## EXHIBIT A

EXHIBIT B  
Water Supply Storage Company Water Rights

<u>Name</u>	<u>Amount</u>	<u>Source</u>	<u>Location</u> <u>10 40 160 Sec Twn Rge</u>	<u>Appropriation</u> <u>Date</u>	<u>Adjudication</u> <u>Date</u>	<u>Judicial</u> <u>Proceeding</u>	
<b><u>Direct-Flow(Dist.3)</u></b>							
Larimer County Canal	10.76	cfs	CLP <sup>1</sup>	SW SE SW 13-8N-70W	1862/03/01	1882/04/11	Case 320 Transfer (1423 TT)
Larimer County Canal	13.89	cfs	CLP	SW SE SW 13-8N-70W	1864/09/15	1882/04/11	Case 320 Original (1423 TT)
Larimer County Canal	2.00	cfs	CLP	SW SE SW 13-8N-70W	1868/03/15	1882/04/11	Case 320 Original (2406 TT)
Larimer County Canal	2.67	cfs	CLP	SW SE SW 13-8N-70W	1868/13/15	1882/04/11	Case 320 Original (2818 TT)
Larimer County Canal	4.00	cfs	CLP	SW SE SW 13-8N-70W	1873/03/20	1882/04/11	Case 320 Original (2406 TT)
Larimer County Canal (Henry Smith)	7.23	cfs	CLP	SW SE SW 13-8N-70W	1878/04/01	1882/04/11	Case 320 Original
Larimer County Canal	463.00	cfs	CLP	SW SE SW 13-8N-70W	1881/04/25	1882/04/11	Case 320 Original
Larimer County Canal	246.45	cfs	CLP	SW SE SW 13-8N-70W	1914/09/28	1945/12/18	Case 5362 (84CW204) Supp.
<b><u>Storage (Dist. 3)</u></b>							
Chambers Lake Reservoir	3080.0	AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1882/07/12	1886/10/12	Case 320 Original
WSSC Res. No. 2,3	689.0	AF	CLP	NE SE SW 14-8N-69W	1882/10/01	1904/12/09	Case 1591 Original
WSSC Res. No. 4	574.0	AF	WSSC Res. No. 2,3	SE NE SW 23-8N-69W	1882/10/01	1904/12/09	Case 1591 Original
WSSC Res. No. 1 (Rocky Ridge)	4726.0	AF	CLP	SW SE SW 11-8N-69W	1891/09/01	1904/12/09	Case 1591 Original
WSSC Res. No. 5 (Long Pond)	4037.0	AF	CLP	SW SE NW 31-8N-68W	1891/09/01	1904/12/09	Case 1591 Original
Lindemeier Lake	608.0	AF	Long Pond Res.	SW NW NE 6-7N-68W	1892/02/16	1904/12/09	Case 1591 Original
WSSC Res. No. 4	310.0	AF	Long Pond Res.	23-8N-69W	1892/02/16	1904/12/09	Case 1591 (W-7821-74) Original
WSSC Res. No. 4	422.0	AF	WSSC Res. No. 2,3	SE NE SW 23-8N-69W	1900/12/12	1904/12/09	Case 1951 Original
Black Hollow Res.	6458.0	AF	CLP	SE SE SE 34-8N-67W	1906/02/20	1922/04/22	Case 2031 Supp.
Chambers Lake Reservoir	3577.0	AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1910/05/28	1922/04/22	Case 2031 Supp.
Kluver Res.	1562.0	AF	CLP	SW NE NW 23-8N-69W	1911/05/01	1945/12/18	Case 5362 Supp.
Black Hollow Res.	2158.0	AF	CLP	SE SE SE 34-8N-67W	1918/10/05	1945/12/18	Case 5362 Supp.
Long Draw Res	4201.0	AF	Long Pond Res.	NE NW SE 11-6N-75W	1922/06/05	1945/12/18	Case 5362 Supp.

**EXHIBIT A****EXHIBIT B  
Water Supply Storage Company Water Rights**

<u>Name</u>	<u>Amount</u>		<u>Source</u>	<u>Location</u> <u>10 40 160 Sec Twn Rge</u>	<u>Appropriation</u> <u>Date</u>	<u>Adjudication</u> <u>Date</u>	<u>Judicial</u> <u>Proceeding</u>
Chambers Lake Reservoir	2197.0	AF	Joe Wright Creek, Fall River Creek and Trap Creek	NE NE SE 6-7N-75W	1922/12/03	1945/12/18	Case 5362 Supp.
WSSC Res. No. 2,3	3615.0	AF	CLP	NE SE SW 14-8N-69W	1943/10/04	1953/09/10	Case 11217 Supp.
WSSC Res. No. 2,3	445.9	AF	CLP	NE SE SW 14-8N-69W	1943/10/04	1953/09/10	Case 11217 (W-112-74) Supp.
WSSC Res. No. 2,3	138.0	AF	CLP	NE SE SW 14-8N-69W	1943/10/04	1977/12/31	W-112-77 Supp.
Long Draw Res	6600.0	AF	CLP	NE NW SE 11-6N-75W	1965/08/31	1977/12/31	W-9322-78 (83CW126) Supp.
Trap Lake II	3800.0	AF	Trap Creek	NW NW SW 21-7N-75W	1982/06/16	1982/12/31	82CW289 Supp. - Cond.
<b><u>Transbasin</u></b>							
Chambers Lake Reservoir	11478.0	AF	Big Laramie River	6-7N-75W	1891/08/07	1896/10/30	Case 1247 Original
Laramie River Ditch (Skyline Ditch)	300.0	cfs	West Branch Laramie River	NE NE SW 14-8N-76W	1891/08/07	1896/10/30	Case 1247 Original (84CW204) Supp.
Cameron Pass Ditch	10.0	cfs	Michigan River	SE 2-6N-76W	1882/07/30	1902/04/23	Case 1519 Original
Cameron Pass Ditch	18.0	cfs	Michigan River	NW SE 2-7N-76W	1898/07/7	1902/05/23	Case 1519 Original
Grand River Ditch Alternate Point Alternate Point	524.6	cfs	Colorado River	NE SW NW 21-6N075W NW NE NW 28-5N-76W	1890/09/01	1906/08/11	Case 112 Original
Laramie River Tunnel <sup>2</sup>	300.0	cfs	Big Laramie River	NW NE SE 29-6N-75W NE SW 7-8N-75W	1902/08/25	1914/02/20	Case 2725 Case 5993 (84CW204) Supp.
Rawah Ditch <sup>2</sup>	225.0	cfs	Rawah Creek	NE NE SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Rawah and Lower Supply Ditch <sup>2</sup>	275.0	cfs	Rawah Creek	SE SE SW 14-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
McIntyre Ditch <sup>2</sup>	40.0	cfs	McIntyre Creek	SE NE NE 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 1 <sup>2</sup>	1050.0	AF	Rawah Creek	SE 7-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 2 <sup>2</sup>	1400.0	AF	Rawah Creek	SW 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 3 <sup>2</sup>	525.0	AF	Rawah Creek	NW 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 4 <sup>2</sup>	592.0	AF	Rawah Creek	SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 5 <sup>2</sup>	700.0	AF	Rawah Creek	NE 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.

**EXHIBIT A****EXHIBIT B  
Water Supply Storage Company Water Rights**

<u>Name</u>	<u>Amount</u>	<u>Source</u>	<u>Location</u> <u>10 40 160 Sec Twn Rge</u>	<u>Appropriation</u> <u>Date</u>	<u>Adjudication</u> <u>Date</u>	<u>Judicial</u> <u>Proceeding</u>
Link Lake No. 6 <sup>[2]</sup>	300.0	AF	Rawah Creek SW 32-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 7 <sup>[2]</sup>	440.0	AF	Rawah Creek NE 5-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 8 <sup>[2]</sup>	2000.0	AF	Rawah Creek SW 4-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 9 <sup>[2]</sup>	574.0	AF	Rawah Creek NE 6-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 10 <sup>[2]</sup>	425.0	AF	McIntyre Creek NE 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 11 <sup>[2]</sup>	1148.0	AF	McIntyre Creek SW 31-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 12 <sup>[2]</sup>	138.0	AF	Rawah Creek NW 4-8N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 13 <sup>[2]</sup>	597.0	AF	Rawah Creek NE 29-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Link Lake No. 14 <sup>[2]</sup>	597.0	AF	Spring Creek NE 29-9N-76W	1902/08/25	1914/02/20	Case 2725 Case 5993 Supp.
Laramie Lake	340.0	AF	Drainage SE NW 32-8N-75W	1890/07/01	1944/09/11	Case 5993 Supp.
Lost Lake	288.0	AF	Drainage SW SE 31-8N-75W	1890/07/02	1944/09/11	Case 5993 Supp.
Lily Lake	178.0	AF	Drainage SE NW 29-8N-78W	1912/07/01	1944/09/11	Case 5993 Supp.
<b><u>Seepage</u></b>						
Lind Reservoir <sup>[2]</sup>	54.9	AF	Seepage SE NE SE 35-8N-68W	1881/04/21	1972/12/31	W-1748 W-1877 Supp.
WSSC Seepage A	2.0	cfs	Seepage NE NE NW 20-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage B	2.0	cfs	Seepage SE SE SE 17-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 1	5.0	cfs	Seepage SW NW SW 4-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2	12.0	cfs	Seepage SW NW NE 3-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2A	4.0	cfs	Seepage NE NE SW 3-8N-69W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 2b	2.0	cfs	Seepage NW SW SE 17-8N-68W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 3	20.0	cfs	Seepage NE SW NW 14-8N-68W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 4	1.0	cfs	Seepage NE NW SW 14-8N-68W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 6	2.0	cfs	Seepage NW NW SW 31-8N-67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7	2.0	cfs	Seepage NW SW SE 6-7N-67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7a	0.1	cfs	Seepage SW NE SW 8-7N-67W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 7b	0.3	cfs	Seepage SW SW SE 8-7N-67W	1881/04/21	1972/12/31	W-1877 Supp.

## EXHIBIT A

### EXHIBIT B Water Supply Storage Company Water Rights

<u>Name</u>	<u>Amount</u>	<u>Source</u>	<u>Location</u>	<u>Appropriation</u>	<u>Adjudication</u>	<u>Judicial</u>
			<u>10 40 160 Sec Twn Rge</u>	<u>Date</u>	<u>Date</u>	<u>Proceeding</u>
WSSC Seepage 7c	2.0	cfs	Seepage NW NW SW 13-7N-67W	1960/06/01	1972/12/31	W-1877 Supp.
WSSC Seepage 8	0.6	cfs	Seepage NE SE SE 5-7N-66W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 9	1.0	cfs	Seepage SE NE SE 5-7N-66W	1881/04/21	1972/12/31	W-1877 Supp.
WSSC Seepage 10	0.9	cfs	Seepage SW NW SW 4-7N-66W	1881/04/21	1972/12/31	W-1877 Supp.

- 
- 1. Cache la Poudre River
  - 2. Partial Ownership

Attachment to Order - 2007CW190



**EXHIBIT B**  
**FORM - DO NOT EXECUTE**

**IRRIGATION WATER LEASE AGREEMENT**  
**(Longs Peak Dairy - WSSC Rights)**

This IRRIGATION WATER LEASE AGREEMENT (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_ 2022, by and between the CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11<sup>th</sup> Avenue, Second Floor, Greeley, Colorado 80631 (“Greeley”), and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80650 (“Lessee”).

RECITALS

WHEREAS, Greeley owns those certain water rights, including the transmountain return flows associated with such rights, represented by two (2) shares of capital stock in The Water Supply and Storage Company, previously evidenced by Stock Certificate No. 6658 and two (2) shares of stock in The Collins Ditch Company, previously evidenced by Stock Certificate No. 851 (collectively “Water Rights”); and

WHEREAS, Lessee desires to lease the Water Rights from Greeley for agricultural irrigation on certain parcels of real property consisting of approximately \_\_\_\_ acres and more particularly described on Exhibit A, attached hereto and incorporated herein by reference (“Property”); and

WHEREAS, Lessee also desires to utilize the transmountain return flows associated with the Water Rights to augment out-of-priority depletions, as is allowed and more particularly described by the 2003CW089 decree entered by the District Court, Water Division No. 1, on January 14, 2009 (“LOMAC Decree”); and

WHEREAS, Greeley is willing to lease the Water Rights to Lessee for agricultural irrigation on the Property and augmentation of out-of-priority depletions in accordance with the LOMAC Decree;

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Greeley and Lessee agree as follows.

AGREEMENT

1. Water Rights Lease. Greeley hereby leases to Lessee, and Lessee hereby leases from Greeley, the above-described Water Rights for the purpose of agricultural irrigation on the Property and augmentation of out-of-priority depletions in accordance with the LOMAC Decree.

2. Term of Lease. The term of this Agreement begins on the date of mutual execution and ends after a period of twenty (20) years (“Initial Term”). At the end of this Initial Term, this Agreement shall renew automatically on an annual basis for five (5) subsequent terms of one (1) year each (“Renewal Terms”), unless Greeley or Lessee transmits written notice of nonrenewal on or before November 1 of the preceding calendar year. Lessee may terminate this Agreement during the Initial Term, prior to any irrigation season, for any reason by delivering two years’ advance written notice to Greeley. Greeley may terminate this Agreement during the Initial Term, prior to any irrigation season, by delivering advance written notice to Lessee on or before November 1 of the preceding calendar year, if Greeley determines in its sole discretion that the Water Rights are needed for any municipal purpose, or if Greeley is required to cease irrigation with the Water Rights by the terms and conditions of a water court decree. Refer to Section 12 for provisions relating to termination for cause, and to Section 14 regarding good faith negotiations to renew after this Agreement expires.

3. Annual Lease Amount and Administrative Fee. Lessee shall pay to Greeley an Annual Lease Amount equal to all assessments, charges, and other expenses due and attributable to the Water Rights paid by Greeley to The Water Supply and Storage Company. Lessee is entitled to use of the transmountain return flows

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associated with the Water Rights under this Agreement, but the Annual Lease Amount shall not be reduced to reflect rebates or other credits attributable to leasing the transmountain return flows associated with the Water Rights. Lessee shall also pay to Greeley an Annual Administrative Fee equal to ten percent of that year's Annual Lease Amount, provided, however, that the Annual Administrative Fee shall not exceed five-hundred dollars (\$500.00). Greeley will provide an invoice of the Annual Lease Amount and Annual Administrative Fee to Lessee, and Lessee shall deliver payment of that total amount to Greeley no later than (i) May 15 of the then current irrigation year, or (ii) within fifteen days of receipt of such invoice from Greeley. Lessee shall also remit to Greeley an additional charge equal to fifteen percent of the Annual Lease Amount for every thirty days that payment required under this Agreement is late.

4. Use of Water Rights. Lessee shall use the water delivered pursuant to the Water Rights only for agricultural irrigation on the Property and augmentation of out-of-priority depletions in accordance with the LOMAC Decree. Lessee shall not use the Water Rights for any other uses. Lessee shall not use the water delivered pursuant to the Water Rights on any land other than the Property. Lessee shall use the Water Rights in accordance with all rules, regulations, bylaws and policies of The Water Supply and Storage Company, Collins Ditch Company, and Lone Tree Lateral Company. Lessee shall comply with Title 20 (or any successor section) of the Greeley Municipal Code, and all rules, regulations, and laws of the State of Colorado pertaining to use of the Water Rights. Lessee shall take and use the water delivered pursuant to the Water Rights to the fullest extent possible, and shall undertake no action that could be construed as abandonment of the Water Rights or could cause in part or in whole a reduction in the use of the Water Rights. Lessee shall provide advance written notice to Greeley of at least thirty days if they no longer intend to irrigate the entirety of the Property with the Water Rights. Absent written consent from Greeley, Lessee shall not use any water, water rights, ditches, ditch rights, wells, well rights, well permits, carriage rights, reservoirs, or reservoir rights to irrigate the Property, other than water yielded pursuant to the Water Rights.

5. Affidavit of Beneficial Use and Water Court Proceedings. Lessee agrees to deliver to Greeley, on or before May 15 of each calendar year, a completed Beneficial Use Affidavit and Questionnaire, in the form attached hereto as Exhibit B. Lessee acknowledges that Greeley may file an application to change the use of the Water Rights with the Division 1 Water Court for the State Colorado during the term of this Agreement. Lessee agrees to cooperate with Greeley and its agents or representatives in the review and analysis of the historical use of the Water Rights. Upon request from Greeley, Lessee shall provide information regarding use of the Water Rights and reasonable access to the Property during and in preparation for any proceeding before the Division 1 Water Court.

6. Restriction on Sublease and Assignment. Lessee shall not rent, sublet, or otherwise convey the right to use the Water Rights. Lessee shall not assign this Agreement, except to a successive owner or operator of the Property for agricultural irrigation of the Property, and only with written consent from Greeley. Lessee shall request consent from Greeley prior to any purported assignment of this Agreement by advance written notice of at least thirty days. Such consent may be given or withheld in the sole discretion of Greeley.

7. No Vested Interest in Shares or Joint Venture. This Agreement is made expressly subject to Section 17-4 of the Charter of the City of Greeley. Greeley grants no interest in the Water Rights to the Lessee other than as explicitly set forth in this Agreement. Lessee shall make no claim to any rights, title, or interest in the Water Rights other than as explicitly set forth in this Agreement. This Agreement does not create a partnership or joint venture of any kind between the parties, and the Lessee shall bear the entirety of any loss, cost, or expense incurred through their use of the Water Rights on the Property.

8. No Guarantee of Yield. Lessee is entitled to receive the amount of water yielded by the Water Rights, subject to the terms and conditions in this Agreement. Greeley makes no warranty, guarantee, or representation of any kind regarding the quality or physical yield of water to be delivered pursuant to the Water

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Rights. Lessee shall not hold Greeley liable for any failure in delivery of the water pursuant to the Water Rights, including, but not limited to, that caused by force of nature or failure of water supply infrastructure.

9. Maintenance of Infrastructure. Lessee shall maintain the lateral ditches, headgates, and other personal property necessary to deliver water pursuant to the Water Rights at Lessee's own cost and expense. Lessee shall make all repairs and restorations necessary to keep the lateral ditches, headgates, and other personal property in good working condition during the term of this Agreement.

10. Indemnification; Immunity. Lessee agrees to exercise Lessee's rights under this Agreement at Lessee's own risk. Lessee shall indemnify and hold harmless Greeley from and against any cost, expense, or liability arising out of or relating to Lessee's exercise of its rights or obligations under this Agreement, including, without limitation, the use of the Water Rights. Nothing in this Agreement is intended to constitute a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq., as applicable now or hereafter amended.

11. Notice. All notices to be given under this Agreement shall be (1) sent by certified or registered mail, return receipt requested, or (2) hand-delivered at the addresses set forth above. Lessee shall provide written notice to Greeley if the appropriate contact information changes.

12. Default and Termination. If either Greeley or Lessee fails to comply with a term or condition herein, such failure constitutes a default of this Agreement. The non-defaulting party may declare the default by providing written notice to the defaulting party in accordance with Paragraph 11 above. Upon receipt of this notice of default, the defaulting party will have fifteen days within which to cure the default. If, in the sole discretion of the non-defaulting party, the default remains uncured after the aforementioned fifteen-day cure period, or after any written extension thereof mutually agreed upon by the parties, the non-defaulting party may declare the Agreement terminated by written notice in accordance with Paragraph 11 above.

(a) Notwithstanding the above, failure by the Lessee to comply with the terms and conditions of Paragraphs 3, 4 or Paragraph 6 of this Agreement constitutes a material breach. In the event that the Lessee commits a material breach, Greeley may immediately terminate this Agreement by written notice to Lessee.

(b) The failure of either party to declare a default or material breach does not establish a precedent or constitute an implied waiver of any subsequent breach of the terms and conditions in this Agreement.

13. Cessation of Irrigation. Upon expiration or termination of this Agreement, Lessee shall immediately cease agricultural irrigation of the Property with the Water Rights.

14. Good Faith Negotiation of Lease Renewal upon Expiration. Greeley acknowledges that it will be open to discussing new or renewal leases in good faith after the expiration of the Initial Term and all subsequent Renewal Terms, if the Water Rights are available for continued irrigation use at that time. Lessee understands and acknowledges that this representation is non-binding, but intended to represent the desire of Greeley and Lessee to negotiate a new or renewal lease in good faith after this Agreement expires. Nothing in this paragraph shall be interpreted to create an obligation on the part of Greeley or Lessee to renew this Agreement after its expiration or termination.

15. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any parties other than Lessee and Greeley, or their respective permissible successors in interest.

16. Recovery of Costs and Fees. In addition to any remedies otherwise available, a party that is successful in a legal action commenced against the other due to a default or material breach of this Agreement may

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

17. Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. Proper venue for any action arising out of this Agreement is the District Court for Weld County, Colorado, or the Division 1 Water Court for the State of Colorado.

18. Severability. In the event a provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding will not invalidate any other provision herein, and the remainder of the Agreement should be interpreted in accordance with the intent of the parties.

19. Integration. This Agreement constitutes a complete integration of the understanding and agreement between Greeley and Lessee with respect to the subject matter herein, and supersedes all other lease agreements regarding the Water Rights. No representations, negotiations, or warranties, express or implied, exist between Greeley and Lessee except as explicitly set forth in this Agreement. This Agreement may only be modified in a written form duly authorized, approved, and executed by Greeley and Lessee.

20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Executed copies of this Agreement may be delivered by electronic means. The parties agree to accept and be bound by signatures hereto delivered by electronic means.

21. Recording. Lessee shall not record this Agreement in the real property records of any jurisdiction. This Agreement is not intended to run with the land as a covenant burdening real property.

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

LESSEE  
LONGS PEAK DAIRY, LLC

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

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

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

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

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

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

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

ATTEST

By: \_\_\_\_\_  
City Clerk

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2022  
by \_\_\_\_\_, as \_\_\_\_\_ of the Lessee, Longs Peak Dairy, LLC.

Witness my hand and official seal.

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

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

**EXHIBIT B**  
**FORM - DO NOT EXECUTE**

**EXHIBIT B**  
**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**  
**FORM - DO NOT EXECUTE**

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

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

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

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

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

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

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

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

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

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

**EXHIBIT B**  
**FORM - DO NOT EXECUTE**

- 3. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 4. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 5. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 6. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_

18. Were the lands on which the Shares were used subirrigated? Yes \_\_\_\_\_ No \_\_\_\_\_

19. If possible, please provide a map, sketch, or aerial photograph showing locations of (*check if included*):

- \_\_\_\_\_ Farm or Parcel
- \_\_\_\_\_ Areas irrigated by the Shares during the Lease Year
- \_\_\_\_\_ Areas irrigated with other water
- \_\_\_\_\_ Lateral ditches, wells, pumps, pipelines, storage reservoirs, or tail water ponds

I understand that I may be required to sign an affidavit attesting to the accuracy, to the best of my knowledge, of the information provided herein.

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

**EXHIBIT C**  
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**SECOND AGREEMENT FOR RIGHT OF FIRST REFUSAL**

This SECOND AGREEMENT FOR RIGHT OF FIRST REFUSAL (“Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_ 2022, by and between the CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11<sup>th</sup> Avenue, Second Floor, Greeley, Colorado 80631 (“Greeley”), and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80650 (“Longs Peak”).

Recitals

WHEREAS, Greeley has acquired from Longs Peak certain water rights represented by two (2) shares of capital stock in The Water Supply and Storage Company and the associated lateral companies, pursuant to the Water Rights Trade Agreement executed by and between the parties on \_\_\_\_\_ (“Trade Agreement”); and

WHEREAS, those water rights acquired by Greeley pursuant to the Trade Agreement were included in and subject to that certain Agreement for Rights of First Refusal, executed by and between the parties on September 9, 2021; and

WHEREAS, Longs Peak did not receive a bona fide offer on the rights in advance of conveying them to Greeley pursuant to the Trade Agreement; and

WHEREAS, in addition to those water rights conveyed to Greeley pursuant to the Trade Agreement, Longs Peak also owns those certain water rights represented by two (2) shares of capital stock in The Water Supply and Storage Company, evidenced by Stock Certificate No. 6480 (“Additional Greeley ROFR Water Rights”); and

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

WHEREAS, Greeley and Longs Peak have reached an agreement regarding the right of first refusal on the Additional Greeley ROFR Rights as described above, and desire to reduce that agreement to writing; and

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Greeley and Longs Peak agree as follows.

Agreement

1. Incorporation of Recitals. Greeley and Longs Peak acknowledge that the foregoing recitals are true, correct, binding, and incorporated into this Agreement as though restated in their entirety.

2. Term of Agreement. The term of this Agreement begins on the date of mutual execution and expires (a) after a period of thirty (30) years, or (b) after the right of first refusal granted herein has been exhausted by Greeley against the Additional Greeley ROFR Water Rights in their entirety, whichever occurs sooner.

3. Greeley Right of First Refusal. Longs Peaks hereby grants to Greeley a right of first refusal to purchase the Additional Greeley ROFR Water Rights upon the receipt by Longs Peak of any written bona fide purchase offer for the Additional Greeley ROFR Water Rights. Upon its receipt of such an offer, Longs Peak shall notify Greeley of the offer within seven (7) days. Longs Peak shall provide such notice in writing and include a copy of the offer with the notice. Upon receipt of notice from Longs Peak that it received such an offer to purchase the Additional Greeley ROFR Water Rights, Greeley shall have a vested option to purchase the subject Additional Greeley ROFR Water Rights, and respond in writing within thirty-five (35) days to indicate whether it will purchase

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

the Additional Greeley ROFR Water Rights for the price listed in the offer, on the terms and substantially in the form of the purchase agreement attached hereto as Exhibit A. The failure of Greeley to respond within thirty-five (35) days shall be deemed an election not to exercise its right of first refusal.

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

5. Right of First Refusal Subject to Option Agreement. Greeley acknowledges that Longs Peak previously granted to a third party an irrevocable option to purchase the Additional Greeley ROFR Water Rights, which option expires on September 15, 2022, but may be extended for an additional four (4) years in annual renewal periods of twelve (12) months each ("Option Agreement"). Greeley acknowledges that this Agreement is subject to the Option Agreement in its current form. Longs Peak shall notify Greeley within fourteen (14) days after the expiration or termination of the Option Agreement.

6. Notice. All notices to be given under this Agreement shall be sent both by (a) certified or registered mail, return receipt requested, or hand-delivered, and (b) electronic mail, using the addresses set forth below. Greeley and Longs Peak shall promptly notify the other party if the appropriate contact information for notice changes.

If to the City of Greeley:                   City of Greeley Water and Sewer Department  
Attention: Director of Water and Sewer  
1001 11<sup>th</sup> Avenue, 2nd Floor  
Greeley, Colorado 80631  
Telephone: (970) 350-9812  
Email: WSAdmin@greeleygov.com

With a copy to:                               City of Greeley City Attorney's Office  
Attention: Environmental and Water Resources  
1100 10<sup>th</sup> Street, Suite 401  
Greeley, Colorado 80631  
Telephone: (970) 350-9757  
Email: CityAttorney@greeleygov.com

If to Longs Peak Dairy, LLC:           Longs Peak Dairy, LLC,  
Attention: Wade Potberg  
45490 County Road 39  
Pierce, Colorado 80524  
Telephone: (970) 539-4651  
Email: wadepodtburg@gmail.com

With a copy to:                               Otis & Bedingfield, LLC  
Attention: Jeff Bedingfield  
2725 Rocky Mountain Avenue, Suite 320  
Loveland, CO 80538  
Telephone: 970-663-7300  
Email: jbedingfield@nocoattorneys.com

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

7. Restriction on Assignment. Neither Greeley nor Longs Peak shall assign any right or interest in this Agreement without the prior written consent of the other party.

8. Binding on Successors and Assigns. Subject to the restriction set forth in paragraph 6 above, this Agreement is binding upon the successors in interest and permissible assigns of Greeley and Longs Peak.

9. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any parties other than Greeley and Longs Peak, or their respective permissible successors in interest.

10. Default by Longs Peak; Remedies. In the event that Longs Peak fails to comply with paragraph 3 above, such failure constitutes a default of this Agreement and Greeley shall be entitled to, in its sole discretion:

(a) Purchase all remaining Additional Greeley ROFR Water Rights not conveyed by Longs Peak in the defaulting transaction, at one-half (½) of the price per share agreed to by Longs Peak in the defaulting transaction, on the terms and substantially in the form of the purchase agreement attached hereto as Exhibit A; or

(b) Terminate this Agreement with immediate effect and seek any and all available remedies, including, without limitation, damages and specific performance; or

(c) If Longs Peak conveys all remaining Additional Greeley ROFR Water Rights in a defaulting transaction, terminate this Agreement with immediate effect and receive liquidated damages in the amount of twenty percent (20%) of the total compensation paid for the Additional Greeley ROFR Water Rights in the defaulting transaction. Greeley and Longs Peak acknowledge that damages would be difficult to determine in such an event, and that this percentage is a reasonable estimate of damages.

11. Recovery of Costs and Fees; Waiver. In addition to such remedies otherwise available, a party that is successful in a legal action commenced against the other due to a default of this Agreement may recover from the defaulting party reasonable costs and attorneys' fees incurred during the course of such legal action. The failure by either party to declare a default does not establish precedent or constitute an implied waiver of any subsequent breach of the terms and conditions in this Agreement. Any such waiver must be made explicitly in a duly authorized writing.

12. Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. Proper venue for any action arising out of this Agreement is the District Court for Weld County, Colorado.

13. Severability. In the event a provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate any other provision herein, and the remainder of the Agreement should be interpreted in accordance with the intent of the parties, unless such interpretation would frustrate the purpose of the Agreement.

14. Integration and Amendment. This Agreement constitutes a complete integration of the understanding and agreement between Greeley and Longs Peak with respect to the Additional Greeley ROFR Rights. No representations, negotiations, or warranties, express or implied, exist between Greeley and Longs Peak concerning the Additional Greeley ROFR Rights except as explicitly set forth in this Agreement. This Agreement may only be modified in a written form duly authorized, approved, and executed by Greeley and Longs Peak.

15. Counterparts; Electronic Signatures. This Agreement may be executed in counterparts, each of which shall be deemed an original, and both of which together shall constitute one and the same instrument.

EXHIBIT C  
FORM - DO NOT EXECUTE

Executed copies of this Agreement may be delivered by electronic means. The parties agree to accept and be bound by electronic signatures.

IN WITNESS WHEREOF, the undersigned parties have executed this Second Agreement for Right of First Refusal on the date first set forth above.

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

By: \_\_\_\_\_  
Sean Chambers  
Director of Water and Sewer

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

LONGS PEAK DAIRY, LLC  
a Colorado limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2022  
by \_\_\_\_\_, as \_\_\_\_\_ of Longs Peak Dairy, LLC.

Witness my hand and official seal.

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

**EXHIBIT C**  
**EXHIBIT A**  
**FORM - DO NOT EXECUTE**  
**Second Agreement for Right of First Refusal**

PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY  
(Longs Peak Dairy, LLC)

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered into as of the Effective Date (as defined in Section 1.2 below) by and between LONGS PEAK DAIRY, LLC, a Colorado limited liability company (“Seller”), and THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, acting by and through its WATER ENTERPRISE (“Greeley”) (Seller and Greeley each being a “Party” and collectively the “Parties”).

RECITALS

A. Seller owns real property located in Weld County, Colorado, legally described on Exhibit “A-1” and depicted on Exhibit “A-2”, attached hereto and incorporated herein by reference (“Land”);

B. Seller is the sole owner of water and water rights represented by [\_\_\_] shares of stock in The Water Supply and Storage Company (the “Ditch Company”), evidenced by Stock Certificate No. [\_\_\_\_\_] issued in the name of Seller (the “Certificate”), which have historically been delivered through the Larimer County Canal;

C. To the best of the Parties’ knowledge and belief, said Certificate represents ownership of and the right to divert and use water under and a proportional interest in the water rights listed below (the “Water Rights”); and

Appropriation Date	Amount (c.f.s.)	Source	Case No.	Adjudication Date

D. Seller desires to sell, and Greeley desires to purchase, the Property (defined below).

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, Seller and Greeley hereby agree as follows:

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AGREEMENT

ARTICLE 1  
DEFINITIONS

In addition to words and terms elsewhere defined in this Agreement, including the recitals hereto, the following words and terms used in this Agreement shall have the following meanings:

- 1.1 “*Agreement*” means this purchase and sale agreement.
- 1.2 “*Board*” means the Greeley Water and Sewer Board.
- 1.3 “*Certificate*” has the meaning given in Recital B.
- 1.4 “*Closing*” means the closing of this transaction.
- 1.5 “*Closing Date*” means the date of the Closing.
- 1.6 “*Company*” means The Water Supply and Storage Company.
- 1.7 “*Covenants*” means the Restrictive Covenants-No Irrigation and Revegetation, in the form of Exhibit B attached hereto and incorporated herein.
- 1.8 “*Effective Date*” means the date upon which the last party hereunder signs this Agreement in accordance with Sections 13.15 and 13.16 below.
- 1.9 “*Deposit*” has the meaning given in Section 3.2.
- 1.10 “*Governmental Approval Period*” has the meaning given in Section 6.1.A.
- 1.11 “*Inspections*” has the meaning given in Section 5.1.A.
- 1.12 “*Inspection Period*” has the meaning given in Section 5.1.A.
- 1.13 “*Land*” means the real property defined under Recital A above.
- 1.14 “*Material Part*” means a portion of the Property that would have a material adverse effect on Greeley’s use of the Property as determined by Greeley in its good faith judgment.
- 1.15 “*Off-Record Documents*” has the meaning given in Section 4.1.C.
- 1.16 “*Property*” means the Water Rights, together with Covenants on the Land.
- 1.17 “*Purchase Price*” has the meaning given in Section 3.1.
- 1.18 “*Specified Sum*” has the meaning given in Section 9.4.



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- 1.19 “*Title Commitment*” means a commitment for an owner’s policy of title insurance.
- 1.20 “*Title Company*” means Land Title Guarantee Company.
- 1.21 “*Title Documents*” has the meaning given in Section 4.1.A.
- 1.22 “*Water Rights*” has the meaning given in Recital B. above.

ARTICLE 2  
SALE OF PROPERTY

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

2.2 Exclusions. The Property does not include, and Seller expressly excepts and reserves, the following:

ARTICLE 3  
PURCHASE PRICE

3.1 Purchase Price. The total purchase price for the Property (“Purchase Price”) shall be \_\_\_\_\_ dollars [**\$0,000.00**].

3.2 Deposit and Release of Deposit. Within fourteen (14) days following the Effective Date of this Agreement, Greeley shall transfer and deposit with the Title Company \_\_\_\_\_ dollars [**\$0,000.00**] (“Deposit”). The Deposit shall be fully refundable to Greeley at any time prior to the expiration of the Inspection Period (defined below) if Greeley is not satisfied with the Property and shall be subject to return to Greeley either prior to or after the expiration of the Inspection Period upon termination of this Agreement pursuant to Section 5.2, Section 6.1, Section 9.3 and 10 below. The Deposit shall be deducted from the Purchase Price at Closing as provided in Section 3.3 below.

3.3 Closing. The Purchase Price (i) minus the Deposit; (ii) plus any other amounts required to be paid by Greeley at Closing; and (iii) plus or minus any prorations or credits, shall be paid at Closing by cashier's check, wire transfer or other immediately available funds.

ARTICLE 4  
TITLE

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

A. A commitment for an owner’s policy of title insurance (“Title Commitment”) issued by the Title Company covering the Land in the amount of the Purchase Price, with such Title Commitment setting forth the status of title to the Land and showing the Title Company’s search results for all recorded liens, claims, encumbrances, easements, rights of way, encroachments, reservations, restrictions and other matters of record affecting title to the

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Land (the copies of all recorded documents in the Title Commitment are collectively referred to as “Title Documents”).

B. A fully executed historical consumptive use affidavit and questionnaire in the form of Exhibit “C” attached hereto and incorporated herein.

C. To the extent the same exist, request true and correct copies of all Company documents related to the Water Rights, including but not limited to, the delivery records and share trace. Seller agrees that Company documents, including but not limited to the share trace, are a necessary component of Greeley’s inspection activities. If the Company provides such documents less than seven (7) days before the Inspection Period (defined below), then the Inspection Period shall be automatically extended for an additional fourteen (14) days.

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

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

4.3 Title Insurance. The purpose of the Title Commitment is to enable Greeley to conduct the title review described in Article 5 below, and said Title Commitment shall be updated as necessary up to the Closing; however, neither Seller nor Greeley shall have any obligation under this Agreement to purchase a title insurance policy after Closing. Greeley may elect to acquire this insurance (limited to the Covenants attached hereto as Exhibit “B”) at its expense.

ARTICLE 5  
INSPECTION PERIOD

5.1 Inspections.

A. Inspection Period; Right to Inspect. During a period of time commencing upon the Effective Date and continuing until 4:00 p.m., Mountain Time, on the sixty-third (63rd) day thereafter (“Inspection Period”), unless automatically extended in accordance with Section 4.1.C. above, Greeley and its authorized agents, representatives and consultants shall be entitled to: (i) enter upon the Land at all reasonable times, to perform such tests or inspections, as Greeley deems desirable, to allow Greeley to evaluate the Water Rights and the condition and use of the Property; (ii) contact and interview the managers, members, employees and agents of Seller to assist Greeley in determining the historical use of the Water Rights; (iii) contact the officers, directors, attorneys, and shareholders of the Company to inspect any Company records and/or determine under what conditions the Company will approve a change in the place of delivery or use, or the point of diversion, of the Water Rights and other Company shares obtained or to be

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obtained by Greeley, pursuant to the bylaws of the Company or other applicable law (collectively referred to as “Inspections”). Seller agrees to cooperate with Greeley to facilitate such interviews and/or the signing of any affidavits of use of the Water Rights by Seller or to facilitate such contact and/or request for information or determination by the Company. Greeley shall bear all costs of the Inspections. Seller agrees to reasonably cooperate with any such Inspections made by or at Greeley’s direction.

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

C. Deadlines. The table below contains a non-exclusive list of the dates and deadlines for this Agreement.

Section	Deadline	Date
§ 3.2	Deposit	Fourteen (14) days following the Effective Date
§ 4.1	Title Documents	Fourteen (14) days following the Effective Date
§ 4.1	Off-Record Documents	Fourteen (14) days following the Effective Date
§ 5.1	Inspection Period	Sixty-third (63rd) day following the Effective Date unless automatically extended in accordance with Section 4.1.C.
§ 5.2	Objections	On or before the expiration of the Inspection Period
§ 6.1.A	Governing Body Approval	Twenty-eight (28) days after the expiration of the Inspection Period (“ <u>Governmental Approval Period</u> ”)
§ 6.2	Closing Date	Fourteen (14) days after the expiration of the Governmental Approval Period
§ 9.3.C.	Default Cure Period	Within seven (7) days of written notice of default from the other Party
§10	Condemnation	Within fourteen (14) days after written notice

5.2 Objections. If during the Inspection Period, Greeley shall, for any reason, in Greeley’s sole discretion, judgment and opinion, disapprove or be dissatisfied with any aspect of the Property or its Inspections relating thereto, including, but not limited to, the following items, Greeley shall be entitled to terminate this Agreement by giving written notice to Seller on or before the expiration of the Inspection Period, whereupon the Deposit shall be returned to Greeley and all provisions of this Agreement (with the exception of those obligations which by their nature are intended to survive the termination of this Agreement) shall terminate:

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A. Matters disclosed in (i) the Title Documents or (ii) the Off-Record Documents.

B. Greeley's ability to change the Water Rights for municipal use.

If written notice of termination is not given by Greeley to the Seller prior to the expiration of the Inspection Period, the Deposit shall not be refunded to the Greeley if, for any reason other than as a result of a default by Seller or pursuant to Section 6.1, Section 9.3 or Article 10, the Closing of this transaction does not occur.

ARTICLE 6  
CLOSING

CLOSING CONTINGENCIES; CLOSING

6.1 Closing Contingencies. The obligations of Greeley to purchase the Property are subject to satisfaction of the following contingencies:

A. Governing Body Approval. The Board's authorization to close on the Property is contingent upon approval given within twenty-eight (28) days after the expiration of the Inspection Period ("Governmental Approval Period"). In the event that the Board has not authorized Closing on the Property prior to the expiration of the Governmental Approval Period, then, in such event, upon written notice by Greeley to Seller, this Agreement shall terminate, whereupon the Deposit shall be returned to Greeley and neither Party shall have any further obligation to the other hereunder except for those obligations which, by their nature, are intended to survive the termination of this Agreement.

6.2 Closing. The Closing shall occur at 1:30 p.m. at the Title Company, or at such other time and place as may be mutually agreed upon by the Parties, fourteen (14) days after the expiration of the Governmental Approval Period or by mutual agreement at an earlier date.

6.3 Transactions at Closing.

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

(1) A special warranty deed conveying the Water Rights free and clear of all liens and encumbrances in the form of Exhibit D.

(2) The original Certificate.

(3) A stock assignment(s) transferring ownership of the Certificate and the Water Rights in the form of Exhibit E.

(4) The Covenants.

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(5) A certificate of non-foreign status pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, together with any certificates required pursuant to Colorado law.

(6) A statement of authority designating the persons who are authorized to execute the special warranty deed, the stock assignments and all other applicable documents on behalf of the Seller.

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

(8) A closing statement executed by Seller.

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

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

(1) The Purchase Price, subject to credits and adjustments as herein provided, and such additional sums as are necessary to pay Greeley's share of closing costs, prorations and any fees as more particularly set forth herein.

(2) Documentation in such form as may be satisfactory to Seller and the Title Company, evidencing Greeley's full authority and capacity to purchase the Property.

(3) A closing statement executed by Greeley.

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

ARTICLE 7  
PRORATIONS; CLOSING COSTS

7.1 Ditch Assessments. Seller agrees to fully pay and continue to pay any and all assessments, including special assessments, levied by the Company associated with and accruing to the Certificates and Water Rights up to and including the Closing Date. At Closing, Greeley agrees to assume any such future obligations for assessments incurred after the Closing Date.

7.2 Closing Costs. Greeley shall pay for the cost of recording of the deed, the Covenants, water stock transfer fees and one-half (1/2) of the Title Company closing costs. Seller shall pay one-half (1/2) of the Title Company closing costs. Each Party shall pay its own attorneys' fees and Greeley shall be solely responsible for the payment of any escrow fees to the Title Company.

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ARTICLE 8  
REPRESENTATIONS AND WARRANTIES.

8.1 Seller represents and warrants to Greeley as follows:

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

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

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

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

E. No Abandonment. The Water Rights have not been abandoned by Seller.

F. Compliance with Law. To the best of Seller's current actual knowledge, Seller has complied in all material respects with all laws, rules, regulations, ordinances, orders, judgments and decrees applicable to the Water Rights, and to Seller's current actual knowledge there is no proposed order, judgment, decree, governmental taking or other proceeding applicable to Seller which might adversely affect the Water Rights.

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

8.2 Water Rights Adjudication. The Parties acknowledge and agree that a change of Water Rights and/or other water rights adjudications may be necessary to allow Greeley's use of the Property for its intended purpose. Unless this Agreement is terminated pursuant to the provisions herein, Seller agrees that it shall not oppose, but shall cooperate with Greeley, in any actions Greeley files in Water Court or administrative or other proceedings for approval of the use of the Water Rights as part of an application for new water rights (including direct flow or storage rights), changes of water rights, exchanges or plans for augmentation or substitution or in connection with the Water Rights. Seller shall not be required to file briefs in support of Greeley's application or take any affirmative action other than to appear and testify honestly about the Water Rights and provide any documentation of use or other relevant historical use information. The terms and provisions set forth in this Section 8.2. and the covenants and

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obligations arising therefrom shall survive the Closing and shall not be deemed merged into the closing documents.

ARTICLE 9  
CONDITIONS TO CLOSING; REMEDIES

9.1 Seller's Conditions. The obligation of Seller to sell and convey the Property under this Agreement is subject to the satisfaction of the following conditions precedent or conditions concurrent (the satisfaction of which may be waived only in writing by Seller):

A. Delivery and execution by Greeley of all monies, items, and other instruments required to be delivered by Greeley to the Closing.

B. All of the actions by Greeley required by this Agreement shall have been completed.

C. There shall be no uncured default by Greeley of any of their obligations under this Agreement.

9.2 Greeley's Conditions. The obligation of Greeley to acquire the Property under this Agreement is subject to the satisfaction of the following conditions precedent or conditions concurrent (the satisfaction of which may be waived only in writing by Greeley):

A. The appropriation of funds by the Greeley City Council for the Purchase Price.

B. Satisfaction of the closing contingencies under Section 6.1.

C. Delivery and execution by Seller of all items and other instruments required to be delivered by Seller to the Closing.

D. All of the actions by Seller contemplated by this Agreement shall have been taken.

E. There shall be no uncured default by Seller of any of its obligations under this Agreement.

F. The representations and warranties made by Seller as specifically set forth herein shall be true and correct as of the Closing Date and shall not be deemed waived in the event Greeley shall elect to close pursuant to Section 9.3A(3) below.

9.3 Failure of Condition.

A. Except as set forth in Section 9.3B below, in the event of a failure of any condition contained in Section 9.2, Greeley may in its sole discretion:

- (1) Terminate this Agreement by notice to Seller, in which event:
- (a) all funds deposited by Greeley under this Agreement as of such date shall be immediately

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returned to Greeley; and (b) all documents deposited by Greeley or delivered to Seller by Greeley shall be immediately returned to Greeley, and all documents deposited by Seller or delivered to Greeley by Seller shall be immediately returned to Seller; or

(2) Greeley may waive such default or condition and close the transaction; or

(3) If the failure of condition consists of a default by Seller which can be cured by action within the reasonable control of Seller, Greeley may elect to treat this Agreement as being in full force and effect and Greeley shall have the right to specific performance, damages, or both.

B. In the event of a failure of any condition contained in Section 9.1 above, Seller may in its sole discretion:

(1) Terminate this Agreement by notice to Greeley, in which event Seller shall retain the Deposit as liquidated damages and all documents deposited by Greeley or delivered to Seller by Greeley shall be immediately returned to Greeley, and all documents deposited by Seller or delivered to Greeley by Seller shall be immediately returned to Seller; or

(2) Seller may waive such default or condition and close the transaction.

C. The Seller hereby waives any rights it may have to specific performance in the event of a default by Greeley. Except for the giving of notices or the delivery of the Deposit or the Purchase Price, time being of the essence, neither Party shall be deemed in default hereunder unless such Party fails to cure such default within seven (7) days of written notice of default from the other Party.

9.4 Liquidated Damages. If Greeley defaults in any of its obligations under this Agreement, Seller shall be entitled to terminate this Agreement and retain the amount of the Deposit described in Section 3.2 (“Specified Sum”), as liquidated damages. SELLER AND GREELEY ACKNOWLEDGE THAT THE SELLER’S DAMAGES WOULD BE DIFFICULT TO DETERMINE AND THAT THE SPECIFIED SUM IS A REASONABLE ESTIMATE OF THE SELLER’S DAMAGES.

ARTICLE 10  
CONDEMNATION

If prior to Closing all or a “Material Part” (defined below) of the Property and/or Land is subject to a proposed taking by any public authority, Seller shall promptly notify Greeley of such proposed taking and Greeley may terminate this Agreement by notice to Seller within fourteen (14) days after written notice thereof. If Greeley so elects, and following the return to Greeley of the Deposit, this Agreement (with the exception of those obligations which by their nature are intended to survive the termination of this Agreement) shall be of no further force and effect. If Greeley does not terminate this Agreement, or if the taking is as to a non-Material Part of the Property, Greeley shall accept title to the Property subject to the taking without a reduction in the Purchase Price and shall receive at Closing an assignment of all of Seller's rights to any



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condemnation award and Greeley shall have the sole right after the Closing to negotiate and otherwise deal with the condemning authority in respect of such matter. A Material Part of the Property for purposes of this Article 10 shall mean a portion that would have a material adverse effect on Greeley's use of the Property as determined by Greeley in its good faith judgment.

ARTICLE 11  
BROKERAGE

Seller and Greeley hereby warrant to each other that there are no real estate agents or other brokers or finders involved in this transaction who are entitled to receive a brokerage or finder's fee. Seller agrees to indemnify Greeley and hold Greeley harmless from any loss, liability, damage, cost or expense (including, without limitation, reasonable attorneys' fees) paid or incurred by Greeley by reason of any claim to any broker's, finder's or other fee in connection with this transaction by any third party claiming by, through or under Seller, excluding, however, any party claiming through Greeley, its successors or assigns. This obligation shall survive the Closing of this transaction.

ARTICLE 12  
NOTICES

Any notice or other communication given by any of the Parties hereto to another relating to this Agreement shall be in writing and shall be deemed to have been duly given by delivery to the respective addresses provided below, or such other address changed by the recipient by notice consistent with this Article: (i) on the date and at the time of delivery if delivered personally to the Party to whom notice is given at such address; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the Party to whom notice is given at such address; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the Party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed to such address; or (iv) if an e-mail address is specified, on the date and at the time shown on the e-mail message if sent to the e-mail address specified below, with no bounce-back received within three (3) days:

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If to Seller:

Longs Peak Dairy, LLC,  
Attention: Wade Potberg  
45490 County Road 39  
Pierce, Colorado 80524  
Telephone:  
Email: [wadepodtburg@gmail.com](mailto:wadepodtburg@gmail.com)

With a copy to:

Otis & Bedingfield, LLC  
Attention: Jeff Bedingfield  
2725 Rocky Mountain Avenue, Suite 320  
Loveland, CO 80538  
Telephone: 970-663-7300  
Email: [jbedingfield@nocoattorneys.com](mailto:jbedingfield@nocoattorneys.com)

If to Greeley:

City of Greeley  
Attention: Director, Water and Sewer  
1001 11th Street, 2nd Floor  
Greeley, CO 80631  
Telephone: (970) 350-9812  
Email:

With a copy to:

City of Greeley  
Attention: City Attorney  
1100 10<sup>th</sup> Street, Ste. 401  
Greeley, CO 80631  
Telephone: (970) 350-9757  
Email:

ARTICLE 13  
MISCELLANEOUS

13.1 No Waiver of Governmental Immunity/No Third Party Beneficiary. This Agreement shall not create any duty of care or liability with respect to any person or entity not a party to this Agreement, or waive any of the privileges or immunities Greeley or its officers, employees, successors and assigns may present pursuant to law, including, but not limited to, the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, as amended.

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13.2 Time. Time is of the essence as to each provision of this Agreement and the performance of each Party's obligations hereunder.

13.3 Attorneys' Fees. If any legal action, arbitration or other proceeding is commenced to enforce or interpret any provision of this Agreement or to enforce any indemnity, the prevailing party shall be awarded its attorneys' fees and expenses, in addition to any other relief granted. The phrase "prevailing party" shall include a party who receives substantially the relief desired whether by dismissal, summary judgment, judgment or otherwise. This provision shall survive the termination of this Agreement.

13.4 No Waiver. No waiver by any Party of the performance or satisfaction of any covenant or condition shall be valid unless in writing and shall not be considered to be a waiver by such Party of any other covenant or condition hereunder.

13.5 Entire Agreement. This Agreement contains the entire agreement among the Parties regarding the Property and supersedes all prior agreements, whether written or oral, among the Parties regarding the same subject, excluding only the Easement Purchase Agreement and the closing documents executed in connection therewith. This Agreement may only be modified by mutual written agreement duly authorized and executed by the parties.

13.6 Survival of Representations and Warranties. All representations, obligations, liabilities, warranties, covenants, agreements and monetary obligations of Seller and Greeley as set forth in this Agreement shall survive the Closing and consummation of this transaction contemplated by this Agreement until the complete discharge thereof. All warranties of title set forth in any deed or assignment delivered or made hereunder shall survive without limit.

13.7 Successors. Subject to Section 13.8, this Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

13.8 Assignment. This Agreement is not assignable by Seller or Greeley without first obtaining the prior written approval of the other Party. No assignment shall relieve either of the Parties from its respective obligations hereunder if such obligations are not properly discharged by the assignee of such Party.

13.9 Relationship of the Parties. The Parties acknowledge that neither Party is an agent for the other Party, and that neither Party shall or can bind or enter into agreements for the other Party.

13.10 Governing Law and Construction. This Agreement and the legal relations between the Parties hereto shall be governed by and construed in accordance with the laws of the State of Colorado. The Parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

13.11 Possession. Seller shall deliver to Greeley possession of the Property, subject to the Permitted Exceptions on the Closing Date, upon release from escrow of all items to be delivered by Greeley to the Closing, including, without limitation, the Purchase Price.

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13.12 Review by Counsel. The Parties acknowledge that each Party and its legal counsel have reviewed and approved this Agreement.

13.13 Calendar Days. In the event any time period set forth in this Agreement commences, expires or is determined from a date which falls on a Saturday, Sunday, legal holiday of the State of Colorado or other non-business day, the date of such commencement, performance, expiration or determination shall automatically be extended to the next business day which is not a Saturday, Sunday, legal holiday of the State of Colorado or other non-business day.

13.14 Counterparts. This Agreement may be executed in any number of counterparts each of which, when taken together, shall constitute one agreement. This Agreement shall only be effective when counterparts are signed by both Seller and Greeley.

13.15 Water and Sewer Board Approval Required. GREELEY'S OBLIGATIONS UNDER THIS AGREEMENT ARE EXPRESSLY CONTINGENT UPON THE APPROVAL OF THIS AGREEMENT BY THE GREELEY WATER AND SEWER BOARD.

13.16 Acceptance. Upon execution and delivery of this Agreement by Seller and Greeley, as approved by the Board, this Agreement shall constitute an agreement to purchase the Property on the terms and conditions set forth herein. IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set opposite their respective signatures below.

LONGS PEAK DAIRY, LLC, a Colorado  
Limited Liability Company

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

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

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

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

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

By \_\_\_\_\_

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

Title: Water and Sewer Board Chairman

APPROVED AS TO SUBSTANCE:

APPROVED AS TO LEGAL FORM:

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

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

AVAILABILITY OF FUNDS:

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

**EXHIBIT C**  
**EXHIBIT A**  
**FORM - DO NOT EXECUTE**  
Second Agreement for Right of First Refusal

EXHIBIT "A-1" TO PURCHASE AND SALE AGREEMENT—WATER RIGHTS ONLY  
(SELLER)

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

(SELLER)

(See attached Survey of the Land)

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

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

(SELLER)

(See attached Restrictive Covenant – No Irrigation and Revegetation)



**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

**EXAMPLE DO NOT EXECUTE**

RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation (the "Greeley"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by Greeley and described in Exhibit "1" attached hereto and made a part hereof (the "Water Rights"), \_\_\_\_\_ (the "Declarant"), agrees, warrants and covenants, and the undersigned leaseholder and lienholder, if any, acknowledge and approve, on Declarant's own behalf and on behalf of all successors in interest, that upon notice from Greeley, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit "2" attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from Greeley, thereafter Declarant and Declarant's successor in interest shall not irrigate the Land. These covenants shall not prohibit Declarant or Declarant's successor in interest from irrigating the Land (i) with other water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water rights applications filed by the City or a successor in interest to the Water Rights; (ii) with water from an existing well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider ("Alternate Water Rights").

Unless so irrigated, then within two and one half (2½) years from the date Declarant ceases to irrigate the Land or any portion thereof with Alternate Water Rights, Declarant or Declarant's successors in interest shall establish, at Declarant's or Declarant's successors in interest's expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the previously irrigated portions of the Land to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5). Here, "previously irrigated portions of the Land" means portions of the Land not occupied by roads, buildings, or other structures, which was cultivated with crops in accordance with these covenants. Declarant, or Declarant's successors in interest, shall provide notice to Greeley when such revegetation of the Land has been established. Declarant agrees the Land subject to these covenants shall not be planted with crops which are capable of extending roots into the underlying groundwater, including but not limited to the growing of alfalfa.

Should Declarant or Declarant's successor in interest fail to comply with its obligations hereunder, Greeley shall have the right to come upon the Land and take all measures necessary to accomplish the Declarant's obligations hereunder, including but not limited to revegetation

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

and/or noxious weed management on the Land, provided that Greeley shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successor in interest. Any and all fees and costs incurred in any necessary action to enforce these Restrictive Covenants by City, including reasonable attorney fees, shall be paid by Declarant. Additionally, Greeley shall have the right to come upon the Land to verify Declarant's compliance with its obligations hereunder, with any such inspections being at the sole expense of Greeley. All rights to enter upon the Land granted herein shall terminate upon a final determination by the District Court for Water Division No. 1, State of Colorado, under the court's retained jurisdiction, that no further actions will be necessary in order to satisfy Declarant's revegetation obligations.

The foregoing covenants shall burden, attach to, and run with the Land and shall be binding upon Declarant and Declarant's successors, assigns and any other person who acquires an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to, and run with the Water Rights and shall inure to the benefit of Greeley's successors, assigns, and any other person who acquire an ownership interest in the Water Rights. Declarant warrants and represents such covenants shall entitle Greeley to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by Greeley or its successors in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of Greeley or its successors in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at: \_\_\_\_\_.

IN WITNESS WHEREOF, the Declarant have executed this instrument on the \_\_\_ day of \_\_\_\_\_, 20\_\_.

Declarant:

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

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ by \_\_\_\_\_.

Witness my hand and official seal.

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

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

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

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

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

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

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

(See attached Historical Use Affidavit and Questionnaire)

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

AFFIDAVIT OF HISTORICAL USE OF WATER RIGHTS

DESCRIPTION OF WATER RIGHTS:

Ditch or Reservoir Company: \_\_\_\_\_  
Shares or Interest: \_\_\_\_\_

Name and address of owner and user of water rights:

Owner(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

User(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Year water rights were used as described: \_\_\_\_\_

DESCRIPTION OF HISTORICALLY IRRIGATED LAND:

Legal description and size/acreage of land irrigated by above-mentioned water rights:

\_\_\_\_\_.

Name and address of owner(s) of above-mentioned irrigated land if different from owner or user of the water rights: \_\_\_\_\_.

I have not intended to abandon the aforementioned water rights during my period of use. I state that the information contained here and in the attached Questionnaire Regarding Use of Water Shares, which is incorporated herein by reference, is known to me and is correct.

The undersigned \_\_\_\_\_, having personal knowledge of the irrigation of the above described lands by virtue of being the owner and/or person who has farmed and irrigated those lands, being first duly sworn, hereby states that the information provided in this statement is true and accurate.

Signed and dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SELLER]

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

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

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

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

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

QUESTIONNAIRE REGARDING USE OF WATER SHARES

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

1. Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Facsimile: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

2. The information provided below pertains to \_\_\_\_\_ shares of the \_\_\_\_\_ Company, represented by Certificate No. \_\_\_\_\_ (hereinafter "Shares").

- Did you use the Shares pursuant to a Lease Agreement? \_\_\_\_\_
- Date of the Lease: \_\_\_\_\_
- Name of Lessee (if different from above): \_\_\_\_\_
- Name of Lessor: \_\_\_\_\_

3. The information in this questionnaire relates to my use of the Shares from \_\_\_\_\_ to \_\_\_\_\_ ("Ownership Period").

4. Do you still own the farm or parcel irrigated by these Shares? \_\_\_\_\_

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

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

7. What is the total size of the farm or parcel? \_\_\_\_\_ acres.

8. What is the size of the area(s) on the farm or parcel that was irrigated? \_\_\_\_\_ acres.

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

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

- Location and ID Number of the head gate at the main ditch: \_\_\_\_\_  
 \_\_\_\_\_.



**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

- Name and general location of any lateral(s) delivering the water to the land historically irrigated: \_\_\_\_\_.
- Identification of any carrier or lateral ditch stock required to deliver these rights: \_\_\_\_\_.
- Approximate location of pumps, if used: \_\_\_\_\_.
- Approximate location and size of storage ponds or reservoirs, including tail water ponds, if used: \_\_\_\_\_.
- How was water applied during the Ownership Period? Sprinkler \_\_\_\_ Furrow \_\_\_\_  
Flood \_\_\_\_
- Other/Combination (Describe): \_\_\_\_\_.

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

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

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

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

14. During the Period of Ownership, what crops were grown on the land irrigated by the Shares?

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

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

- 2. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 3. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 4. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 5. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 6. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_

15. Were the lands on which the Shares were used subirrigated? Yes \_\_\_\_\_ No \_\_\_\_\_

16. If possible, please provide a map, sketch, or aerial photograph showing locations of (check if included):

- \_\_\_\_\_ Farm or Parcel
- \_\_\_\_\_ Areas irrigated by the Shares during the Lease Year
- \_\_\_\_\_ Areas irrigated with other water
- \_\_\_\_\_ Lateral ditches, wells, pumps, pipelines, storage reservoirs, or tail water ponds

I understand that I may be required to sign an affidavit attesting to the accuracy, to the best of my knowledge, of the information provided herein.

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

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

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

[See attached Special Warranty Deed]

**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

**EXAMPLE DO NOT EXECUTE**

WHEN RECORDED RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SPECIAL WARRANTY DEED  
(Water Rights)

THIS DEED, made this \_\_\_\_ day of \_\_\_\_\_, 202\_, between [NAME OF GRANTOR], whose address is \_\_\_\_\_ (“Grantor”), and THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation, whose address, for purposes of this Deed, is 1001 11<sup>th</sup> Avenue, 2<sup>nd</sup> Floor, Greeley, Colorado, 80631 (“Grantee”).

WITNESSETH, that Grantor, for the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm unto Grantee, Grantee’s heirs and assigns forever all of the water rights described below (the “Water Rights”):

(a) The water rights represented by [NUMBER OF SHARES] share in the [NAME OF MUTUAL DITCH COMPANY] evidenced by Stock Certificate No. [\_\_\_\_] (the “Shares”) and the water derived therefrom.

(b) All beneficial right, title and interest, if any, in all water, water rights, ditches, ditch rights, reservoirs, reservoir rights, canals, canal rights, headgates and all other assets, rights, title or interests represented by said Shares, and in addition, and in no way limited by the foregoing, any and all other right, title or interest in the [NAME OF MUTUAL DITCH COMPANY] represented by said Shares.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained Water Rights, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said Water Rights above bargained and described with the appurtenances, unto the Grantee, the Grantee's heirs and assigns forever. And the Grantor, for the Grantor, the Grantor’s successors and assigns, does covenant and agree that Grantor shall WARRANT AND FOREVER DEFEND the above-bargained Water Rights in the quiet and peaceable possession of the Grantee, the Grantee’s successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor.



**EXHIBIT C**  
**FORM - DO NOT EXECUTE**

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

[See attached Stock Assignments]

**EXHIBIT C  
FORM - DO NOT EXECUTE**

**EXAMPLE DO NOT EXECUTE**

ASSIGNMENT OF SHARES  
(Stock Certificate No. \_\_\_\_)

For value received, the receipt, adequacy and sufficiency of which are hereby acknowledged, the undersigned, [SELLER], (“Assignor”) hereby sell, assign, and transfer unto the CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation (“Assignee”), \_\_\_\_\_ [X] share(s) of the capital stock, **[MAY NEED TO SPECIFY COMMON OR PREFERRED]** of [COMPANY] which stock is standing in the name of the undersigned on the books and records of the corporation represented by Certificate No. [\_\_\_\_], free and clear of all liens, encumbrances and past-due assessments.

Assignors hereby authorize and empower the secretary of [COMPANY] to transfer said certificate, and to effectuate this assignment and transfer on the books of the [COMPANY].

[SELLER]

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Name: \_\_\_\_\_

ACKNOWLEDGMENT

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**EXHIBIT D-1****RESTRICTIVE COVENANTS (REVEGETATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), J & E Investments, a Colorado limited liability company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated Feb. 29, 2012, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest (collectively, "Declarant") shall establish, at Declarant's expense, a ground cover of plant life that meets the standards set forth in the current version (as of the date of execution of these covenants) of C.R.S. § 37-92-103(10.5), on such percentage of the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) as is necessary to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to the current version of C.R.S. § 37-92-305(4.5)(a), but Declarant shall not be responsible for any obligations pursuant to C.R.S. § 37-92-305(4.5)(b). The current version of C.R.S. § 37-92-103(10.5) states: "'Revegetation' means the establishment of a ground cover of plant life demonstrated to be, without irrigation, reasonably capable of sustaining itself under the climatic conditions, soils, precipitation, and terrain prevailing for the lands from which irrigation water is removed. Grasses or other plants used for the purpose of revegetation shall not be noxious as such plants are defined under the provisions of the 'Colorado Noxious Weed Act', article 5.5 of title 35, C.R.S.'" The current version of C.R.S. § 37-92-305(4.5)(a) states: "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation [as defined in the current version of C.R.S. § 37-92-103(10.5) set forth above] and noxious weed management of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court." The City agrees, for itself and its successors in interest, to support any and all reasonable efforts of Declarant to implement dry land agriculture on the Land in satisfaction of the revegetation requirements contained both in these covenants and in the above-cited statutory provisions.



**EXHIBIT D-1**

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

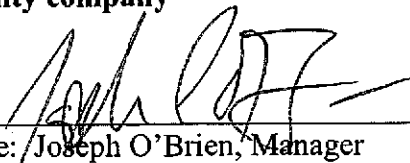
The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at 1110 Enclave Circle, Louisville, Colorado 80027.

**IN WITNESS WHEREOF**, the Declarant has executed this instrument on the 28th day of February, 2012.

Declarant:

**J & E Investments, LLC, a Colorado limited liability company**

By:   
Name: Joseph O'Brien, Manager

Subscribed under oath before me on 2-29, 2012 by Joseph O'Brien, Manager, J&E Investments, LLC, a Colorado limited liability company.

My commission expires: 12-2-14

  
Notary Public



**EXHIBIT D-1**

**EXHIBIT A TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company represented by WRCC Stock Certificate No. 323, four (4) shares of the capital stock of the Larimer & Weld Irrigation Company represented by LWIC Stock Certificate No. 5834, and eight (8) shares of the capital stock of the Owl Creek Supply & Irrigation Company represented by OCSIC Stock Certificate No. 1794.

The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights.

**EXHIBIT D-1**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Land shall include the real property legally described as follows:

LOT B, RECORDED EXEMPTION NO. 0803-14-2 RE-3452, AS PER THE MAP RECORDED OCTOBER 21, 2003 AT RECEPTION NO. 3118933, BEING A PART OF THE NORTH ONE HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

AND

LOT B, RECORDED EXEMPTION NO. 0903-14-01 RE-3650, AS PER THE MAP RECORDED OCTOBER 4, 2004 AT RECEPTION NO. 3224486, BEING A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

Together with any and all appurtenances.

**EXHIBIT D-1****RESTRICTIVE COVENANTS (NO IRRIGATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), 2370, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant, described in Exhibit B and depicted in Exhibit C attached hereto and made a part hereof (the "Land").

Upon receipt of 12-month prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. Declarant and Declarant's successors in interest (collectively, "Declarant") shall be considered to be in compliance with its obligations hereunder if Declarant ceases applying water to the Land via an irrigation system or other man-made means (unless such application of water is allowed pursuant to one or more of the four circumstances enumerated below). Provided Declarant complies with the foregoing, Declarant shall not be required to destroy or modify concrete ditches, pipes, culverts, tail-water ponds, or other historical irrigation features on the Land, except that Declarant shall, if requested by the City in compliance with these covenants, cause the filling-in of earthen ditches that were historically used for irrigation on the Land. These covenants shall not prohibit Declarant from irrigating the Land or making other uses of water on the Land (1) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (2) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court - approved plan for augmentation; (3) with water which is not tributary to the South Platte River or any of its tributaries; (4) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of

**EXHIBIT D-1**

the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at 14339 Weld County Road 74, Eaton, CO 80615.

Should Declarant fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish the cessation of irrigation and other uses of water on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such cessation of irrigation and other uses of water on the Land, and provided further that any such measures shall only include measures that Declarant is already required to take hereunder.

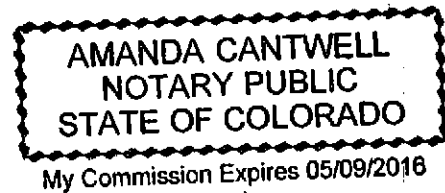
The City agrees that any such entry upon the Land, as well as any and all work or activities undertaken pursuant to such entry, shall be conducted at such times so as to minimize the interruption of Declarant's and/or Declarant's tenant's use and enjoyment of the Land, shall be performed in a reasonable and workmanlike manner, and to the extent reasonably feasible shall be performed in accordance with historically established access routes.

IN WITNESS WHEREOF, the Declarant and current Leaseholder has executed the foregoing instrument named "Restrictive Covenants (No Irrigation)" on the 20 day of JUNE, 2014.

**DECLARANT:**

2370, LLC, a Colorado Limited Liability Company.

By: [Signature]  
Todd Bean, MANAGER



STATE OF COLORADO )  
 )  
COUNTY OF WELD ) ss.

The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Todd Bean, as MANAGER of 2370, LLC.

Witness my hand and official seal.

My commission expires: 5/9/16

[Signature]  
Notary Public

**EXHIBIT D-1**

**CURRENT LEASEHOLDER:**

By: Gary Boxberger  
Gary Boxberger.



STATE OF COLORADO )  
 )  
COUNTY OF WELD ) ss.

The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Gary Boxberger.

Witness my hand and official seal.

My commission expires: 5/9/16

Amanda Cantwell  
Notary Public

**EXHIBIT D-1****EXHIBIT A TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B and depicted on Exhibit C attached hereto and made a part hereof, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by two (2) shares of stock in The Larimer and Weld Irrigation Company (represented by Share Certificate No. 5768) and four (4) shares of stock in The Windsor Reservoir Canal Company (represented by Share Certificate No. 177); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B and depicted on Exhibit C attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights, including without limitation one (1) share of stock in the Roullard Lateral Company (represented by Share Certificate No. 386).

**EXHIBIT D-1**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)  
Legal Description of the Land**

The Land shall include the real property legally described as follows:

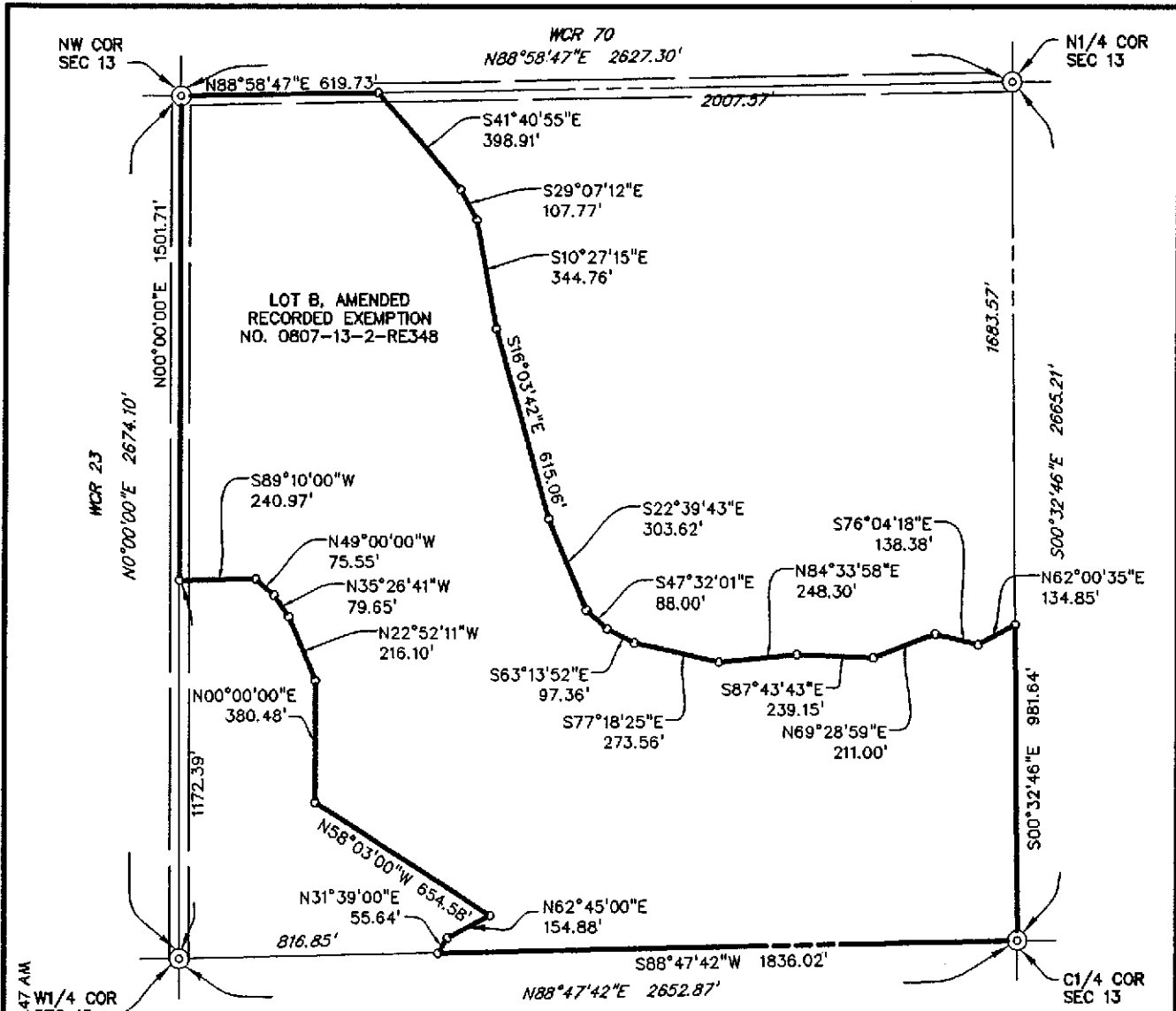
Lot "B" of Recorded Exemption No. 0807-13-2-RE 348, according to Ex-emption Plat, recorded on November 22, 1978, in Book 854 as Reception No. 1776152, being a part of the NW1/4 of Section 13, in Township 6 North, Range 67 West of the 6<sup>th</sup> P.M.



**EXHIBIT D-1**

**EXHIBIT C TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)  
Survey of the Land**

**EXHIBIT D-1**



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**EXHIBIT MAP OF LOT B, AMENDED RECORDED EXEMPTION NO. 0807-13-2-RE348 LOCATED IN THE NW1/4 OF SECTION 13, T6N, R67W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO**



SCALE 1" = 500'

**NOTE**

THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY SHOW THE LOCATION OF THE TRACT OF LAND DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION.

IN ACCORDANCE WITH CRS 13-80-105;  
**NOTICE:** ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

**Drexel, Barrell & Co.** Engineers/Surveyors  
1800 38TH STREET BOULDER, COLORADO 80301 (303) 442-4338

COLORADO SPRINGS, COLORADO (719) 260-0887  
GRAND JUNCTION, COLORADO (970) 257-1350  
STEAMBOAT SPRINGS, COLORADO (970) 879-1623

Revisions - Date	Date	Drawn By	Job No.
	4/21/14	SDS	18642-02
	Scale	Checked By	Drawing No.
	1"=500'	MES	IN FILE





**EXHIBIT D-1****RESTRICTIVE COVENANTS (NO IRRIGATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in **Exhibit A** attached hereto and made a part hereof (the "Water Rights"), J & E Investments, a Colorado limited liability company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant and described in **Exhibit B** attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. Declarant and Declarant's successors in interest (collectively, "Declarant") shall be considered to be in compliance with its obligations hereunder if Declarant ceases applying water to the Land via an irrigation system or other man-made means (unless such application of water is allowed pursuant to one or more of the four circumstances enumerated below). Provided Declarant complies with the foregoing, Declarant shall not be required to destroy or modify concrete ditches, pipes, culverts, tail-water ponds, or other historical irrigation features on the Land, except that Declarant shall, if requested by the City in compliance with these covenants, cause the filling-in of earthen ditches that were historically used for irrigation on the Land. These covenants shall not prohibit Declarant from irrigating the Land or making other uses of water on the Land (1) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (2) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court - approved plan for augmentation; (3) with water which is not tributary to the South Platte River or any of its tributaries; (4) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of

**EXHIBIT D-1**

the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at 1110 Enclave Circle, Louisville, Colorado 80027.

Should Declarant fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish the cessation of irrigation and other uses of water on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such cessation of irrigation and other uses of water on the Land, and provided further that any such measures shall only include measures that Declarant is already required to take hereunder.

The City agrees that any such entry upon the Land, as well as any and all work or activities undertaken pursuant to such entry, shall be conducted at such times so as to minimize the interruption of Declarant's and/or Declarant's tenant's use and enjoyment of the Land, shall be performed in a reasonable and workmanlike manner, and to the extent reasonably feasible shall be performed in accordance with historically established access routes.

**IN WITNESS WHEREOF**, the Declarant has executed the foregoing instrument named "Restrictive Covenants (No Irrigation)" on the 28th day of February, 2012.

Declarant:

**J & E Investments, LLC, a Colorado limited liability company**

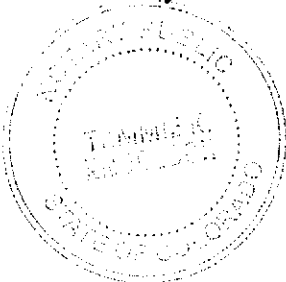
By:   
Name: Joseph O'Brien, Manager

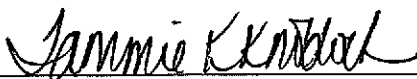
STATE OF COLORADO )  
 )  
COUNTY OF Larimer ) ss.

The foregoing instrument was acknowledged before me this <sup>29th</sup>28th day of February, 2012, by Joseph O'Brien, as Manager of J & E Investments, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 12-2-14



  
Notary Public

**EXHIBIT D-1**

**EXHIBIT A TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company represented by WRCC Stock Certificate No. 323, four (4) shares of the capital stock of the Larimer & Weld Irrigation Company represented by LWIC Stock Certificate No. 5834, and eight (8) shares of the capital stock of the Owl Creek Supply & Irrigation Company represented by OCSIC Stock Certificate No. 1794.

**EXHIBIT D-1**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Land shall include the real property legally described as follows:

LOT B, RECORDED EXEMPTION NO. 0803-14-2 RE-3452, AS PER THE MAP RECORDED OCTOBER 21, 2003 AT RECEPTION NO. 3118933, BEING A PART OF THE NORTH ONE HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

AND

LOT B, RECORDED EXEMPTION NO. 0903-14-01 RE-3650, AS PER THE MAP RECORDED OCTOBER 4, 2004 AT RECEPTION NO. 3224486, BEING A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

Together with any and all appurtenances.



**EXHIBIT D-1****RESTRICTIVE COVENANTS (REVEGETATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), 2370, LLC, a Colorado Limited Liability Company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant, described in Exhibit B and depicted in Exhibit C attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated June 23, 2014, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest (collectively, "Declarant") shall establish, at Declarant's expense, a ground cover of plant life that meets the standards set forth in the current version (as of the date of execution of these covenants) of C.R.S. § 37-92-103(10.5), on such percentage of the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) as is necessary to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to the current version of C.R.S. § 37-92-305(4.5)(a), but Declarant shall not be responsible for any obligations pursuant to C.R.S. § 37-92-305(4.5)(b). The current version of C.R.S. § 37-92-103(10.5) states: "'Revegetation' means the establishment of a ground cover of plant life demonstrated to be, without irrigation, reasonably capable of sustaining itself under the climatic conditions, soils, precipitation, and terrain prevailing for the lands from which irrigation water is removed. Grasses or other plants used for the purpose of revegetation shall not be noxious as such plants are defined under the provisions of the 'Colorado Noxious Weed Act', article 5.5 of title 35, C.R.S.'" The current version of C.R.S. § 37-92-305(4.5)(a) states: "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation [as defined in the current version of C.R.S. § 37-92-103(10.5) set forth above] and noxious weed management of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court." The City agrees, for itself and its successors in interest, to support any and all reasonable efforts of Declarant to implement dry land agriculture on the Land in satisfaction of the revegetation requirements contained both in these covenants and in the above-cited statutory provisions.

**EXHIBIT D-1**

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at 14339 Weld County Road 74, Eaton, CO 80615.

IN WITNESS WHEREOF, the Declarant and current Leaseholder has executed this instrument on the 20 day of JUNE, 2014.

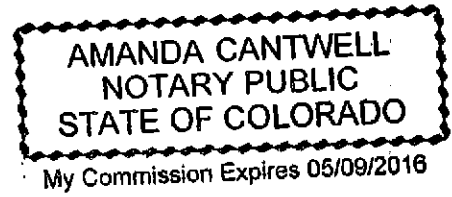
**DECLARANT:**

2370, LLC, a Colorado Limited Liability Company

By: [Signature] manager  
Todd Bean, manager

STATE OF COLORADO )  
 )  
COUNTY OF WELD )

ss.



The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Todd Bean, as MANAGER of 2370, LLC.

Witness my hand and official seal.

My commission expires: 5/9/16

[Signature]

**EXHIBIT D-1**

Notary Public

**CURRENT LEASEHOLDER:**

Gary Boxberger

By: *Gary Boxberger*  
Gary Boxberger.



My Commission Expires 05/09/2016

STATE OF COLORADO )  
 )  
COUNTY OF WELD ) ss.

The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Gary Boxberger.

Witness my hand and official seal.

My commission expires: 5/9/16

*Amanda Cantwell*  
Notary Public

**EXHIBIT D-1****EXHIBIT A TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B and depicted on Exhibit C attached hereto and made a part hereof, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by two (2) shares of stock in The Larimer and Weld Irrigation Company (represented by Share Certificate No. 5768) and four (4) shares of stock in The Windsor Reservoir Canal Company (represented by Share Certificate No. 177); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B and depicted on Exhibit C attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights, including without limitation one (1) share of stock in the Roullard Lateral Company (represented by Share Certificate No. 386).

**EXHIBIT D-1**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (REVEGETATION)  
Legal Description of the Land**

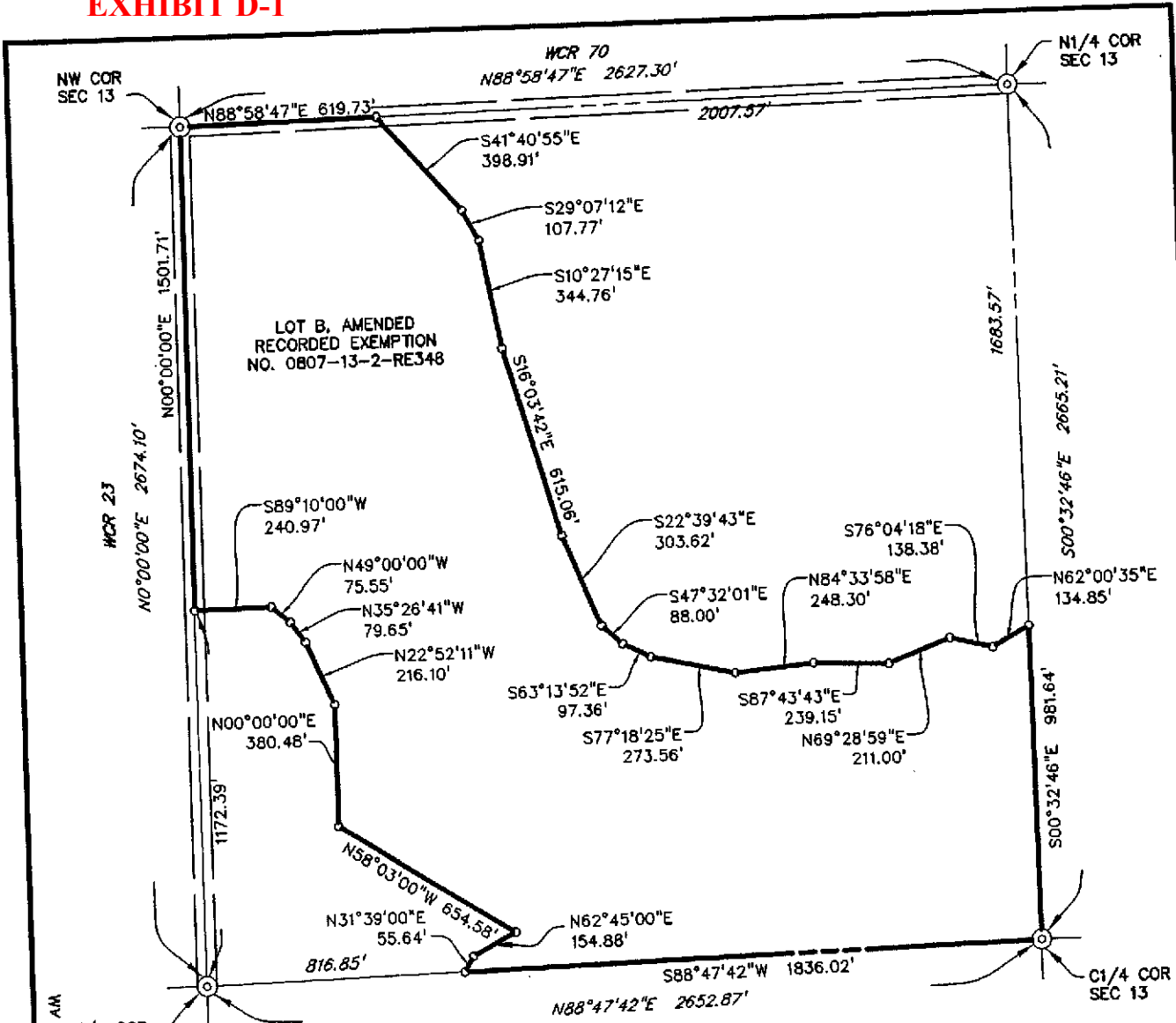
The Land shall include the real property legally described as follows:

Lot "B" of Recorded Exemption No. 0807-13-2-RE 348, according to Ex-emption Plat, recorded on November 22, 1978, in Book 854 as Reception No. 1776152, being a part of the NW1/4 of Section 13, in Township 6 North, Range 67 West of the 6<sup>th</sup> P.M.

**EXHIBIT D-1**

**EXHIBIT C TO  
RESTRICTIVE COVENANTS (REVEGETATION)  
Survey of the Land**

**EXHIBIT D-1**



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SCALE 1" = 500'

**NOTE**

THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY SHOW THE LOCATION OF THE TRACT OF LAND DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION.

**EXHIBIT MAP OF LOT B, AMENDED RECORDED EXEMPTION NO. 0807-13-2-RE348 LOCATED IN THE NW1/4 OF SECTION 13, T6N, R67W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO**

IN ACCORDANCE WITH CRS 13-80-105;  
NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

**Drexel, Barrell & Co.** Engineers/Surveyors  
1800 38TH STREET BOULDER, COLORADO 80301 (303) 442-4338  
COLORADO SPRINGS, COLORADO (719) 260-0887  
GRAND JUNCTION, COLORADO (970) 267-1566  
STEAMBOAT SPRINGS, COLORADO (970) 679-1523

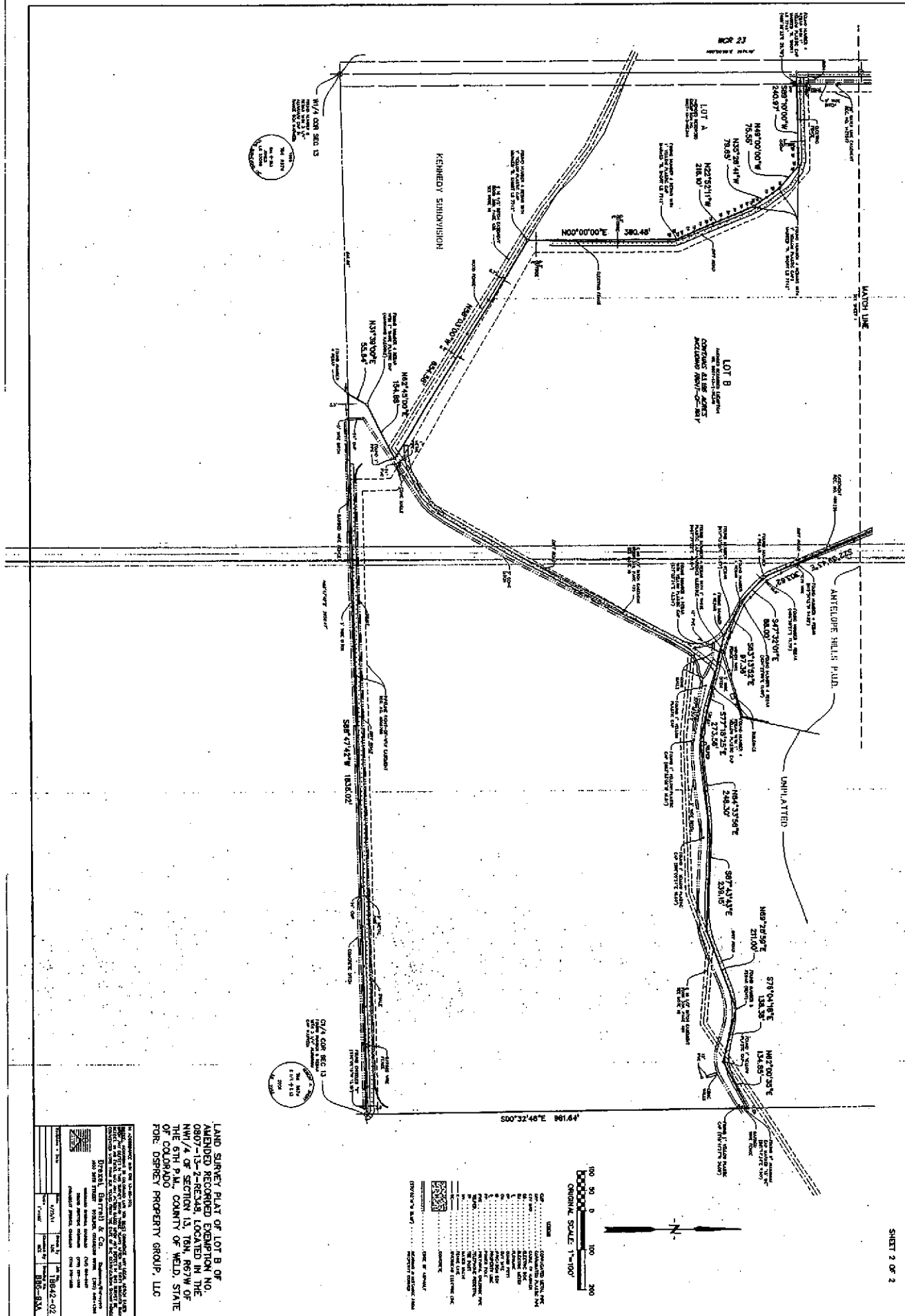


Revisions - Date	Date	Drawn By	Job No.
	4/21/14	SDS	<b>18642-02</b>
	Scale	Checked By	Drawing No.
	1"=500'	MES	<b>IN FILE</b>



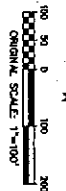


EXHIBIT D-1



LAND SURVEY PLAT OF LOT B OF  
 UNDIVIDED RECORDED EXEMPTION NO.  
 0801-13-2-RECORDED LOCATED IN THE  
 NW 1/4 OF SECTION 13, T8N, R67W OF  
 THE 6TH P.M. COUNTY OF WELD, STATE  
 OF COLORADO  
 FOR: DESPREY PROPERTY GROUP, LLC

Desprey Property Group, LLC 200 50th Street, Suite 1000 Denver, Colorado 80202 (303) 733-1111 www.desprey.com	Survey No. 13-02 Date of Survey 1/14/13 Surveyed by BRS-SM Checked by BRS-SM



### **RESTRICTIVE COVENANTS (NO IRRIGATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), Chalk & Associates, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. These covenants shall not prohibit Declarant or Declarant's successors in interest from irrigating the Land (i) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (ii) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or nonirrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at: 1650 Thistle Ridge Road, Highlands Ranch, Colorado 80126.



**EXHIBIT A TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by eight (8) shares of stock in The New Cache la Poudre Irrigating Company (represented or previously represented by Share Certificate No. 4935), eight (8) shares of stock in The Cache la Poudre Reservoir Company (represented or previously represented by Share Certificate No. 4149), and two (2) shares of stock in The Windsor Reservoir and Canal Company (represented or previously represented by Share Certificate No. 654); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Land shall include the real property legally described as follows:

Lot B of Recorded Exemption No. 0805-26-01 RECX14-0060 as recorded on 10/09/14 at Reception No. 4052913 being a portion of the West ½ of the Northeast ¼ of Section 26, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado, being 77 acres more or less.

### RESTRICTIVE COVENANTS (REVEGETATION)

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), Chalk & Associates, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated 02/20/15, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest shall establish, at Declarant's expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5).

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the



**EXHIBIT A TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by eight (8) shares of stock in The New Cache la Poudre Irrigating Company (represented or previously represented by Share Certificate No. 4935), eight (8) shares of stock in The Cache la Poudre Reservoir Company (represented or previously represented by Share Certificate No. 4149), and two (2) shares of stock in The Windsor Reservoir and Canal Company (represented or previously represented by Share Certificate No. 654); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights



**EXHIBIT B TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Land shall include the real property legally described as follows:

Lot B of Recorded Exemption No. 0805-26-01 RECX14-0060 as recorded on 10/09/14 at Reception No. 4052913 being a portion of the West ½ of the Northeast ¼ of Section 26, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado, being 77 acres more or less.

**EXHIBIT E**  
**FORM - DO NOT EXECUTE**

**RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)**

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the CITY OF GREELEY, a Colorado home rule municipal corporation (“Greeley”), with the maximum benefit available from the present and future use of water pursuant to the water rights described in Exhibit 1 attached hereto and incorporated herein (“Water Rights”), LONGS PEAK DAIRY, LLC, a Colorado limited liability company (“Declarant”), agrees, warrants and covenants on Declarant’s own behalf and on behalf of all successors in interest, that upon notice from Greeley, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit 2 attached hereto and incorporated herein (“Land”).

Upon receipt of one hundred and eighty (180) days prior written notice from Greeley (the “Notice”), thereafter Declarant and Declarant’s successors in interest shall not irrigate all or a portion of the Land, as indicated in the Notice. Without limiting Greeley’s absolute discretion to issue the Notice, Greeley may determine not to issue the Notice if cessation of irrigation of the Land is not required as a condition of Greeley obtaining approval to change the Water Rights for other uses. These covenants shall not prohibit Declarant or Declarant’s successors in interest from irrigating the Land (i) with other water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water rights applications filed by Greeley or a successor in interest to the Water Rights; (ii) with water from an existing well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider (“Alternate Water Rights”).

Unless so irrigated, then within two and one half (2½) years from the date Declarant ceases to irrigate the Land or any portion thereof with Alternate Water Rights, Declarant or Declarant’s successors in interest shall also establish, at Declarant’s or Declarant’s successors in interest’s expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the previously irrigated portions of the Land to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by Greeley, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5). Previously irrigated portions of the Land means portions of the Land not occupied by roads, buildings, or other structures, which land was cultivated with crops in accordance with these covenants. Declarant, or Declarant’s successors in interest, shall provide notice to Greeley when such revegetation of the Land has been established. Declarant agrees the Land subject to these covenants shall not be planted with crops that are capable of extending roots into the underlying groundwater, including, but not limited to, alfalfa.

Should Declarant or Declarant’s successors in interest fail to comply with its obligations hereunder, Greeley shall have the right to come upon the Land and take all measures necessary to accomplish the Declarant’s obligations hereunder, including but not limited to revegetation and/or noxious weed management on the Land, provided that Greeley shall also have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant’s successor in interest. Any and all fees and costs incurred in any necessary action to enforce these covenants by Greeley, including reasonable attorney fees, shall be paid by Declarant. Additionally, Greeley shall have the right to come upon the Land to verify Declarant’s compliance with its obligations hereunder, with any such inspections being at the sole expense of Greeley. All rights to enter upon the Land granted herein shall terminate upon a final determination by the District Court for Water Division No. 1, State of Colorado, under the court’s retained jurisdiction, that no further actions will be necessary in order to satisfy Declarant’s revegetation obligations.

The foregoing covenants shall burden, attach to, and run with the Land and shall be binding upon Declarant and Declarant’s successors, assigns and any other person who acquires an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to, and run with the Water Rights and shall inure to the



**EXHIBIT E**  
**FORM - DO NOT EXECUTE**

EXHIBIT 1  
RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

(Description of the Water Rights)

All water and water rights, ditches and ditch rights, reservoirs and reservoir rights, and all other rights and interests represented by two (2) shares of capital stock in The Water Supply and Storage Company, evidenced by Stock Certificate No. \_\_\_\_\_.

**EXHIBIT E**  
**FORM - DO NOT EXECUTE**

EXHIBIT 2  
RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

(Description of the Land)

Lot C of Recorded Exemption No. 0551-29-4 RE 3265, according to the plat recorded September 6, 2002 at Reception No. 2985642, being located in the SE  $\frac{1}{4}$  of Section 29, Township 8 North, Range 65 West of the 6th P.M., County of Weld, State of Colorado;

also known by street and number as: 43245 Weld County Road 41, Pierce, Colorado 80650.



**EXHIBIT F**  
**FORM - DO NOT EXECUTE**

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

QUESTIONNAIRE REGARDING USE OF WATER SHARES

*The person completing this questionnaire need not necessarily be the Lessee, but must have personal knowledge of the information provided*

1. Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email Address: \_\_\_\_\_

2. The information provided below pertains to \_\_\_\_\_ shares of the \_\_\_\_\_ Company, represented by Certificate No. \_\_\_\_\_ (hereinafter "Shares").

3. Did you use the Shares pursuant to a Lease Agreement? \_\_\_\_\_  
Date of the Lease: \_\_\_\_\_  
Name of Lessee (if different from Question 1): \_\_\_\_\_  
Name of Lessor: \_\_\_\_\_

4. The information in this questionnaire relates to my use of the Shares during the [20\_\_] irrigation season (hereinafter "Lease Year").

5. Do you still own the farm or parcel irrigated by these Shares? \_\_\_\_\_

6. Was your use of the Shares during the Lease Year consistent with all terms and conditions of the Lease Agreement and with the bylaws, rules, regulations, and policies of the ditch company? \_\_\_\_\_

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

8. What is the total size of the farm or parcel? \_\_\_\_\_ acres.

9. What is the size of the area(s) on the farm or parcel that was irrigated? \_\_\_\_\_ acres.

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

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

- Location and ID Number of the head gate at the main ditch: \_\_\_\_\_

**EXHIBIT F**  
**FORM - DO NOT EXECUTE**

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

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

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

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

\_\_\_\_\_.

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

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

▪ Any other water used: \_\_\_\_\_

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

\_\_\_\_\_.

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

- 1. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 2. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 3. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 4. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_
- 5. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_



**EXHIBIT F**  
**FORM - DO NOT EXECUTE**

6. Crop: \_\_\_\_\_ Percentage: \_\_\_\_\_ Location: \_\_\_\_\_

18. Were the lands on which the Shares were used subirrigated? Yes \_\_\_\_\_ No \_\_\_\_\_

19. If possible, please provide a map, sketch, or aerial photograph showing locations of (*check if included*):

- \_\_\_\_\_ Farm or Parcel
- \_\_\_\_\_ Areas irrigated by the Shares during the Lease Year
- \_\_\_\_\_ Areas irrigated with other water
- \_\_\_\_\_ Lateral ditches, wells, pumps, pipelines, storage reservoirs, or tail water ponds

I understand that I may be required to sign an affidavit attesting to the accuracy, to the best of my knowledge, of the information provided herein.

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



**EXHIBIT G**  
**FORM - DO NOT EXECUTE**

EXHIBIT A  
TO SPECIAL WARRANTY DEED

Description of Water Rights

Any and all water and water rights, ditches and ditch rights, reservoirs and reservoir rights, rights to receive water, and other rights and interests of any kind represented by \_\_\_ (\_\_\_) shares of capital stock in The \_\_\_\_\_ Company (evidenced by Stock Certificate No. \_\_\_\_\_). The Water Rights covered by this provision shall also include all of the Grantors' rights, title, and interest in and to any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the shares described above.

**EXHIBIT G**  
**FORM - DO NOT EXECUTE**

EXHIBIT B  
TO SPECIAL WARRANTY DEED

Description of Land

**EXHIBIT H**  
**FORM - DO NOT EXECUTE**

**ASSIGNMENT OF SHARES**  
**(Stock Certificate No. \_\_\_\_)**

For value received, the receipt, adequacy and sufficiency of which are hereby acknowledged, the undersigned, \_\_\_\_\_, a \_\_\_\_\_, ("Assignor") hereby sells, assigns, and transfers unto \_\_\_\_\_, a \_\_\_\_\_, ("Assignee"), \_\_\_\_\_(\_\_\_\_) shares of capital stock in The \_\_\_\_\_ Company, which stock is standing in the name of the undersigned on the books and records of the corporation and represented by Stock Certificate No. \_\_\_\_\_, free and clear of all liens, encumbrances and past-due assessments.

Assignor hereby authorizes and empowers the secretary of The \_\_\_\_\_ Company to transfer said certificate, and to effectuate this assignment and transfer on the books of The \_\_\_\_\_ Company.

[ASSIGNOR]  
a \_\_\_\_\_

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

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

**ACKNOWLEDGMENT**

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**EXHIBIT I**  
**FORM - DO NOT EXECUTE**

**ASSIGNMENT AND ASSUMPTION AGREEMENT**  
**(Restrictive Covenants)**

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“Assignment”) is made this \_\_\_ day of \_\_\_\_\_ 2022 by and between THE CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11<sup>th</sup> Avenue, 2<sup>nd</sup> Floor, Greeley, Colorado 80631 (“Assignor”) and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80524 (“Assignee”).

RECITALS

WHEREAS, the Assignor has this day conveyed to the Assignee those certain water rights represented by ten (10) shares of capital stock in the Windsor Reservoir and Canal Company, evidenced by Stock Certificate No. 667 (as to one (1) share), Stock Certificate No. 662 (as to four (4) shares), and Stock Certificate No. 577 (as to five (5) shares), and six (6) shares of capital stock in the Larimer and Weld Irrigation Company, evidenced by Stock Certificate No. 6251 (as to two (2) shares) and Stock Certificate No. 6155 (as to four (4) shares), which water rights are more particularly described on Exhibit A, attached hereto and incorporated herein by reference (collectively “Water Rights”); and

WHEREAS, the Assignor owns an interest in those certain restrictive covenants for the benefit of the Water Rights and the owner thereof. The aforementioned covenants are more particularly described on Exhibit B, attached hereto and incorporated herein by reference (“Restrictive Covenants”); and

WHEREAS, the Assignor accordingly desires to convey to the Assignee all of its right, title, and interest in the benefits of the Restrictive Covenants, as part of the Assignee’s acquisition of the Water Rights from the Assignor.

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

ASSIGNMENT AND ASSUMPTION

1. Assignment of Restrictive Covenants. Assignor hereby assigns, transfers and conveys to the Assignee all of its right, title, and interest in and to the Restrictive Covenants, including, without limitation, all benefits and rights of the Assignor associated with ownership of the Water Rights.
2. Assumption of Restrictive Covenants. Assignee hereby assumes and agrees to be bound by the provisions of the Restrictive Covenants. The obligations and burdens of the Restrictive Covenants remain with the owner(s) of the land historically irrigated by the Water Rights.
3. Warranties of the Assignor. Assignor hereby represents and warrants (a) that the Restrictive Covenants are valid, in full force and effect, and have not been amended; (b) that, to the best of Assignor’s knowledge, Assignor is not in default under the Restrictive Covenants; and (c) that the rights and interests of the Assignor under the Restrictive Covenants are free and clear of any other encumbrance, assignment, or other conveyance to third parties.

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been entered into by the City of Greeley and Longs Peak Dairy, LLC, as of the date first set forth above.

**EXHIBIT I**  
**FORM - DO NOT EXECUTE**

ASSIGNOR  
THE CITY OF GREELEY, COLORADO

Attest:

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

By: \_\_\_\_\_  
City Clerk

ASSIGNEE  
LONGS PEAK DAIRY, LLC

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

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

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

WHEN RECORDED RETURN TO:

Longs Peak Dairy, LLC  
Attn: Wade Podtburg  
45490 County Road 39  
Pierce, Colorado 80524

**EXHIBIT I**  
**FORM - DO NOT EXECUTE**

**EXHIBIT A**  
**Description of the Water Rights**

All water and water rights, ditches and ditch rights, reservoirs and reservoir rights, and all other rights represented by ten (10) shares of capital stock in the Windsor Reservoir and Canal Company (evidenced by Stock Certificate No. 667 (as to one (1) share), Stock Certificate No. 662 (as to four (4) shares), and Stock Certificate No. 577 (as to five (5) shares)), and six (6) shares of capital stock in the Larimer and Weld Irrigation Company (evidenced by Stock Certificate No. 6251 (as to two (2) shares) and Stock Certificate No. 6155 (as to four (4) shares)).



**EXHIBIT I**  
**FORM - DO NOT EXECUTE**

**EXHIBIT B**  
**Restrictive Covenants**

**RESTRICTIVE COVENANTS (REVEGETATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), J & E Investments, a Colorado limited liability company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated Feb. 29, 2012, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest (collectively, "Declarant") shall establish, at Declarant's expense, a ground cover of plant life that meets the standards set forth in the current version (as of the date of execution of these covenants) of C.R.S. § 37-92-103(10.5), on such percentage of the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) as is necessary to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to the current version of C.R.S. § 37-92-305(4.5)(a), but Declarant shall not be responsible for any obligations pursuant to C.R.S. § 37-92-305(4.5)(b). The current version of C.R.S. § 37-92-103(10.5) states: "'Revegetation' means the establishment of a ground cover of plant life demonstrated to be, without irrigation, reasonably capable of sustaining itself under the climatic conditions, soils, precipitation, and terrain prevailing for the lands from which irrigation water is removed. Grasses or other plants used for the purpose of revegetation shall not be noxious as such plants are defined under the provisions of the 'Colorado Noxious Weed Act', article 5.5 of title 35, C.R.S.'" The current version of C.R.S. § 37-92-305(4.5)(a) states: "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation [as defined in the current version of C.R.S. § 37-92-103(10.5) set forth above] and noxious weed management of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court." The City agrees, for itself and its successors in interest, to support any and all reasonable efforts of Declarant to implement dry land agriculture on the Land in satisfaction of the revegetation requirements contained both in these covenants and in the above-cited statutory provisions.

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Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

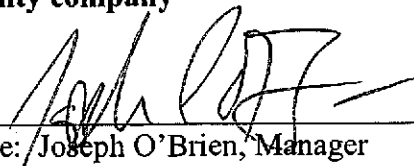
The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at 1110 Enclave Circle, Louisville, Colorado 80027.

**IN WITNESS WHEREOF**, the Declarant has executed this instrument on the 28th day of February, 2012.

Declarant:

**J & E Investments, LLC, a Colorado limited liability company**

By:   
Name: Joseph O'Brien, Manager

Subscribed under oath before me on 2-29, 2012 by Joseph O'Brien, Manager, J&E Investments, LLC, a Colorado limited liability company.

My commission expires: 12-2-14

  
Notary Public



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**EXHIBIT A TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company represented by WRCC Stock Certificate No. 323, four (4) shares of the capital stock of the Larimer & Weld Irrigation Company represented by LWIC Stock Certificate No. 5834, and eight (8) shares of the capital stock of the Owl Creek Supply & Irrigation Company represented by OCSIC Stock Certificate No. 1794.

The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights.

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**EXHIBIT B TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Land shall include the real property legally described as follows:

LOT B, RECORDED EXEMPTION NO. 0803-14-2 RE-3452, AS PER THE MAP RECORDED OCTOBER 21, 2003 AT RECEPTION NO. 3118933, BEING A PART OF THE NORTH ONE HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

AND

LOT B, RECORDED EXEMPTION NO. 0903-14-01 RE-3650, AS PER THE MAP RECORDED OCTOBER 4, 2004 AT RECEPTION NO. 3224486, BEING A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

Together with any and all appurtenances.

**RESTRICTIVE COVENANTS (NO IRRIGATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), 2370, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant, described in Exhibit B and depicted in Exhibit C attached hereto and made a part hereof (the "Land").

Upon receipt of 12-month prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. Declarant and Declarant's successors in interest (collectively, "Declarant") shall be considered to be in compliance with its obligations hereunder if Declarant ceases applying water to the Land via an irrigation system or other man-made means (unless such application of water is allowed pursuant to one or more of the four circumstances enumerated below). Provided Declarant complies with the foregoing, Declarant shall not be required to destroy or modify concrete ditches, pipes, culverts, tail-water ponds, or other historical irrigation features on the Land, except that Declarant shall, if requested by the City in compliance with these covenants, cause the filling-in of earthen ditches that were historically used for irrigation on the Land. These covenants shall not prohibit Declarant from irrigating the Land or making other uses of water on the Land (1) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (2) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court - approved plan for augmentation; (3) with water which is not tributary to the South Platte River or any of its tributaries; (4) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of

FORM - DO NOT EXECUTE

the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at 14339 Weld County Road 74, Eaton, CO 80615.

Should Declarant fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish the cessation of irrigation and other uses of water on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such cessation of irrigation and other uses of water on the Land, and provided further that any such measures shall only include measures that Declarant is already required to take hereunder.

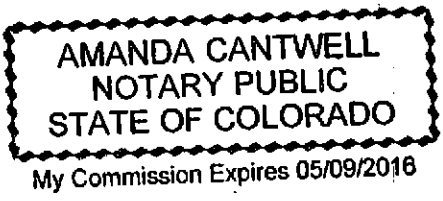
The City agrees that any such entry upon the Land, as well as any and all work or activities undertaken pursuant to such entry, shall be conducted at such times so as to minimize the interruption of Declarant's and/or Declarant's tenant's use and enjoyment of the Land, shall be performed in a reasonable and workmanlike manner, and to the extent reasonably feasible shall be performed in accordance with historically established access routes.

IN WITNESS WHEREOF, the Declarant and current Leaseholder has executed the foregoing instrument named "Restrictive Covenants (No Irrigation)" on the 20 day of JUNE, 2014.

DECLARANT:

2370, LLC, a Colorado Limited Liability Company.

By: [Signature]  
Todd Bean, MANAGER



STATE OF COLORADO )  
 )  
COUNTY OF WELD ) ss.

The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Todd Bean, as MANAGER of 2370, LLC.

Witness my hand and official seal.

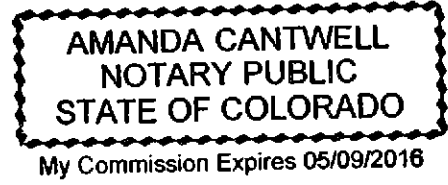
My commission expires: 5/9/16

[Signature]  
Notary Public

**FORM - DO NOT EXECUTE**

**CURRENT LEASEHOLDER:**

By: Gary Boxberger  
Gary Boxberger.



STATE OF COLORADO )  
 )  
COUNTY OF WELD ) ss.

The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Gary Boxberger.

Witness my hand and official seal.

My commission expires: 5/9/16

Amanda Cantwell  
Notary Public



**FORM - DO NOT EXECUTE****EXHIBIT A TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B and depicted on Exhibit C attached hereto and made a part hereof, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by two (2) shares of stock in The Larimer and Weld Irrigation Company (represented by Share Certificate No. 5768) and four (4) shares of stock in The Windsor Reservoir Canal Company (represented by Share Certificate No. 177); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B and depicted on Exhibit C attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights, including without limitation one (1) share of stock in the Roullard Lateral Company (represented by Share Certificate No. 386).

**FORM - DO NOT EXECUTE**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)  
Legal Description of the Land**

The Land shall include the real property legally described as follows:

Lot "B" of Recorded Exemption No. 0807-13-2-RE 348, according to Ex-emption Plat, recorded on November 22, 1978, in Book 854 as Reception No. 1776152, being a part of the NW1/4 of Section 13, in Township 6 North, Range 67 West of the 6<sup>th</sup> P.M.

**FORM - DO NOT EXECUTE**

**EXHIBIT C TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)  
Survey of the Land**

FORM - DO NOT EXECUTE

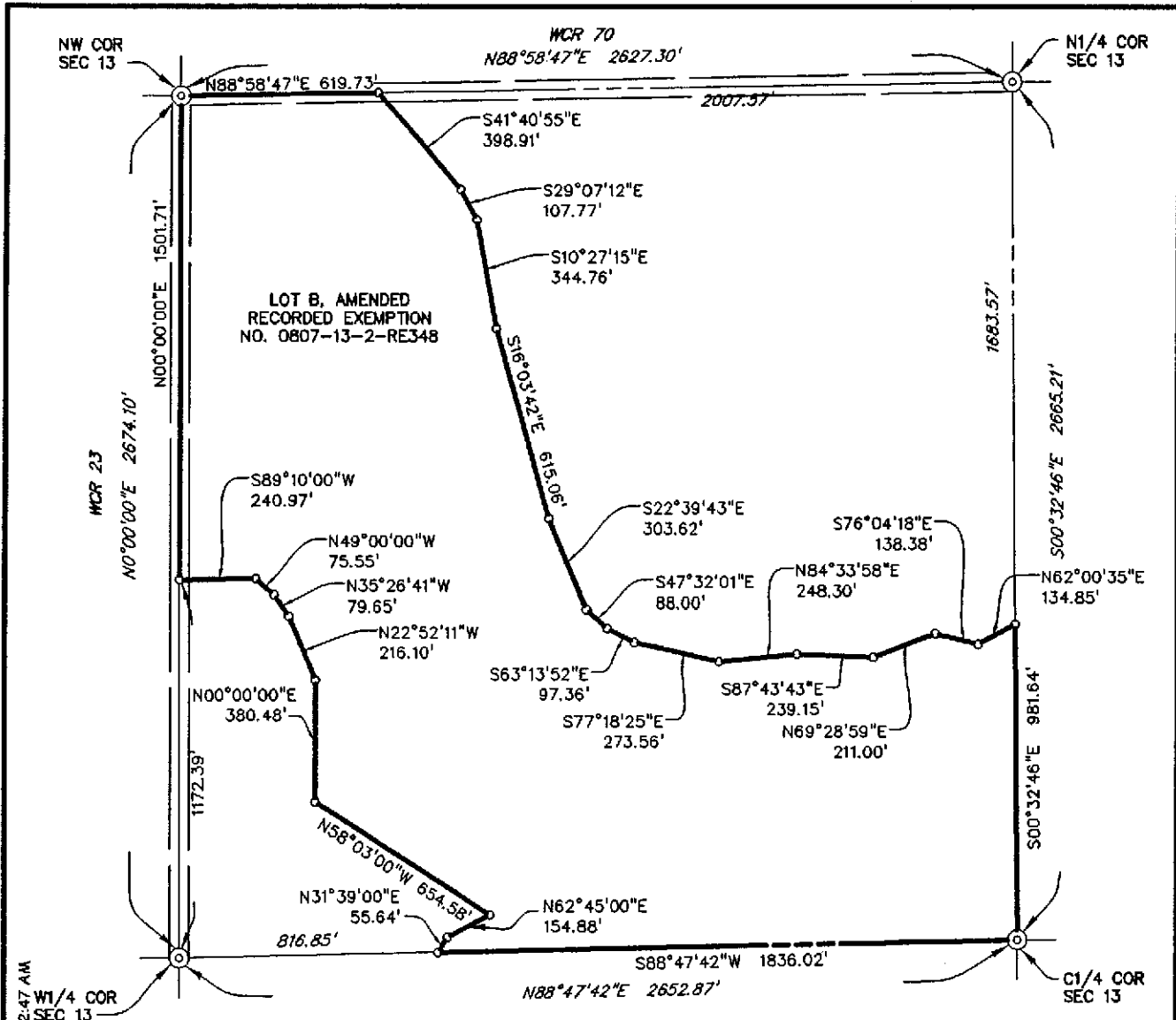


EXHIBIT MAP OF LOT B, AMENDED RECORDED EXEMPTION NO. 0807-13-2-RE348 LOCATED IN THE NW1/4 OF SECTION 13, T6N, R67W OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO



SCALE 1" = 500'

NOTE

THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY SHOW THE LOCATION OF THE TRACT OF LAND DESCRIBED IN THE ACCOMPANYING LEGAL DESCRIPTION.

IN ACCORDANCE WITH CRS 13-80-105;  
 NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

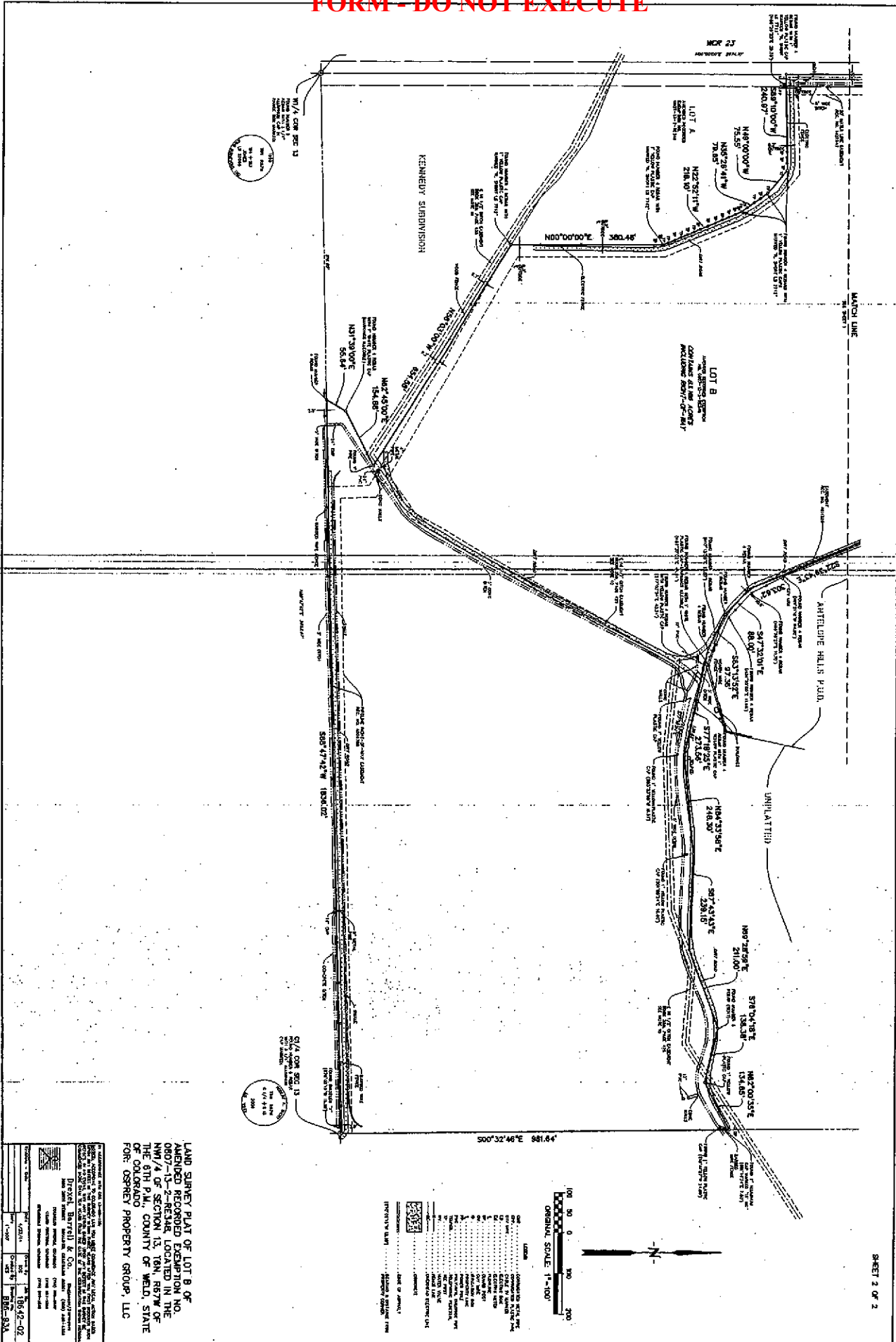
**Drexel, Barrell & Co.** Engineers/Surveyors  
 1800 38TH STREET BOULDER, COLORADO 80301 (303) 442-4338  
 COLORADO SPRINGS, COLORADO (719) 260-0887  
 GRAND JUNCTION, COLORADO (970) 257-1350  
 STEAMBOAT SPRINGS, COLORADO (970) 879-1623

Revisions - Date	Date	Drawn By	Job No.
	4/21/14	SDS	18642-02
	Scale	Checked By	Drawing No.
	1"=500'	MES	IN FILE

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FORM - DO NOT EXECUTE



SHEET 2 OF 2

LAND SURVEY PLAT OF LOT B OF  
 AMENDED RECORDED EXCEPTION NO.  
 0807-13-2-RE348, LOCATED IN THE  
 NW/4 OF SECTION 13, T8N, R87W OF  
 THE 6TH P.M., COUNTY OF WELD, STATE  
 OF COLORADO  
 FOR: OSPREY PROPERTY GROUP, LLC

Prepared by:  
 Drawn by:  
 Checked by:  
 Date: 07/01/14  
 Title: Survey Plat  
 Project: 13640-02  
 Scale: As Shown  
 Drawing No.: 13640-02  
 Revision: 01

Drexel, Bartell & Co.  
 Surveyors  
 1000 North 10th Street  
 Fort Collins, CO 80504  
 Phone: 970-221-1234  
 Fax: 970-221-1235  
 Email: info@dbcsurveyors.com  
 Website: www.dbsurveyors.com

I, the undersigned, being a duly licensed Surveyor in the State of Colorado, do hereby certify that the foregoing is a true and correct copy of the original survey plat as the same appears in my records.

Surveyor's Seal  
 Drexel, Bartell & Co.  
 Surveyors  
 License No. 10000

I hereby certify that the above is a true and correct copy of the original survey plat as the same appears in my records.

Date of Survey:  
 Date of Plat:  
 Date of Recording:  
 Date of Execution:  
 Date of Filing:  
 Date of Posting:  
 Date of Publication:  
 Date of Issuance:  
 Date of Release:  
 Date of Termination:  
 Date of Renewal:  
 Date of Extension:  
 Date of Suspension:  
 Date of Revocation:  
 Date of Reinstatement:  
 Date of Re-examination:  
 Date of Re-certification:  
 Date of Re-licensing:  
 Date of Re-issuance:  
 Date of Re-approval:  
 Date of Re-authorization:  
 Date of Re-endorsement:  
 Date of Re-qualification:  
 Date of Re-qualification:  
 Date of Re-qualification:

I hereby certify that the above is a true and correct copy of the original survey plat as the same appears in my records.

I hereby certify that the above is a true and correct copy of the original survey plat as the same appears in my records.

I hereby certify that the above is a true and correct copy of the original survey plat as the same appears in my records.

**RESTRICTIVE COVENANTS (NO IRRIGATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in **Exhibit A** attached hereto and made a part hereof (the "Water Rights"), J & E Investments, a Colorado limited liability company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant and described in **Exhibit B** attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. Declarant and Declarant's successors in interest (collectively, "Declarant") shall be considered to be in compliance with its obligations hereunder if Declarant ceases applying water to the Land via an irrigation system or other man-made means (unless such application of water is allowed pursuant to one or more of the four circumstances enumerated below). Provided Declarant complies with the foregoing, Declarant shall not be required to destroy or modify concrete ditches, pipes, culverts, tail-water ponds, or other historical irrigation features on the Land, except that Declarant shall, if requested by the City in compliance with these covenants, cause the filling-in of earthen ditches that were historically used for irrigation on the Land. These covenants shall not prohibit Declarant from irrigating the Land or making other uses of water on the Land (1) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (2) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court - approved plan for augmentation; (3) with water which is not tributary to the South Platte River or any of its tributaries; (4) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of

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the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at 1110 Enclave Circle, Louisville, Colorado 80027.

Should Declarant fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish the cessation of irrigation and other uses of water on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such cessation of irrigation and other uses of water on the Land, and provided further that any such measures shall only include measures that Declarant is already required to take hereunder.

The City agrees that any such entry upon the Land, as well as any and all work or activities undertaken pursuant to such entry, shall be conducted at such times so as to minimize the interruption of Declarant's and/or Declarant's tenant's use and enjoyment of the Land, shall be performed in a reasonable and workmanlike manner, and to the extent reasonably feasible shall be performed in accordance with historically established access routes.

**IN WITNESS WHEREOF**, the Declarant has executed the foregoing instrument named "Restrictive Covenants (No Irrigation)" on the 28th day of February, 2012.

Declarant:

**J & E Investments, LLC, a Colorado limited liability company**

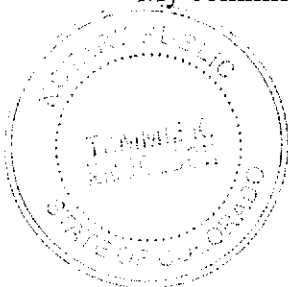
By:   
Name: Joseph O'Brien, Manager

STATE OF COLORADO )  
 )  
COUNTY OF Larimer ) ss.

The foregoing instrument was acknowledged before me this <sup>29th</sup>28th day of February, 2012, by Joseph O'Brien, as Manager of J & E Investments, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 12-2-14



  
Notary Public



**FORM - DO NOT EXECUTE**

**EXHIBIT A TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

Five (5) shares of the capital stock of the Windsor Reservoir and Canal Company represented by WRCC Stock Certificate No. 323, four (4) shares of the capital stock of the Larimer & Weld Irrigation Company represented by LWIC Stock Certificate No. 5834, and eight (8) shares of the capital stock of the Owl Creek Supply & Irrigation Company represented by OCSIC Stock Certificate No. 1794.

**FORM - DO NOT EXECUTE**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Land shall include the real property legally described as follows:

LOT B, RECORDED EXEMPTION NO. 0803-14-2 RE-3452, AS PER THE MAP RECORDED OCTOBER 21, 2003 AT RECEPTION NO. 3118933, BEING A PART OF THE NORTH ONE HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

AND

LOT B, RECORDED EXEMPTION NO. 0903-14-01 RE-3650, AS PER THE MAP RECORDED OCTOBER 4, 2004 AT RECEPTION NO. 3224486, BEING A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 14, TOWNSHIP 6 NORTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF WELD, STATE OF COLORADO.

Together with any and all appurtenances.

**RESTRICTIVE COVENANTS (REVEGETATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), 2370, LLC, a Colorado Limited Liability Company (the "Declarant") agrees, warrants and covenants, and the undersigned leaseholders and lienholders if any, acknowledge and approve, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant, described in Exhibit B and depicted in Exhibit C attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated June 23, 2014, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest (collectively, "Declarant") shall establish, at Declarant's expense, a ground cover of plant life that meets the standards set forth in the current version (as of the date of execution of these covenants) of C.R.S. § 37-92-103(10.5), on such percentage of the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) as is necessary to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to the current version of C.R.S. § 37-92-305(4.5)(a), but Declarant shall not be responsible for any obligations pursuant to C.R.S. § 37-92-305(4.5)(b). The current version of C.R.S. § 37-92-103(10.5) states: "'Revegetation' means the establishment of a ground cover of plant life demonstrated to be, without irrigation, reasonably capable of sustaining itself under the climatic conditions, soils, precipitation, and terrain prevailing for the lands from which irrigation water is removed. Grasses or other plants used for the purpose of revegetation shall not be noxious as such plants are defined under the provisions of the 'Colorado Noxious Weed Act', article 5.5 of title 35, C.R.S.'" The current version of C.R.S. § 37-92-305(4.5)(a) states: "The terms and conditions applicable to changes of use of water rights from agricultural irrigation purposes to other beneficial uses shall include reasonable provisions designed to accomplish the revegetation [as defined in the current version of C.R.S. § 37-92-103(10.5) set forth above] and noxious weed management of lands from which irrigation water is removed. The applicant may, at any time, request a final determination under the court's retained jurisdiction that no further application of water will be necessary in order to satisfy the revegetation provisions. Dry land agriculture may not be subject to revegetation order of the court." The City agrees, for itself and its successors in interest, to support any and all reasonable efforts of Declarant to implement dry land agriculture on the Land in satisfaction of the revegetation requirements contained both in these covenants and in the above-cited statutory provisions.

**FORM - DO NOT EXECUTE**

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.


The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at 14339 Weld County Road 74, Eaton, CO 80615.

**IN WITNESS WHEREOF**, the Declarant and current Leaseholder has executed this instrument on the 20 day of JUNE, 2014.

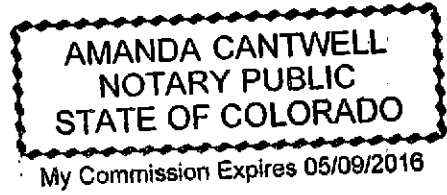
**DECLARANT:**

2370, LLC, a Colorado Limited Liability Company

By:  manager  
Todd Bean, manager

STATE OF COLORADO )  
)  
COUNTY OF WELD )

ss.



The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Todd Bean, as MANAGER of 2370, LLC.

Witness my hand and official seal.

My commission expires: 5/9/16



**FORM - DO NOT EXECUTE**

Notary Public

**CURRENT LEASEHOLDER:**

Gary Boxberger

By: *Gary Boxberger*  
Gary Boxberger.



My Commission Expires 05/09/2016

STATE OF COLORADO )  
 )  
COUNTY OF WELD ) ss.

The foregoing instrument was acknowledged before me this 20 day of JUNE 2014, by Gary Boxberger.

Witness my hand and official seal.

My commission expires: 5/9/16

*Amanda Cantwell*  
Notary Public

**FORM - DO NOT EXECUTE****EXHIBIT A TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B and depicted on Exhibit C attached hereto and made a part hereof, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by two (2) shares of stock in The Larimer and Weld Irrigation Company (represented by Share Certificate No. 5768) and four (4) shares of stock in The Windsor Reservoir Canal Company (represented by Share Certificate No. 177); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B and depicted on Exhibit C attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights, including without limitation one (1) share of stock in the Roullard Lateral Company (represented by Share Certificate No. 386).

**FORM - DO NOT EXECUTE**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (REVEGETATION)  
Legal Description of the Land**

The Land shall include the real property legally described as follows:

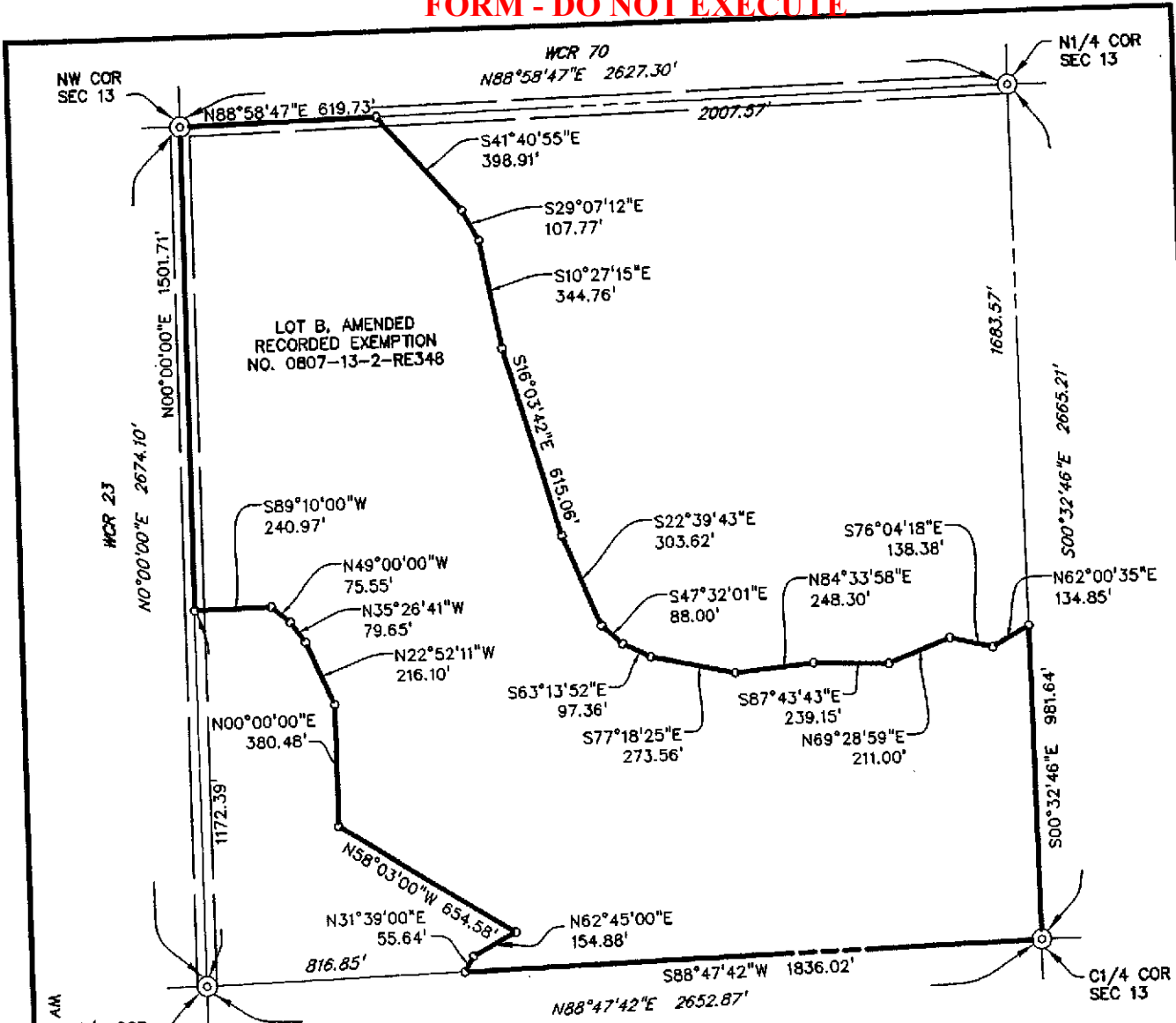
Lot "B" of Recorded Exemption No. 0807-13-2-RE 348, according to Ex-emption Plat, recorded on November 22, 1978, in Book 854 as Reception No. 1776152, being a part of the NW1/4 of Section 13, in Township 6 North, Range 67 West of the 6<sup>th</sup> P.M.

**FORM - DO NOT EXECUTE**

**EXHIBIT C TO  
RESTRICTIVE COVENANTS (REVEGETATION)  
Survey of the Land**



FORM - DO NOT EXECUTE



LOT B, AMENDED  
RECORDED EXEMPTION  
NO. 0807-13-2-RE348

EXHIBIT MAP OF LOT B, AMENDED  
RECORDED EXEMPTION NO.  
0807-13-2-RE348 LOCATED IN THE NW1/4  
OF SECTION 13, T6N, R67W OF THE 6TH  
P.M., COUNTY OF WELD, STATE OF  
COLORADO



SCALE 1" = 500'

NOTE

THIS MAP IS NOT A LAND SURVEY PLAT OR AN  
IMPROVEMENT SURVEY PLAT. THE PURPOSE OF THIS  
MAP IS TO GRAPHICALLY SHOW THE LOCATION OF  
THE TRACT OF LAND DESCRIBED IN THE  
ACCOMPANYING LEGAL DESCRIPTION.

IN ACCORDANCE WITH CRS 13-80-105;  
NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED  
UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH  
DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE  
COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

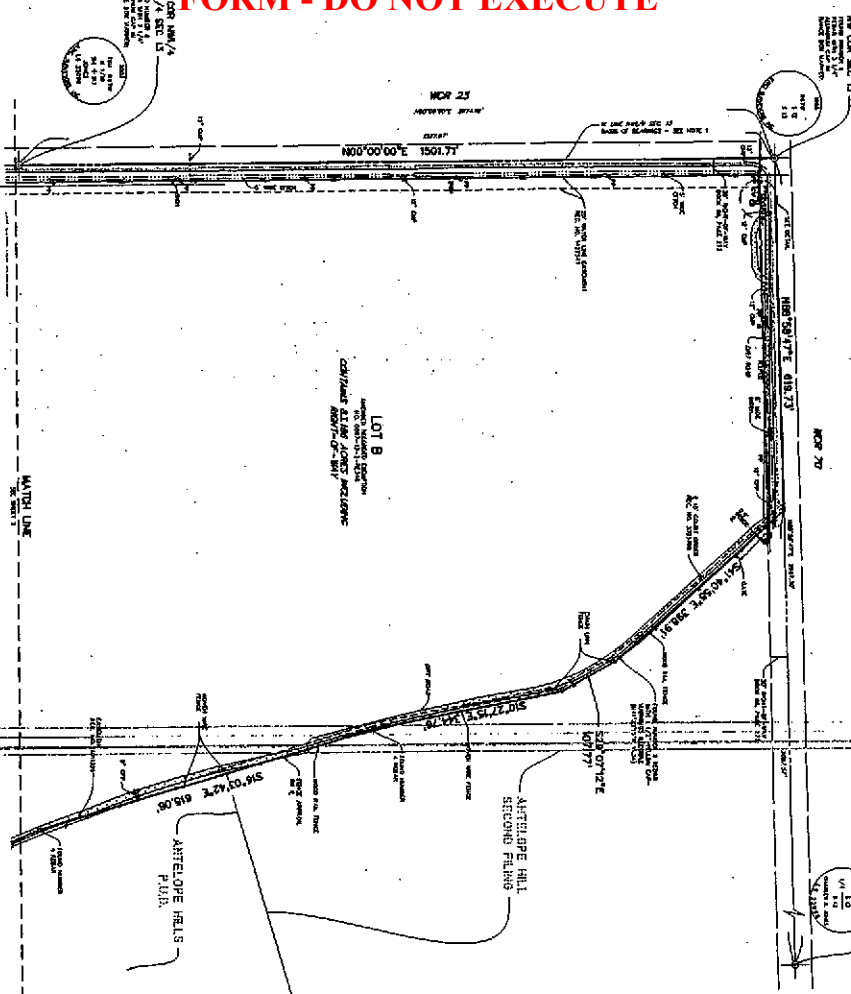
**Drexel, Barrell & Co.** Engineers/Surveyors  
1800 38TH STREET BOULDER, COLORADO 80301 (303) 442-4338  
COLORADO SPRINGS, COLORADO (719) 260-0887  
GRAND JUNCTION, COLORADO (970) 267-1566  
STEAMBOAT SPRINGS, COLORADO (970) 679-1523



Revisions - Date	Date	Drawn By	Job No.
	4/21/14	SDS	18642-02
	Scale	Checked By	Drawing No.
	1"=500'	MES	IN FILE

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**FORM - DO NOT EXECUTE**



100 0 100 200  
 ORIGINAL SCALE 1"=100'

1. THIS SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT, C.S. 64-1-1, AND THE RULES OF THE BOARD OF SURVEYING AND MAPPING, C.S. 64-1-2.
2. THE PROPERTY DESCRIBED IN THIS SURVEY IS SHOWN ON THE PLAN AND IS THE PROPERTY OF THE STATE OF COLORADO.
3. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT, C.S. 64-1-1, AND THE RULES OF THE BOARD OF SURVEYING AND MAPPING, C.S. 64-1-2.
4. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT, C.S. 64-1-1, AND THE RULES OF THE BOARD OF SURVEYING AND MAPPING, C.S. 64-1-2.
5. THE SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT, C.S. 64-1-1, AND THE RULES OF THE BOARD OF SURVEYING AND MAPPING, C.S. 64-1-2.

CONSENT TO FILE

BY THE STATE OF COLORADO

BY THE BOARD OF SURVEYING AND MAPPING

BY THE COUNTY OF WELD

BY THE COUNTY OF MOUNTAIN VIEW

BY THE COUNTY OF HERRING

BY THE COUNTY OF WASHINGTON

BY THE COUNTY OF YUMA

BY THE COUNTY OF GARFIELD

BY THE COUNTY OF DELTA

BY THE COUNTY OF LARAMIE

BY THE COUNTY OF SAGWAJ

BY THE COUNTY OF GUNNISON

BY THE COUNTY OF GRAND

BY THE COUNTY OF KANE

BY THE COUNTY OF CROWLEY

BY THE COUNTY OF GLEN

BY THE COUNTY OF JACKSON

BY THE COUNTY OF LINCOLN

BY THE COUNTY OF RIVERSIDE

BY THE COUNTY OF WASHINGTON

BY THE COUNTY OF YUMA

BY THE COUNTY OF GARFIELD

BY THE COUNTY OF DELTA

BY THE COUNTY OF LARAMIE

BY THE COUNTY OF SAGWAJ

BY THE COUNTY OF GUNNISON

BY THE COUNTY OF GRAND

BY THE COUNTY OF KANE

BY THE COUNTY OF CROWLEY

BY THE COUNTY OF GLEN

BY THE COUNTY OF JACKSON

BY THE COUNTY OF LINCOLN

BY THE COUNTY OF RIVERSIDE

LAND SURVEY PLAT OF LOT 8 OF  
 AMENDED RECORDED EXEMPTION NO.  
 0807-13-2-RE348 LOCATED IN THE  
 NW 1/4 OF SECTION 13, T8N, R67W OF  
 THE 6TH P.M., COUNTY OF WELD, STATE  
 OF COLORADO

FOR: OSPREY PROPERTY GROUP, LLC

DATE OF SURVEY: 06/14/12

BY: DREWELL BERTRELL & CO., INC.

REGISTERED PROFESSIONAL SURVEYORS

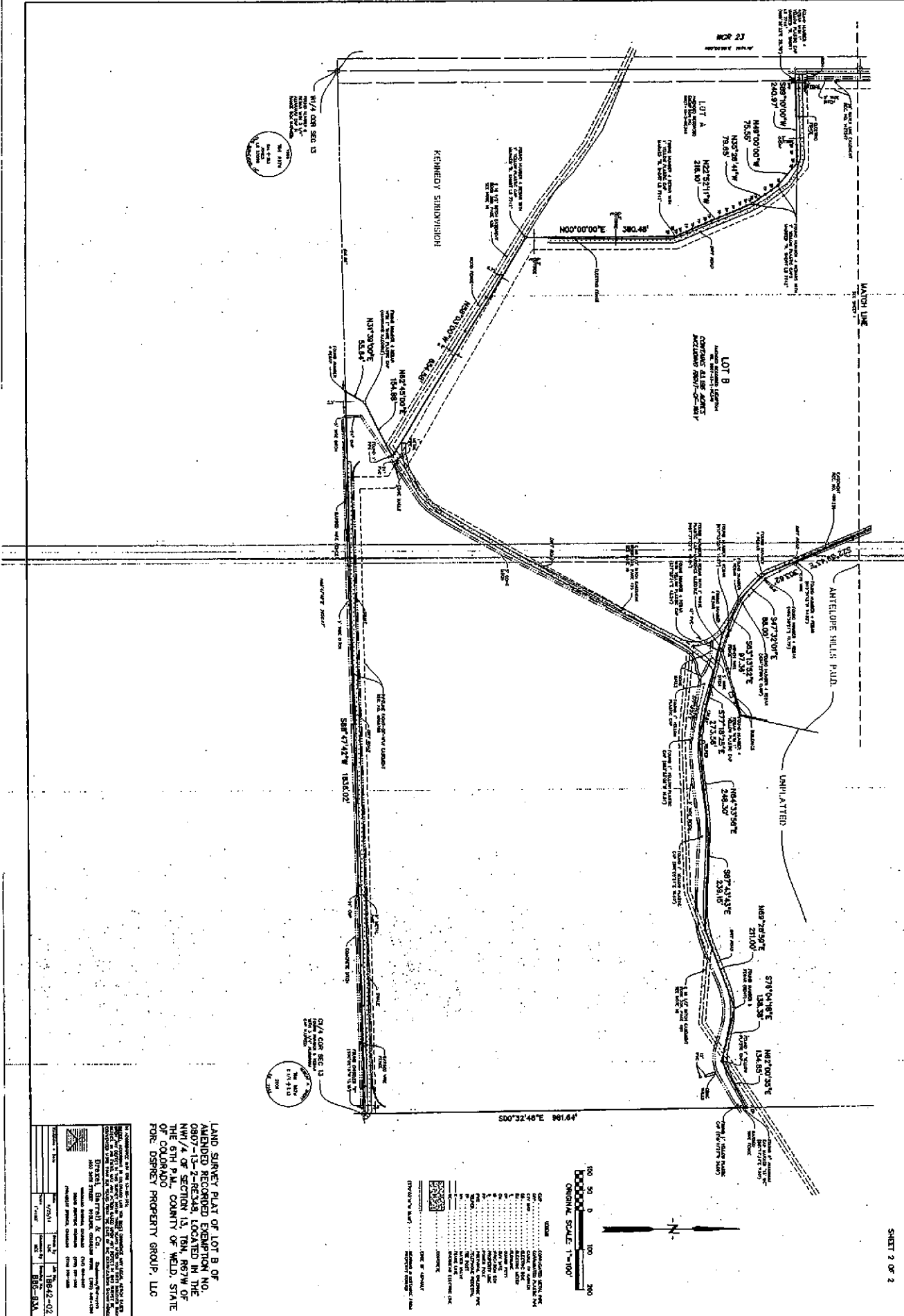
COLORADO LICENSE NO. 10919

WELD COUNTY LICENSE NO. 00000000

WELD COUNTY LICENSE NO. 00000000

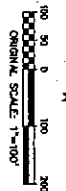
WELD COUNTY LICENSE NO. 00000000

FORM - DO NOT EXECUTE



LAND SURVEY PLAT OF LOT B OF  
 UNDIVIDED RECORDED EXEMPTION NO.  
 0801713-2-RECORD LOCATED IN THE  
 NW 1/4 OF SECTION 13, T8N, R67W OF  
 THE 6TH P.M. COUNTY OF WELD, STATE  
 OF COLORADO  
 FOR: DESPREY PROPERTY GROUP, LLC

Desprey Property Group, LLC 200 39th Street, Suite 1000 Denver, CO 80202 (303) 733-1111 www.desprey.com	Survey No. 13-00000-02 Sheet No. 2 of 2 Date: 07/01/2014 Scale: 1"=100' Project: 13-00000-02



**EXHIBIT J**  
**FORM - DO NOT EXECUTE**

**ASSIGNMENT AND ASSUMPTION AGREEMENT**  
**(Water Lease Agreement – J&E Investments, LLC)**

This ASSIGNMENT AND ASSUMPTION AGREEMENT (“Assignment”) is made this \_\_\_ day of \_\_\_\_\_ 2022 by and between THE CITY OF GREELEY, COLORADO, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11th Avenue, 2<sup>nd</sup> Floor, Greeley, Colorado 80631 (“City”) and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80650 (“Assignee”).

RECITALS

WHEREAS, the City has conveyed to the Assignee those certain water rights represented by five (5) shares of capital stock in The Windsor Reservoir and Canal Company (currently evidenced by Stock Certificate No. 577) and four (4) shares of capital stock in the Larimer and Weld Irrigation Company (currently evidenced by Stock Certificate No. 6155) (collectively “Water Rights”); and

WHEREAS, the City previously entered into that certain Water Lease Agreement with J&E Investments, LLC, originally executed on February 29, 2012, amended to extend on \_\_\_\_\_, 2022, and attached hereto as Exhibit A (“J&E Lease”), pursuant to which lease J&E Investments, LLC has leased from the City the Water Rights and the lateral shares necessary to deliver the Water Rights to the land irrigated thereunder; and

WHEREAS, the City accordingly desires to convey to the Assignee all of its right, title, and interest in and to the J&E Lease related to the Water Rights, in conjunction with the Assignee’s acquisition of the Water Rights from the City.

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

ASSIGNMENT AND ASSUMPTION

1. Assignment of J&E Lease. The City hereby assigns, transfers and conveys to the Assignee all of its right, title, and interest in and to the J&E Lease related to the Water Rights, including, without limitation, all of the benefits and rights of the City and subject to all of the obligations and burdens of the City thereunder. A copy of the J&E Lease is attached hereto as Exhibit A and incorporated herein by reference.

2. Assumption of J&E Lease. The Assignee hereby assumes and agrees to be bound by the provisions of the J&E Lease related to the Water Rights, and hereby assumes each and every of the City’s obligations and burdens thereunder related to the Water Rights, as of the date first set forth above.

3. Warranties of the City. The City hereby represents and warrants (a) that the J&E Lease is valid and in full force and effect; (b) that, to the best of the City’s knowledge, the City is not in default under the J&E Lease; and (c) that the rights and interests of the City under the J&E Lease are free and clear of any other encumbrance, assignment, or other conveyance to third parties.

4. Reservation of Interest. The City hereby retains all of its right, title, and interest in and to the eight (8) shares of capital stock in The Owl Creek Supply and Irrigation Company (currently evidenced by Stock Certificate No. 1900) that are also included in the J&E Lease, but acknowledge that such shares

**EXHIBIT J**  
**FORM - DO NOT EXECUTE**

may continue to be used by the lessee through December 31, 2022, in accordance with the terms of the J&E Lease.

IN WITNESS WHEREOF, this Assignment and Assumption of Agreement has been entered into by the City of Greeley and Longs Peak Dairy, LLC, as of the date first set forth above.

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

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

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

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

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

Acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2022, by \_\_\_\_\_, as  
\_\_\_\_\_ and authorized representative of Longs Peak Dairy, LLC.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**EXHIBIT K**  
**FORM - DO NOT EXECUTE**

**PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT**  
**(Restrictive Covenants)**

This PARTIAL ASSIGNMENT AND ASSUMPTION AGREEMENT (“Assignment”) is made this \_\_\_ day of \_\_\_\_\_ 2022 by and between THE CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water Enterprise, whose address is 1001 11<sup>th</sup> Avenue, 2<sup>nd</sup> Floor, Greeley, Colorado 80631 (“Assignor”) and LONGS PEAK DAIRY, LLC, a Colorado limited liability company whose address is 45490 County Road 39, Pierce, Colorado 80524 (“Assignee”).

RECITALS

WHEREAS, the Assignor has this day conveyed to the Assignee those certain water rights represented by two (2) shares in The Windsor Reservoir and Canal Company, which water rights are more particularly described on Exhibit A, attached hereto and incorporated herein by reference (“Water Rights”); and

WHEREAS, the Assignor owns an interest in those certain restrictive covenants for the benefit of the Water Rights and the owner thereof. The aforementioned covenants are more particularly described on Exhibit B, attached hereto and incorporated herein by reference (“Restrictive Covenants”); and

WHEREAS, the Assignor accordingly desires to convey to the Assignee the portion of its right, title, and interest in the benefits of the Restrictive Covenants that is associated with the Water Rights, as part of the Assignee’s acquisition of the Water Rights from the Assignor.

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

ASSIGNMENT AND ASSUMPTION

1. Partial Assignment of Restrictive Covenants. Assignor hereby assigns, transfers and conveys to the Assignee all of its right, title, and interest in and to the Restrictive Covenants as to the \_\_\_\_\_ acres more particularly described on Exhibit C, including, without limitation, all benefits and rights of the Assignor associated with ownership of the Water Rights. Assignor hereby retains all of its right, title, and interest in and to the Restrictive Covenants as to the remaining acreage, as is also shown on Exhibit C.

2. Partial Assumption of Restrictive Covenants. Assignee hereby assumes and agrees to be bound by the provisions of the Restrictive Covenants as to the acreage described on Exhibit C. The obligations and burdens of the Restrictive Covenants remain with the owner(s) of the land historically irrigated by the Water Rights.

3. Warranties of the Assignor. Assignor hereby represents and warrants (a) that the Restrictive Covenants are valid, in full force and effect, and have not been amended; (b) that, to the best of Assignor’s knowledge, Assignor is not in default under the Restrictive Covenants; and (c) that the rights and interests of the Assignor under the Restrictive Covenants are free and clear of any other encumbrance, assignment, or other conveyance to third parties.

IN WITNESS WHEREOF, this Partial Assignment and Assumption Agreement has been entered into by the City of Greeley and Longs Peak Dairy, LLC, as of the date first set forth above.

**EXHIBIT K**  
**FORM - DO NOT EXECUTE**

ASSIGNOR  
THE CITY OF GREELEY, COLORADO

Attest:

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

By: \_\_\_\_\_  
City Clerk

ASSIGNEE  
LONGS PEAK DAIRY, LLC

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

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

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

WHEN RECORDED RETURN TO:

Longs Peak Dairy, LLC  
Attn: Wade Podtburg  
45490 County Road 39  
Pierce, Colorado 80524

**EXHIBIT K**  
**FORM - DO NOT EXECUTE**

**EXHIBIT A**  
**Description of the Water Rights**

All water and water rights, ditches and ditch rights, reservoirs and reservoir rights, and all other rights represented by two (2) shares of capital stock in The Windsor Reservoir and Canal Company evidenced by Certificate No. 700.



**EXHIBIT K**  
**FORM - DO NOT EXECUTE**

**EXHIBIT B**  
**Restrictive Covenants**

**RESTRICTIVE COVENANTS (NO IRRIGATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), Chalk & Associates, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Upon receipt of one hundred and eighty (180) days prior written notice from the City, thereafter Declarant and Declarant's successors in interest shall not irrigate or make other uses of water on the Land. These covenants shall not prohibit Declarant or Declarant's successors in interest from irrigating the Land (i) with water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water right applications filed by the City or a successor in interest to the Water Rights; (ii) with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider. Unless so irrigated, Declarant agrees that the property subject to these covenants will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the dry-up or nonirrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the Declarant by prepaid U. S. Mail to the Declarant at: 1650 Thistle Ridge Road, Highlands Ranch, Colorado 80126.

**FORM - DO NOT EXECUTE**

IN WITNESS WHEREOF, the Declarant has executed this instrument on the 2nd day of June, 2015.

**DECLARANT:**  
**CHALK & ASSOCIATES, LLC**  
a Colorado Limited Liability Company,

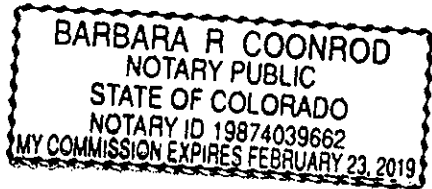
By: Thomas A. Chalk  
Thomas A. Chalk, Manager

**ACKNOWLEDGMENT**

STATE OF COLORADO    )  
  ) ss.  
COUNTY OF WELD        )

The foregoing instrument was acknowledged before me this 2nd day of June 2015, by Thomas Chalk, as Manager of Chalk & Associates, LLC, a Colorado Limited Liability Company.

Witness my hand and official seal.



Barbara R. Coonrod  
Notary Public  
My commission expires: \_\_\_\_\_

**FORM - DO NOT EXECUTE****EXHIBIT A TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by eight (8) shares of stock in The New Cache la Poudre Irrigating Company (represented or previously represented by Share Certificate No. 4935), eight (8) shares of stock in The Cache la Poudre Reservoir Company (represented or previously represented by Share Certificate No. 4149), and two (2) shares of stock in The Windsor Reservoir and Canal Company (represented or previously represented by Share Certificate No. 654); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights

**FORM - DO NOT EXECUTE**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (NO IRRIGATION)**

The Land shall include the real property legally described as follows:

Lot B of Recorded Exemption No. 0805-26-01 RECX14-0060 as recorded on 10/09/14 at Reception No. 4052913 being a portion of the West ½ of the Northeast ¼ of Section 26, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado, being 77 acres more or less.

**RESTRICTIVE COVENANTS (REVEGETATION)**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado municipal corporation, acting by and through its Water and Sewer Board (the "City"), with the maximum benefit available from the present and future use of water pursuant to the water rights acquired or to be acquired by the City and described in Exhibit A attached hereto and made a part hereof (the "Water Rights"), Chalk & Associates, LLC, a Colorado Limited Liability Company, (the "Declarant") agrees, warrants and covenants, on Declarant's own behalf and on behalf of successors in interest, that upon notice from the City, Declarant shall revegetate the lands owned by Declarant and described in Exhibit B attached hereto and made a part hereof (the "Land").

Within two and one half (2 ½) years from receiving written notice from the City or from the expiration or termination of that Water Lease Agreement dated 02/20/15, between the City and the Declarant, whichever date is the later, Declarant or Declarant's successors in interest shall establish, at Declarant's expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the undeveloped portions of the Land (i.e., portions of the Land not occupied by roads, buildings, or other structures, or not otherwise being lawfully irrigated by water from an approved water tap provided by a municipal water provider) to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by the City, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5).

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, the City shall have the right to come upon the Land and take all measures necessary to accomplish revegetation and/or noxious weed management on the Land, provided that the City shall have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successors in interest.

The foregoing covenants of Declarant shall burden, attach to and run with the Land and shall be binding upon Declarant's successors, assigns and any other persons who acquire an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to and run with the Water Rights, and shall inure to the benefit of the City's successors, assigns and any other persons who acquire an ownership interest in the Water Rights. Declarant warrants and represents that such covenants shall entitle the City to the first and prior right to claim credit for the revegetation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by the City or its successor in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of the City or its successor in interest. Any notice may be sent to the

**FORM - DO NOT EXECUTE**

Declarant by prepaid U. S. Mail to the Declarant at: 1650 Thistle Ridge Road, Highlands Ranch, Colorado 80126.

IN WITNESS WHEREOF, the Declarant has executed this instrument on the 2nd day of June, 2015.

**DECLARANT:**  
**CHALK & ASSOCIATES, LLC**  
a Colorado Limited Liability Company,

By: Thomas A. Chalk  
Thomas A. Chalk, Manager

**ACKNOWLEDGMENT**

STATE OF COLORADO )  
) ss.  
COUNTY OF WELD )

The foregoing instrument was acknowledged before me this 2nd day of June 2015, by Thomas Chalk, as Manager of Chalk & Associates, LLC, a Colorado Limited Liability Company.

Witness my hand and official seal.

Barbara R. Coonrod

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

BARBARA R COONROD  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 19874039662  
MY COMMISSION EXPIRES FEBRUARY 23, 2019

**FORM - DO NOT EXECUTE****EXHIBIT A TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Water Rights shall consist of the following:

all water, water rights, ditches, ditch rights, wells, well rights, reservoirs and reservoir rights appurtenant to or used in connection with any of the real property described on Exhibit B, including particularly, but not by way of limitation, all of Declarant's interest in the water and water rights, ditches and ditch rights, and reservoirs and reservoir rights represented by eight (8) shares of stock in The New Cache la Poudre Irrigating Company (represented or previously represented by Share Certificate No. 4935), eight (8) shares of stock in The Cache la Poudre Reservoir Company (represented or previously represented by Share Certificate No. 4149), and two (2) shares of stock in The Windsor Reservoir and Canal Company (represented or previously represented by Share Certificate No. 654); together with any irrigation wells, well rights, and well permits associated with the real property described on Exhibit B attached hereto. The Water Rights shall also include any and all lateral ditches, easements, rights of way and entitlements appurtenant to or used in connection with the Water Rights



**FORM - DO NOT EXECUTE**

**EXHIBIT B TO  
RESTRICTIVE COVENANTS (REVEGETATION)**

The Land shall include the real property legally described as follows:

Lot B of Recorded Exemption No. 0805-26-01 RECX14-0060 as recorded on 10/09/14 at Reception No. 4052913 being a portion of the West ½ of the Northeast ¼ of Section 26, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado, being 77 acres more or less.

**EXHIBIT K**  
**FORM - DO NOT EXECUTE**

**EXHIBIT C**  
**Acreage to be Assigned**

# Water Rights Trade and Divestment

**Presented to Greeley City Council**

By Greeley Water & Sewer Department

March 15, 2022



# Trade Agreement Overview

## Longs Peak Dairy (LPD) provides Greeley

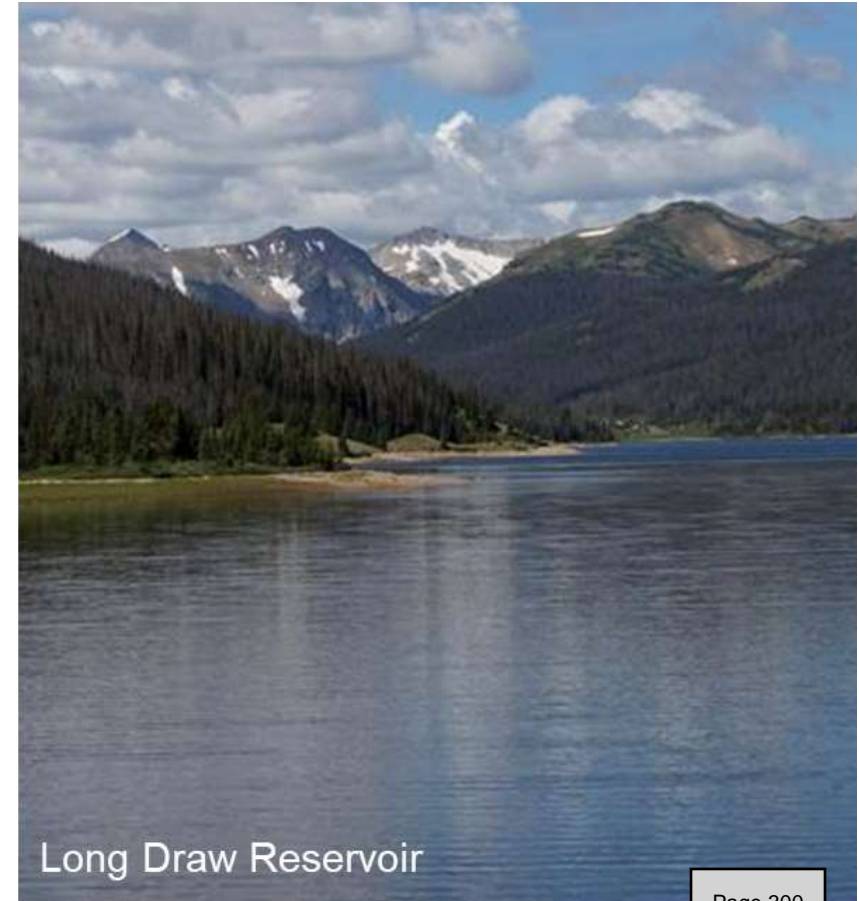
- 2 shares of Water Supply and Storage Company (WSSC)
- Associated lateral rights
- Dry-up and revegetation covenant
- Right of first refusal to 2 additional shares (replacement)

## Greeley provides LPD:

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

# Advantages of Trade

- WSSC shares are valued **>\$1.0 million more** than WRCC & LWIC shares
- WSSC prices have and are projected to **escalate faster** than WRCC & LWIC
- WSSC **includes trans-basin water** – can be reused
- WSSC is a **known quantity**; changing WRCC & LWIC to municipal use entails significant risk
- Trade increases amount of WSSC included in 2022 change case



Long Draw Reservoir

# Disadvantage of Trade

- Yield of WSSC shares **could be less\*** (estimated 94 acre-feet) than WRCC & LWIC shares
  - “Yield” = amount of water that can be reliably delivered to City
  - Significant uncertainty in WRCC & LWIC yields
- Staff assessment: **advantages of trade outweigh disadvantage**
- Trade has been reviewed by city attorney and water counsel, and is mutually beneficial.
- The Dairy is expanding operations and needs additional irrigation water



# Recommended Action

**Staff recommends a motion to adopt the ordinance as presented for the trade and disposition of 12 shares of WRCC and 6 shares of LWIC**

At their January 19, 2022, the Greeley Water & Sewer Board approved the Agreement with LPD. In doing so, the Board recommended that City Council authorize the subject divestment to facilitate the trade.

# Questions?



# Council Agenda Summary

March 15, 2022

Key Staff Contact: Stacey Aurzada, Interim City Clerk, 970-350-9742

**Title:**

Appointment of applicants to the Citizen Transportation Advisory Board, Judicial Review Board, Museum Advisory Board, Parks & Recreation Advisory Board, Stormwater Board, and Union Colony Civic Center Advisory Board.

**Summary:**

Council appointment is needed to the above-mentioned Boards and Commissions due to vacancies and term expirations. City staff continues to actively recruit to fill all other vacant positions

**Fiscal Impact:**

Does this item create a fiscal impact on the City of Greeley?	No
If yes, what is the initial, or, onetime impact?	
What is the annual impact?	
What fund of the City will provide Funding?	
What is the source of revenue within the fund?	
Is there grant funding for this item?	N/A
If yes, does this grant require a match?	
Is this grant onetime or ongoing?	
Additional Comments:	

**Legal Issues:**

The City Attorney’s Office reviewed the applications and advised of potential conflicts of interest.

It should be noted that there is a possibility that the applicants currently serve as a volunteer on a board or commission besides the one they are applying to. It is also important to point out to the applicants that there are always potential conflicts that exist with business and investments, current jobs or relatives and family members coming before the Board or Commission.

Should such conflicts arise, the Board or Commission member simply excuses themselves from that particular item but such a potential conflict does not preclude anyone from servicing on a Board or Commission in general, just that particular agenda item.

Other Issues and Considerations:

Not applicable

Strategic Work Program Item or Applicable Council Priority and Goal:

*Infrastructure & Growth: Establish the capital and human infrastructure to support and maintain a safe, competitive, appealing and successful community.*

Decision Options:

- 1) Appoint or reappoint the individuals to serve on applicable board or commission;  
or
- 2) Direct staff to re-advertise applicable vacancy.

Council's Recommended Action:

No motion is necessary. The City Council's Policies and Protocol authorize appointment of Board and Commission members by written ballot, which can be used in lieu of a motion or voice vote for individual or multiple appointments. This policy was adopted by Council as a time-savings measure. Accordingly, a ballot is attached for Council's use in making appointments. Candidates receiving a majority vote (at least 4 votes) are appointed with no further action needed by Council.

Attachments:

Ballot

March 2022 Boards and Commissions Transmittal Summary

# Boards & Commissions Transmittal

March 2, 2022

Key Staff Contact: Allie Powell, Assistant City Clerk, 350-9746

Interview Date

March 10, 2022

Council Interview Team

Councilmembers DeBoutez and Payton

Council Appointment Date

March 15, 2022

Boards and Commissions Being Interviewed

- **Citizen Transportation Advisory Board**
- **Judicial Review Board**
- **Parks & Recreation Advisory Board**
- **Union Colony Civic Center Advisory Board**
- **Museum Advisory Board**
- **Stormwater Board**

Council's Recruitment and Qualifications Policy

General recruitment efforts shall be made with special measures being taken to balance ward representation and attract minority and special population applicants. Generally, volunteers will be limited to serving on one board or commission at a time. (14.2. (c)(2) City Council, Policies and Protocol)

Demographic information of existing board members and any specialty requirements are contained within the attached Membership Rosters.

Legal Issues

The City Attorney's Office reviewed the applications and the attached memorandum addresses any potential conflicts of interest.

It should be noted that there is a possibility that the applicants currently serve as a volunteer on a board or commission besides the one they are applying to. It is also important to point out to the applicants that there are always potential conflicts that exist with business and investments, current jobs or relatives and family members coming before the Board or Commission.

Should such conflicts arise, the Board or Commission member simply excuses themselves from that particular item but such a potential conflict does not preclude anyone from serving on a Board or Commission in general, just that particular agenda item.

Applicable Council Goal or Objective

Infrastructure & Growth – Establish the capital & human infrastructure to support & maintain a safe, competitive, appealing, and dynamic community.

Decision Options

1. Recommend candidates for appointment; or
2. Direct staff to re-advertise applicable vacancy.

Attachments

1. Interview Schedule
2. Conflict Memorandum from City Attorney's Office
3. Sample Ballot
4. Membership Rosters & Input from above mentioned Boards and Commissions
5. Applications of those being considered for interview and/or considered for appointment

Item No. 20.

Transmittal reviewed by  Raymond Lee, City Manager  Stacey Aurzada, Interim City Clerk



Applicants for the boards and/or commissions listed below are in alphabetical order and recommendations from the interview team are shown in bold.

\*\*\*\*\* BALLOT \*\*\*\*\*

<b>Citizen Transportation Advisory Board</b>	
<i>3 Positions</i>	
<input type="checkbox"/>	James Bailey
<input type="checkbox"/>	Jimmy Jones (I)
<input type="checkbox"/>	(Recruit For Additional Applicants)

<b>Museum Advisory Board</b>	
<i>1 Position</i>	
<input type="checkbox"/>	George Junne (I)
<input type="checkbox"/>	(Recruit For Additional Applicants)
<input type="checkbox"/>	

<b>Judicial Review Board</b>	
<i>1 Position</i>	
<input type="checkbox"/>	Beth Wagner
<input type="checkbox"/>	Marin Moreno
<input type="checkbox"/>	Nathan Medina
<input type="checkbox"/>	(Recruit For Additional Applicants)

<b>Stormwater Board</b>	
<i>2 Position</i>	
<input type="checkbox"/>	Phillip Taylor
<input type="checkbox"/>	(Recruit For Additional Applicants)
<input type="checkbox"/>	
<input type="checkbox"/>	

<b>Union Colony Civic Center Advisory Board</b>	
<i>3 Positions</i>	
<input type="checkbox"/>	Alison Hamling (I)
<input type="checkbox"/>	Cher Heimbegner (I)
<input type="checkbox"/>	Juliet Fried
<input type="checkbox"/>	Samantha Corliss
<input type="checkbox"/>	(Recruit For Additional Applicants)

<b>Parks &amp; Recreation Advisory Board</b>	
<i>3 Positions</i>	
<input type="checkbox"/>	Luis Castillas
<input type="checkbox"/>	Shane Kigin
<input type="checkbox"/>	(Recruit For Additional Applicants)

(I) = Incumbent

# Council Agenda Summary

**Title:**

Scheduling of Meetings, Other Events

**Summary:**

During this portion of the meeting the City Manager or City Council may review the attached Council Calendar or Planning Calendar and Schedule for City Council Meetings and Work Sessions and make any necessary changes regarding any upcoming meetings or events.

**Attachments:**

Council Meetings and Other Events Calendars

Council Meeting and Work Session Schedule/Planning Calendar

# March 14, 2022 - March 20, 2022

March 2022

Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

April 2022

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

## Monday, March 14

## Tuesday, March 15

6:00pm - City Council Meeting - Council Master Calendar ↻

## Wednesday, March 16

2:00pm - 5:00pm Water & Sewer Board (Gates) ↻

## Thursday, March 17

7:30am - 8:30am DDA (DeBoutez/Butler) ↻

3:30pm - 4:30pm Airport Authority (Clark/Payton) ↻

## Friday, March 18

## Saturday, March 19

## Sunday, March 20

# March 21, 2022 - March 27, 2022

March 2022							April 2022						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5						1	2
6	7	8	9	10	11	12	3	4	5	6	7	8	9
13	14	15	16	17	18	19	10	11	12	13	14	15	16
20	21	22	23	24	25	26	17	18	19	20	21	22	23
27	28	29	30	31			24	25	26	27	28	29	30

**Monday, March 21**

**Tuesday, March 22**

 **6:00pm - City Council Worksession Meeting** - Council Master Calendar 

**Wednesday, March 23**

**Thursday, March 24**

 **7:30am - Poudre River Trail (Hall)** 

**Friday, March 25**

**Saturday, March 26**

**Sunday, March 27**



# March 28, 2022 - April 3, 2022

March 2022							April 2022						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
		1	2	3	4	5						1	2
6	7	8	9	10	11	12	3	4	5	6	7	8	9
13	14	15	16	17	18	19	10	11	12	13	14	15	16
20	21	22	23	24	25	26	17	18	19	20	21	22	23
27	28	29	30	31			24	25	26	27	28	29	30

## Monday, March 28

- 11:30am - 12:30pm Greeley Chamber of Commerce (Hall)
- 6:00pm - 7:00pm Youth Commission (Clark)

## Tuesday, March 29

## Wednesday, March 30

- 7:00am - 8:00am Upstate Colorado Economic Development (Gates/Hall) (Upstate Colorado Conference Room) - Council Master Calendar

## Thursday, March 31

## Friday, April 1

## Saturday, April 2

## Sunday, April 3

# April 4, 2022 - April 10, 2022

April 2022

Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

May 2022

Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

## Monday, April 4

## Tuesday, April 5

**6:00pm - City Council Meeting** (Council Chambers and via Zoom) - Council Master Calendar ↻

## Wednesday, April 6

## Thursday, April 7

**3:30pm - IG Adv. Board (Butler)** ↻

**6:00pm - MPO (Olson/Payton)** ↻

## Friday, April 8

## Saturday, April 9

## Sunday, April 10

City Council Meeting Scheduling 2022			
		Current as of 3/8/2022	
		This schedule is subject to change	
Date		Description	Sponsor Placement/Time
March 22, 2022	Worksession Meeting	ERP Update	Paul Fetherston
		Quiet Zones update	Paul Trombino
		Discussion regarding Ward Boundary Adjustment	Becky Safarik
April 5, 2022	Council Meeting	Parkinson's Awareness Month Proclamation	Intro
		Resolution - W&S Participation Agreement w/ USFS for Cameron Peak Fire Watershed Recovery	Sean Chambers Consent
		Resolution - W&S IGA with West Fort Collins Water Distr. For Emergency Interconnection and Tap Transfer	Sean Chambers Consent
		Intro-Ordinance First 2022 Supplemental Appropriations request and year-end financial report	John Karner Consent
		Intro- Ordinance Leffler Rezone	Becky Safarik Consent
		Intro-Ordinance making corrections to the Greeley Municipal Code	Stacey Aurzada Consent
		Intro - Ordinance - GMC Non-potable irrigation requirement code clean up for privatized systems	Sean Chambers Consent
		Ordinance - PH and Second Reading - GMC Non-potable irrigation requirement code clean up	Sean Chambers Regular
		Ordinance- PH and Second Reading- Poudre Heights PUD (Zoning)	Becky Safarik Regular
		PH to consider Poudre Heights PUD Plan	Becky Safarik Regular
April 12, 2022	Council Worksession	COVID 19 Update	Brian Kuznik
		Bittersweet Park Follow-up	Kelly Snook
		Open Space tax discussion (tentative)	Becky Safarik
		Compensation and Classification Plan Study	Paul Fetherston
April 19, 2022	Council Meeting	National Youth Service Day Award Proclamation	Kelly Snook Intro
		Greeley Children's Chorale Day Proclamation	Intro
		Chamber of Commerce update	Intro
		Motion to approve CAPER Annual Report	Benjamin Snow Consent
		Resolution - W&S IGA with West Fort Collins Water Distr. For Emergency Interconnection and Tap Transfer	Sean Chambers Consent
		Intro-Ordinance - Conveyance of Easement to City of Loveland - Centerra Trail Project (Tentative Date)	Sean Chambers Consent
		PH to Update 2022 Action Plan (HUD)	Benjamin Snow Regular
		Ordinance- PH and Second Reading of Leffler Rezone	Becky Safarik Regular
		Ordinance- PH and Second Reading of Ordinance making corrections to the Greeley Municipal Code	Stacey Aurzada Regular
Ordinance- PH and Second Reading of First 2022 supplemental appropriations request and year-end financial report	John Karner Regular		

# Council Agenda Summary

**Title:**

Consideration of a motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements and ordinances

**Council's Recommended Action:**

A motion to approve the above authorizations.