

City of Greeley
Water and Sewer Board
Minutes of February 15, 2017
Regular Board Meeting

Chairman Harold Evans called the Water and Sewer Board meeting to order at 2:00 p.m. on Wednesday, February 15, 2017.

1. Roll Call

The Clerk called the roll and those present included:

Board Members:

Chairman Harold Evans, Vice Chairman Mick Todd, Robert Ruyle, Tony Miller, Manual Sisneros, City Manager Roy Otto and Director of Finance Victoria Runkle

Water and Sewer Department staff:

Water and Sewer Director Burt Knight, Deputy Director of Water Resources Eric Reckentine, Budget Analyst Erik Dial, and Senior Administrative Specialist Shannon Metcalf

Legal Counsel:

City Attorney Doug Marek, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer, and Water and Sewer Board Counsel Jim Witwer

Other Guests: Counsel for the Municipal Subdistrict, Northern Colorado Water Conservancy District, Bennett Raley and Project Manager for the Municipal Subdistrict, Northern Colorado Water Conservancy District, Jeff Drager

2. Approval of Minutes

Vice-chairman Todd moved and Mr. Miller seconded to approve the January 18, 2017 Water and Sewer Board meeting minutes as presented. The motion carried 5-0.

3. Approval of and/or Additions to Agenda

There were no changes to the agenda.

4. Report: 4th Quarter Financial Summary

Mr. Dial presented the expenditure and revenue funds. About 52% of the water revenue was from residential water use through the fourth quarter of the year, but the residential customer class was short of the budgeted revenue for the year by about 5%. Commercial revenue represents over 13% of the overall water revenue and it exceeded the budget for the year. Revenue from the large industrial users, Windsor, Milliken, and

Evans represented 25.7% of the water revenue through the fourth quarter. Fourth quarter revenues from these customers are higher than 2015. Overall sewer revenue was below the budget by 3.6% through the fourth quarter. Water Plant Investment Fee revenue totaled \$4,669,986 through the fourth quarter of 2016. This represents 61% of the annual budget of \$7,655,771. Sewer Plant Investment Fee revenue totaled \$2,246,910 through the fourth quarter of 2016. This represents 59% of the annual budget of \$3,808,480. Operating expenditures for both water and sewer were below their budget at year-end.

Mayor Norton joined the meeting at 2:05 p.m.

5. Report: Colorado River Compact and C-BT System

Mr. Raley provided an update on the Colorado River Compact and the Colorado Big Thompson system.

6. Report: Cache La Poudre Water Infrastructure Projects Update – Report 1 Windy Gap FIRMING Project

Mr. Drager presented the current Cache La Poudre Water Infrastructure Projects.

Mr. Dial left the meeting at 3:20 p.m.

7. Executive Session

At 3:21 p.m. Chairman Evans made a motion to move into executive session to address the following matters:

1. Conferences with an attorney for the purposes of receiving legal advice on specific legal questions under C.R.S. §24-6-402(4)(b) and Greeley Municipal Code 2.04.020(2).

Chairman Evans identified the following topics for discussion:

1. Matters related to the Windy Gap FIRMING Project
2. Matters related to the Windy Gap Fifth Interim Agreement and amendments related thereto.
3. Matters related to the Legends Trail Ranch Acquisition

Mr. Miller seconded the motion. The motion carried 5-0.

Present during the executive session were:

Chairman Harold Evans, Vice Chairman Mick Todd, Tony Miller, Manual Sisneros, Mayor Tom Norton, City Manager Roy Otto, Director of Finance Victoria Runkle, Director of Water and Sewer Burt Knight, Deputy Director of

Water Resources Eric Reckentine, City Attorney Doug Marek, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biber, Water and Sewer Board Counsel Jim Witwer, Counsel for the Municipal Subdistrict, Northern Colorado Water Conservancy District, Bennett Raley and Project Manager for the Municipal Subdistrict, Northern Colorado Water Conservancy District, Jeff Drager.

The majority of this executive session was unrecorded because the discussion constituted attorney-client privileged communication.

Mr. Raley and Mr. Drager left the Executive Session at 4:10 pm.

Mr. Biber left the meeting at 4:15 p.m.

The Executive Session ended at 4:56 p.m. and the regular meeting resumed.

Mr. Marek left the meeting at 4:47 p.m.

8. Action: Recommend Approval of the Colorado Department of Public Health and Environment Milton Seaman Water Supply Project, Billing Agreement for the Section 401 of the Clean Water Act, State Water Quality Certification and Recommend the Same to Council

Mr. Reckentine stated that City Staff is requesting that the City of Greeley Water and Sewer Board approve and recommend the same to City Council a billing agreement with the Colorado Department of Public Health and Environment, Water Quality Control Division. The Division has been asked to review the water quality data analysis and modeling being used for the Milton Seaman Water Supply Project Environmental Impact Statement to ensure the information used in the analysis can also be used in pursuit of a 401 Water Quality Certification.

For projects requiring 401- certification, the division is now required to categorize projects into a tier ranging from one through four based on project complexity pursuant to Colorado regulation 25-8-502 C.R.S. and House Bill 15-1249 (1.2). The division has determined that due to the high degree of complexity, the increased potential for water quality impacts and the significant level of public participation regarding this project, that the MSWSP 401 certification review is a Tier 4 project.

Due to these project challenges, the division will be entering into a contract with a consultant(s) to assist us in the analysis of the water quality data, models and technical reports. The MSWSP will require division staff and contractor time to review technical information and reports in support of the 401 water quality certification. For Tier 4 projects, the applicant is required to pay the actual review costs based on expended hours.

Mr. Todd moved, seconded by Mr. Ruyle to approve, and recommend the same to City Council, the Billing Agreement for the Section 401 of the Clean Water Act, State Water Quality Certification. The motion passed 5-0.

10. Action: Approve Purchase Agreement of Legends Trail Ranch

Mr. Reckentine explained that this Purchase and Sale Agreement is between Legend Trail Ranch Inc., a Colorado corporation and the City of Greeley by and through its Water and Sewer Board. The Seller is the owner of a parcel of real property containing approximately four hundred fifty-five and seventy-nine tenths acres of land located in Larimer County Colorado. The purchase price for the Property shall be the sum of One Million Two Hundred Fifty Thousand Dollars. The inspection period commences upon the Effective Date and continues up and through June 23, 2017. Greeley and its authorized agents, representatives and consultants shall be entitled to enter upon the Property at all reasonable times to inspect the Property for the purpose of making surveys, feasibility studies and any other inspections, investigations or analyses Greeley deems necessary or appropriate in connection with its intended acquisition, use and development of the Property. 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 investigations relating thereto, Greeley shall be entitled to object to such condition or to terminate this Agreement by giving written notice to the Seller on or before the expiration of the inspection period.

Mr. Todd moved, seconded by Mr. Miller to authorize the Purchase and Sale Agreement and delegate authority to the Director of Water and Sewer, or his designee, to make minor amendments to the Purchase and Sale Agreement, including but not limited to, the property description and deadline extensions and to close on the purchase.

11. Legal Report

Mr. Witwer stated that staff and counsel recommend filing four statements of opposition this month

- a. Northern Colorado Water Conservancy District (Case No. 16CW3194): Application to add an alternate place of storage ("Upper Galeton Reservoir") for two conditional water storage rights decreed to Galeton Reservoir. The new alternate place of storage, like the original Galeton Reservoir, is proposed to be used to store unappropriated water diverted from the Cache la Poudre and South Platte Rivers or, alternatively, diverted through the Riverside Canal Intake as part of the South Platte Water Conservation and Northern Integrated Supply Projects. The SPWCP is designed to release water from Galeton into the New Cache and/or Larimer and Weld systems, and then reposition water by substitution and exchange at structures higher up in the Cache la Poudre River Basin (including

Glade Reservoir). Operation of SPWCP/NISP could affect several Greeley water rights in the Poudre system, and have implications for the Seaman Reservoir expansion project.

- b. Arapahoe County Water and Wastewater Authority (“ACWWA”) and United Water and Sanitation District (“United WSD”) (Case No. 16CW3195), and East Cherry Creek Valley Water and Sanitation District and United WSD (Case No. 16CW3196): Very similar applications for conditional water rights, appropriative rights of substitution and exchange, appropriation of historical return flows, and change of water rights involving common structures and exchange reaches in both Cache la Poudre and South Platte Rivers.
- c. ACCWA and United WSD (Case No. 16CW3200): Application to change water rights represented by slightly more than 12 percent of the shares in Western Mutual Ditch Company (historical ditch diversion point 2 miles NW of Platteville). Opposition recommended due to the expansiveness of the ECCV/United WSD integrated system which covers reaches of the river where Greeley has water rights.

A motion was made by Vice-Chairman Todd, seconded by Mr. Miller to authorize the filing of a statement of opposition in Case No. 16CW3194, 16CW3195, 16CW3196 and 16CW3200 and for staff and legal counsel to seek resolution of issues raised by the cases as consistent with Water and Sewer Board Resolution No. 3, 2015. The motion carried 5-0.

12. Director’s Report

Mr. Knight noted the following:

- Imagine Greeley
March 3rd is the Kick-off for the Comprehensive Plan Update

Mr. Reckentine provided the following information:

- Poudre Runs Through It Forum Recap
This was held at Island Grove and had the largest turn out in Forum history. A recent survey indicated that the attendees were very satisfied with the Forum.
- Contract extension for US Forest Service Cost Share Agreement
The Agreement will go before City Council for approval of the extension in March.

There being no further business, Chairman Evans adjourned the meeting at 5:10 pm p.m.

Harold Evans, Chairman

Shannon Metcalf, Administrative Specialist

WATER & SEWER BOARD AGENDA MARCH 15, 2017

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 4

TITLE: ACTION: APPROVE 2017 TEMKIN HARDT &
 LONGENECKER LLP LEGAL SERVICES
 AGREEMENT

RECOMMENDATION: APPROVE LEGAL SERVICES AGREEMENT

ADDITIONAL INFORMATION:

The 2017 Legal Services Agreement for Temkin Hardt & Longenecker LLP is the same as previous years agreements, except for the hourly rates have been increased.

LEGAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of January 1, 2017, by and between the CITY OF GREELEY, ACTING BY AND THROUGH ITS WATER AND SEWER BOARD, whose address is 1100 10th Street, Suite 300, Greeley, Colorado 80631 ("Greeley") and TEMKIN HARDT & LONGENECKER LLP, a Colorado limited liability partnership, whose address is 1900 Wazee Street, Suite 303, Denver, Colorado 80202 ("THL").

In consideration of the mutual covenants and obligations herein expressed, Greeley and THL agree as follows:

1. Scope of Services. THL agrees to provide legal services to Greeley upon the request of authorized representatives of Greeley. THL is customarily engaged in the profession of providing legal services to clients. THL shall not be obligated to work exclusively for Greeley during the term of this Agreement. However, THL will provide adequate professional time for the performance of legal services requested by Greeley hereunder. THL is responsible for providing its own offices, equipment, training and tools for performance of the legal services.

2. Time of Commencement and Completion of Services... The legal services covered by this Agreement shall be provided during the period commencing on January 1, 2017, and ending on December 31, 2017. Nothing herein shall affect Greeley's prior written agreements, if any, to pay THL for certain legal services and expenses performed or incurred prior to the date of this Agreement.

3. Design, Project and THL Responsibility. THL shall be responsible for the performance and supervision of all legal services performed under this Agreement. In addition, THL shall be responsible for the professional quality, technical accuracy, timely completion and coordination of all legal services performed under this Agreement. THL shall only employ qualified persons for performance of the legal services. Without additional compensation, and without limiting Greeley's remedies, THL shall promptly remedy and correct any errors, omissions or other deficiencies in the legal services. THL warrants that all legal services performed hereunder shall be performed with the usual thoroughness and competence and in accordance with the highest standards of care of the legal profession prevailing in Colorado.

4. Compensation.

A. Commencing on the date of this Agreement, THL shall perform basic legal services, which shall include monthly water court resume review, preparation of monthly legal report, attendance at monthly board meetings with consultation the day of the board meeting, and the filing of any water court statements of opposition requested by Greeley. Hourly rate and customary expense billing for basic legal services shall be as provided in Paragraph 4.B and 4.C.

B. All other projects shall be authorized in advance by one of Greeley's Representatives listed in paragraph 7 hereof. THL's work on such additional projects shall

not, in combination with work on basic legal services described in subparagraph 4.A hereof, exceed the amount budgeted for Water & Sewer Department outside legal services without further written authorization obtained from Greeley consistent with legal requirements of the Greeley budget process. The parties shall exchange information no less frequently than quarterly to ensure compliance with the provisions of this subparagraph. The following billing rates per hour of time recorded for Greeley shall apply during the term of this Agreement:

James Witwer	\$260.00
Andrea Bronson	\$170.00
Elizabeth Temkin	\$405.00
Michelle Kales	\$380.00
Paralegal Assistant	\$110.00
Law Clerk	\$ 55.00

C. Customary expenses shall be billed at actual cost or estimated cost when actual costs cannot be readily determined, without markup. Such expenses include copying, travel expenses, FAX charges, long distance telephone charges, and specialized computer research charges.

5. Billing and Payment.

A. THL will provide standard billing statements to Greeley on a monthly basis showing customary expenses, hours expended on work for Greeley, and work performed by each person recording time, for all matters. Separate billing statements will be provided for separate matters as requested by Greeley's representatives.

B. THL representatives will meet with Greeley's representatives from time to time at Greeley's request to review the legal services performed and billings hereunder. Greeley shall have the right under this subparagraph 5.B. to refuse to pay all or a portion of the value of the actual hours expended under this Agreement to allow adequate time to verify the accuracy of a billing statement or resolve a dispute with THL regarding a statement.

6. Developed Documents. THL shall provide Greeley with reproducible copies of all documents developed for and exclusively paid for by Greeley in the performance of the legal services hereunder. Such documents shall be the sole property of Greeley. THL hereby assigns and conveys to Greeley all of its right, title and interest in and to any intellectual property rights, including but not limited to copyrights, which it may own in any and all such work product produced under this Agreement. Greeley shall further be entitled to copies of final documents partially paid for by Greeley.

7. Parties' Representatives. Each party designates the Representatives listed below who shall have the authority to make all necessary and proper decisions with reference to the legal services. All requests for Agreement interpretations, changes, and other clarifications or instructions shall be directed to the Parties' Representatives. Unless otherwise designated in writing, Greeley's Representatives will be Roy Otto, Douglas R. Marek, Stacey Aurzada, Jerrae Swanson, Dan Biwer, Burt Knight, Eric Reckentine, Bob Neil, Jennifer Petrzelka, and THL's Representatives will be James S. Witwer and Scott W. Hardt.

8. Key Personnel. THL shall assign the following employees of THL to perform legal services for Greeley for so long as the parties deem necessary, so long as they are employed by or associated with THL: James Witwer.

These employees shall only be removed from performing the legal services (i) with the prior written consent of Greeley, (ii) if performance of the legal services is suspended by Greeley for more than 5 days, or (iii) if this Agreement is terminated by Greeley. Greeley shall have the right to direct replacement of any of these employees for reasonable cause.

9. Insurance. THL shall maintain the following insurance in full force and effect during the full term of this Agreement:

A. Workmen's Compensation Insurance in amounts prescribed by applicable statutes; and

B. Professional Liability Insurance in the amount of \$2,000,000 per claim and in the aggregate.

10. Confidentiality. All information which THL or any person, firm or corporation employed by or otherwise connected with THL, including without limitation THL's subcontractors, suppliers and their employees (severally or collectively referred to as "THL" in this paragraph) receives from Greeley, Greeley's employees, any other contractor or subcontractor of Greeley or employees of any such other contractors or subcontractors under or pursuant to this Agreement, shall be considered confidential and maintained as a Trade secret and THL shall neither use such information, except pursuant to and in accordance with the terms and conditions of this Agreement, nor disclose such information to any third party without the prior written consent of Greeley.

11. Sole Source Contract. To the extent applicable, and to the extent this contract may be construed to be a 'sole source contract' within the meaning of sections 15 through 17 of Article XXVI I of the Colorado Constitution, and to the extent these constitutional provisions have not been enjoined or invalidated by a court of competent jurisdiction, the requirements and limitations of these constitutional provisions are hereby incorporated in this contract.

12. Independent Contractor. Nothing herein shall be construed to make THL an agent or employee of Greeley for any purpose. THL shall in all respects be an

independent contractor of Greeley in its performance of the legal services, and THL and its employees and subcontractors shall in no way represent themselves to third parties as employees of Greeley in performance of the legal services for any purpose.

13. NO UNEMPLOYMENT INSURANCE BENEFITS FOR THL. THL IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS AS A RESULT OF PERFORMANCE OF LEGAL SERVICES FOR GREELEY UNLESS UNEMPLOYMENT COMPENSATION COVERAGE IS PROVIDED BY THL OR SOME OTHER ENTITY.

14. PAYMENT OF TAXES. THL IS AND SHALL BE SOLELY LIABLE AND RESPONSIBLE FOR ANY FEDERAL AND STATE INCOME AND WITHHOLDING TAXES, UNEMPLOYMENT TAXES, FICA TAXES AND WORKER'S COMPENSATION PAYMENTS AND PREMIUMS APPLICABLE TO THIS AGREEMENT OR ANY SERVICES PROVIDED HEREUNDER. THL SHALL INDEMNIFY GREELEY FOR ANY LIABILITY RESULTING FROM NONPAYMENT OF SUCH TAXES AND SUMS.

15. Acceptance Not Waiver. Greeley's approval of documents and other work or materials furnished hereunder shall not in any way relieve THL of responsibility for the professional accuracy of the legal services. Greeley's approval or acceptance of, or payment for, any legal services hereunder shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

16. Suspension. Greeley shall have the right at any time to suspend all or any portion of the performance of the legal services hereunder upon 5 days' prior written notice to THL. In the event of such a suspension, THL shall suspend performance of specified legal services in accordance with the written notice. Greeley shall continue to pay THL for any authorized legal services performed during such a suspension.

17. Termination. Greeley shall have the right to terminate this Agreement for any reason upon 5 days' prior written notice to THL. If such termination is not for cause, Greeley shall pay THL for all authorized legal services performed hereunder up to the date of termination.

18. Force Majeure. Except for the obligation to pay money, neither party shall be liable to the other party for any delay or inability to perform its obligations hereunder by reason of acts of God, acts of the public enemy, riot, civil commotion, insurrection, acts or failure to act of governmental authorities, war, or any other cause or causes beyond the party's reasonable control.

19. Laws, Regulations and Permits. THL shall comply with all applicable federal, state and local codes, statutes, rules, regulations, ordinances, permits and orders in its performance of the legal services under this Agreement, including, without limitation, the legal requirements for Colorado government services contractors concerning illegal aliens described in **Exhibit A** attached hereto.

20. Greeley's Audit Rights. Greeley shall have the right to audit the account books and other records of THL related to the legal services at any time during the period of this

Agreement and two years after the completion of the legal services. THL shall retain all such account books and records for at least two years after the completion of the legal services.

21. Assignment and Subcontracting. THL may employ subcontractor legal personnel for performance of legal services under this Agreement from time to time. THL shall be responsible for the performance and supervision of such subcontractor legal personnel, and all such subcontracted work shall be performed in accordance with the terms and conditions of this Agreement. All work under this Agreement shall be performed under THL's direct supervision and control. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement is intended to benefit only the parties hereto and neither subcontractors of THL hereunder nor any other person or entity is intended by the parties hereto to be a third party beneficiary of this Agreement.

22. Governing Law. This Agreement shall be interpreted in accordance with, and be governed by, the law of the State of Colorado.

23. Notice. All notices required to be given under this Agreement shall be in writing, and shall be deemed to have been duly given (i) when delivered personally to the other party to whom addressed or (ii) upon receipt when sent by United States mail, postage prepaid, as certified or registered mail, properly addressed as follows or (iii) upon confirmation when sent by facsimile transmission and receipt is confirmed by return facsimile transmission:

If to THL: Temkin Hardt & Longenecker LLP
 1900 Wazee Street, Suite 303
 Denver, CO 80202
 FAX: 303-292-4921
 Attention: James Witwer

If to Greeley: Greeley Water and Sewer Board
 1100 10th Street, Suite 300
 Greeley, Colorado 80631
 FAX: 970-350-9805
 Attention: Burt Knight, Water & Sewer Director

with copy to: City of Greeley
 City Attorney's Office
 1100 10th Street, Suite 401
 Greeley, Colorado 80631
 FAX: 970-350-9763
 Attention: Douglas R. Marek, City Attorney

or to such other persons or addresses as the foregoing addressees may have designated by written notice.

24. Entire Agreement. This Agreement constitutes the entire agreement between Greeley and THL regarding the subject matter hereof and replaces all prior written or oral agreements and understandings. It may be altered, amended, or repealed only by a duly executed written instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

CITY OF GREELEY, ACTING BY AND THROUGH ITS WATER AND SEWER BOARD

Approved as to Substance:

Approved as to Funds Availability:

 City Manager

 Director of Finance

Approved as to Legal Form:

 City Attorney

Temkin Hardt & Longenecker LLP

By: _____

Title: _____

WATER & SEWER BOARD AGENDA MARCH 15, 2017

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 5

TITLE: REPORT: 4TH QUARTER CIP

RECOMMENDATION: INFORMATIONAL ONLY

ADDITIONAL INFORMATION:

There will be a presentation discussing the major CIP projects that were completed during 2016 along with the annual performance measures.

Fund 402 - Sewer Construction

Project	Scope	Update	Status	2016 Budget	2016 Spent	Lifetime Budget	Construction Completion Date
North Greeley Sewer Phase 2	Construction of 7400 LF of 36" sewer main from the end of Phase 1 of North Greeley Sewer located at approximately 11th Ave and H Street along the Poudre River with a connection at the East Greeley Interceptor at approximately 1st Street and 6th Avenue. Project consists of 3 bored crossings, (1) 8th Avenue, (1) UP railroad, (1) 6th Avenue. This project will create opportunities to accept waste water from areas north of the Poudre River and west of Highway 85.	Bids for this project were received on 11/17/16. As funds from North Greeley Sewer project were utilized to construct the Ashcroft Draw Sanitary Sewer Project and bids came back higher than the available construction budget, the scope of the project has been reduced further from approximately 4,100 feet to around 1,300 feet. The most difficult aspects of the project will be constructed including the bored crossing of 8th Avenue (CDOT ROW) and Union Pacific Railroad Right of Way, and the open cut river crossings of the Poudre River and Eaton Draw. It is anticipated that construction would be started in the fall of 2017 when river levels can be anticipated to be at their lowest levels and completed in late winter of 2017.	Construction	\$2,843,626	\$158,300	\$3,784,051	3/1/2018
Nitrification Project Phase 1	The 2012 WPCF Solids Handling and Treatment Master Plan identified several capital projects. The initial group of projects included a dewatering centrifuge and sludge cake pump. The City of Greeley also received a State of Colorado grant for nutrient removal which is included in this project's funding. This project will study, design, and construct centrate treatment and nutrient removal processes.	Stanek Constructors completed construction of the facilities in November 2015. Final project closed out is anticipated by February 2017. The delay was due to operational problems with some of the equipment that was installed. The matter with the new centrifuge has been resolved through mediation and a final settlement.	Completed (Punch List Done)	\$70,740	-\$2,555	\$2,061,666	11/30/2015
Ashcroft Draw Sewer Phase I	The project will provide a gravity sanitary sewer service solution to the Ashcroft Basin that is located south of Highway 34 and between 95th Avenue and 65th Avenue. The initial phase of this project will consist of 3,600 feet of gravity sewer along 71st Avenue, with a temporary tie in to an existing Homestead Heights subdivision (22nd Street and 71 Avenue).	The project will provide a gravity sanitary sewer service to the Ashcroft Draw basin. The initial phase of this project will consist of 3,600 feet of gravity sewer from south of Highway 34, routed along 71st Avenue, with a temporary tie in to an existing Homestead Heights subdivision (22nd Street and 71 Avenue). J-2 Constructors was selected as the CMAR contractor and planning a 90% GMP by the end of March to initiate construction shortly there after. Water and Sewer is completing a route alignment analysis for the 2nd phase of this project which will extend the sewer line to the existing Sheep Draw trunk line. The objective is to determine final alignments and insure that the proposed improvements can be completed prior to the widening of 71st Avenue and the Sheep Draw Bridge at 71st Avenue improvements being completed by Public Works.	Design/Study	\$177,026	\$177,026	\$3,000,000	8/31/2017
Water Pollution Control Facility Solids Master Plan Construction Projects	The 2012 WPCF Solids Handling and Treatment Master Plan identified several capital projects. The initial group of projects included a dewatering centrifuge and sludge cake pump. The City of Greeley also received a State of Colorado grant for nutrient removal which is included in this project's funding. This project will study, design, and construct centrate treatment and nutrient removal processes.	Stanek Constructors completed construction of the facilities in November 2015. Final project closed out is anticipated by February 2017. The delay was due to operational problems with some of the equipment that was installed.	Completed (Punch List Done)	\$129,138	\$25,432	\$2,632,259	11/30/2015

Fund 403 - Sewer Capital Replacement

Project	Scope	Update	Status	2016 Budget	2016 Spent	Lifetime Budget	Construction Completion Date
Lift Station Rehabilitation	This program rehabs existing lift stations based on the facilities condition and updates pumping systems to meet current State requirements. The lift station master plan is used to prioritize projects.	The replacement of Lift Station 4 and 17 was completed in the summer of 2016. It was originally anticipated that Lift Station 15 was to be replaced in early 2017. However, recent development inquiries have delayed the improvements to the lift station, to evaluate impacts on the proposed development.	Completed (Punch List Done)	\$1,130,992	\$798,299	\$1,130,992	6/30/2017
WPCF General Rehabilitation Projects	A variety of projects that includes such work as the replacement, rehabilitation, or overhaul of large pumps, motors, blowers, centrifuge units, gear boxes, air handling units, heat exchangers, variable frequency drive units, landscaping rehab for stormwater program, etc.	This project comprises of repair and replacement equipment requirements at the WPCF. Approximately 98% of all planned rehab projects for 2016 have been completed.	Completed (Punch List Done)	\$488,273	\$439,847	\$488,273	12/3/2016
Trenchless Main and Collector Rehabilitation	This annual program renews about 1% of the sewer system using cured-in-place pipe. The program focuses on the sewers in the worst condition as identified by the City's TV inspection and by maintenance records.	We are currently in the second year of a three year contract with Insituform. Notice to proceed was issued in the beginning of November. The contractor is mobilized and it is anticipated that the 2016 lining work will be completed in February of 2017. The contractor will transition directly into 2017 work in the middle of February and is anticipated to be completed in May.	Construction	\$967,000	\$929,815	\$967,000	5/3/2017
Sewer Collection System Rehabilitation	This is an ongoing program to physically replace undersized lines in the sewer collection system. The City typically replaces two to three blocks of line each year, focusing on the worst problem areas.	The Wastewater Collections rehabilitation projects where completed in the summer of 2016. Three projects have been identified to be completed in 2017. As a part of the City Center project water and sewer will be relocating a sewer main that impacts the 1st and 2nd phase of this project. The sewer main is anticipated to be relocated in the middle of March and completed by the beginning of March. Two other projects have been identified, the 1300 block of 17th Street and 19th Street will include the replacement of an existing 4" sewer main and provide stubs for future connection to existing compound sanitary sewer taps. These projects are anticipated to be started in June and completed in July of 2017.	Completed (Punch List Done)	\$480,476	\$266,008	\$480,476	4/1/2016

Fund 403 - Sewer Capital Replacement

Project	Scope	Update	Status	2016 Budget	2016 Spent	Lifetime Budget	Construction Completion Date
Manhole Rehabilitation	This program does rehabilitation of various manholes with severe corrosion issues using cementitious materials with minimum disturbance to the surrounding pavement. Manholes are inspected every two years for excessive corrosion and placed on a list to be rehabilitated based on the severity of the corrosion. With completion of coating in 2016 all manholes that are brick have been identified and coated. As manholes are determined to need coating work will be completed every other year as enough manholes are identified to need coating.	The City has completed the coating of all manholes identified to be coated in 2016. It is anticipated that no manholes will be coated in 2017.	Completed (Punch List Done)	\$100,000	\$50,461	\$100,000	12/31/2016
Water Pollution Control Facility Electronic Operations and Maintenance System	This project developed an electronic, web-based operations/maintenance management system for the Water Pollution Control Facility (WPCF). Standard operating procedures (SOPs), operation and maintenance (O&M) manuals, and other resources and policies have been developed in paper and spreadsheet format and this project will convert them into an easily searchable and updatable electronic database. The database will capture current staff's knowledge to be used for future training and will be updated going forward to ensure staff is always working with the most up to date information.	This project created an on-going electronic storage site that contains relevant documents for the WPCF within a Microsoft Sharepoint site that can be continually updated.	Completed (Punch List Done)	\$195,973	\$130,813	\$437,300	12/31/2016
Water Pollution Control Facility Rotamat Septage Receiving Tank	The proposed new system would include a fully enclosed screening system that uses a screening press, screening wash, and screw conveyor to separate hygienic products, paper, plastics, etc. from the hauled portable toilet wastes and into a dumpster.	Equipment was ordered in August 2015. Delivery estimate was four months allowing the system to be installed in early 2016.	Completed (Punch List Done)	\$130,970	\$121,855	\$130,970	12/31/2016
59th Avenue & F Street Sewer Repair	The 8 inch sewer line connecting at 59th Avenue and F Street has broken under the Sheepdraw drainage and needs to be repaired. The line presently does not serve any customers but was in service for a number of years. This line is the only service line available to future residents west of Sheepdraw drainage at F street.	The sewer line connecting at 59th Avenue and F Street has broken under the Sheepdraw drainage. The line presently does not serve any customers but will have new services beginning with new development in the area. The design had to be modified to be compliant with the Army Corp of Engineers Permit for Utility Repair. Plans and specifications were finalized in December 2016 and construction in February 2017.	Construction	\$423,771	\$10,887	\$439,499	5/1/2017
Water Pollution Control Facility Solids Master Plan Replacement Projects	The 2012 WPCF Solids Handling and Treatment Master Plan identified several capital projects. The initial group of projects included a dewatering centrifuge and sludge cake pump. The City of Greeley also received a State of Colorado grant for nutrient removal which partially funded the Nitrification Project Phase 1. This project includes these replacement projects.	Stanek Constructors has completed the construction work as planned.	Completed (Punch List Done)	\$103,349	-\$49,858	\$3,150,261	12/31/2016
Water Pollution Control Facility Solids Processing Improvements	This Project is a continuation of the design work performed in 2015, and includes the 2016-2017 engineering construction management services, equipment procurement costs, and contractor fees for a number of new consolidated sewer capital replacement projects: 1) covers for two primary digesters; 2) mixing system for the primary digesters; 3) boiler heating system for the plant; 4) sludge thickening equipment; 5) conversion of sludge storage tank to a third primary digester.	This project was identified in the 2012 Biosolids Master Plan and includes replacement of: 1) covers for two primary digesters; 2) mixing system for the primary digesters; 3) boiler heating system for the plant; 4) sludge thickening equipment, and 5) conversion of sludge storage tank to a third primary digester. The project was bid out in August with PCL Construction, Inc. being awarded the bid for \$6,235,834. Construction has started and anticipated to be completed in May of 2018.	Construction	\$7,266,915	\$7,144,027	\$7,626,100	5/21/2018

Fund 405 - Water Construction

Project	Scope	Update	Status	2016 Budget	2016 Spent	Lifetime Budget	Construction Completion Date
Bellvue Transmission Program (60")	This project is the construction of the Northern Segment of the Bellvue Transmission Main, six miles of the 60-inch line between the end of the completed line at Shields in Fort Collins to the Bellvue Filter Plant. Construction has begun as Corps of Engineers' verification of a Nationwide 12 permit for the line segment has been obtained.	Construction was completed for Phase 1 of the Northern Segment by Garney Construction, Inc. in June 2016. Phase 2 is the tunnel section of the Northern Segment which began in June 2016 to be completed in June 2017. Southland Contracting has been hired to install the 60" pipe in this 1-mile section that includes 2 tunnel sections. Overland Trail Tunnel is complete. The 1/2 mile section of open trench installation is completed. The 1800 foot long E-W tunnel began December 2016.	Construction	\$27,998,960	\$14,770,558	\$49,424,913	6/2/2017
Distribution Line Extension & Oversizing	This program provides for reimbursement to developers for installing oversized pipe at the request of the City. The program can also fund extensions between completed subdivisions to improve the pipe network system.	Cost oversizing reimbursements are paid as development occurs. As of December 2016, approximately \$350,000 has been requested. Design for Spanish Colony extension was completed during 2016 to be followed by easement acquisition during Winter 2016 and 2017. Construction to begin July 2017 after easement acquisition completed.	Completed (Punch List Done)	\$905,156	\$382,754	\$905,156	12/30/2016
Five Million Gallon Treated Water Reservoir	Design and Construct a 5MG treated Water Storage Reservoir to be located near the existing 15 MG Gold Hill Reservoir.	Design activities were completed during 2015 and the project was awarded to Garney Construction Inc. with construction completed in December 2016. Testing for pressure and Bac-T are complete and ready for service when City crews complete chlorine injection system.	Completed (Punch List Done)	\$5,436,467	\$4,434,037	\$5,552,881	12/31/2016

Bellvue Transmission Program (60")



Five Million Gallon Treated Water Reservoir



Fund 406 - Water Capital Replacement

Project	Scope	Update	Status	2016 Budget	2016 Spent	Lifetime Budget	Construction Completion Date
Boyd Water Treatment Plant - General Rehabilitation	This project consists of replacing chemical feed pumps, high service pump overhauls, electrical switchgear components, grounds rehabilitation, and other mechanical items.	This project addresses rehabilitation needs at Boyd Lake WTP. The planned projects will be completed primarily during the second half of 2016. One of the 800 Hp motors and one of the Boyd Lake raw water pump & motor were rebuilt and installed prior to the operating season. A 2nd 800 Hp motor has been refurbished and reinstalled. A 2nd Boyd Lake raw water pump and motor is currently being refurbished. Backwash waste piping between the filter building and wet well is being installed. Valves are being replaced on the high service discharge line.	Completed (Punch List Done)	\$651,115	\$342,580	\$651,115	12/30/2016
Transmission System Rehabilitation	This project will fund all types of required rehabilitation or replacement of the treated water transmission system. Projects may include the protection of pipe joints, pipe replacement, cathodic protection, lining of pipe, minor upgrades, and repairs to piping for protection prior to impending development.	For 2016 and 2017 CDOT is rebuilding HWY 287 west of Fort Collins where a Greeley 27" concrete pipeline is located. A section of this 80 year old pipeline will be replaced as a part of this project. Design is nearing completion.	Completed (Punch List Done)	\$2,136,276	\$999,871	\$2,136,276	8/30/2017
Distribution Pipeline Replacement	This will provide replacement and/or rehabilitation of pipes that exhibit extreme corrosion or have an excessive leak history. Pipes that are too small are replaced and enlarged to increase flow capacity. Every two years projects are prioritized based on paving project coordination and other factors. Most projects are replaced using in-house forces.	Pipe rehabilitation of specific distribution pipelines will be initiated as projects are identified. The majority of the work is performed by in-house crews.	Completed (Punch List Done)	\$1,870,748	\$1,389,653	\$1,870,748	12/30/2016
Bellvue Water Treatment Plant General Rehabilitation	This is an annual project for the rehabilitation of buildings, heating/ventilating/air conditioning (HVAC) systems, pumps and motors, electrical replacements, chemical storage & metering, valves, and compressors.	This is an annual project for the rehabilitation of Bellvue WTP infrastructure and equipment. The 36" Poudre River raw water mag meter flow tube was replaced in November and replacement of alum feed pump has been procured. One house service pump is installed, a residuals recovery jockey pump was rebuilt. Electric motors are being serviced for these two pumps.	Completed (Punch List Done)	\$525,350	\$350,500	\$525,350	12/30/2016
Bellvue & Boyd WTP Needs Assessment Projects	This project encapsulates all of the rehabilitation work for Boyd Water Treatment Plant outlined in the water treatment Needs Assessment. The work performed will replace many dated components within the plant as well as enable Boyd to operate year round.	The Boyd water treatment plant is due for significant rehabilitation to winterize the plant and improve water treatment processes. The first phase (Package A) in the rehabilitation process was completed in April 2016 with the replacement of a new sludge collection system and plate settlers. These new improvements significantly improved operations and finished water quality from the plant. The second phase (Package B) has begun design in July 2016 for new raw water pre-treatment, improved coagulation, flocculation processes, and new chemical building. The design by HDR is now 30% completed. The Construction Manager At Risk (CMAR) has been selected and Hydro Construction will be the contractor. Construction is anticipated to start in the summer or fall of 2017.	Completed (Punch List Done)	\$7,021,280	\$4,472,359	\$9,354,780	3/1/2019

Fund 406 - Water Capital Replacement

Project	Scope	Update	Status	2016 Budget	2016 Spent	Lifetime Budget	Construction Completion Date
Cache la Poudre River Turnout Rehabilitation	The existing concrete structure is over 80 years old and is in need of maintenance in order to ensure its continued functionality. This project will address maintenance needs at the Bellvue WTP Intake Structure including replacing gates; improving maintenance access to the sediment chamber; and replacing valves and trash racks.	The project was bid out in May, 2016 and the project was awarded to J-2 Contractors, Inc. for \$852,750. Construction began in October, 2016 and will be completed by March, 2017.	Construction	\$972,889	\$915,443	\$1,009,411	3/31/2017
Lions Park Mitigation Project Repair	This project will repair damage caused by the September 2013 flood which damaged the recently completed Lions Park Mitigation project. The Lions Park Mitigation was done to receive environmental mitigation credits for work Greeley Water is doing that might affect the Poudre River ecosystem. The Lions Park mitigation work survived the flood fairly well but did sustain some damage. FEMA reimbursement will be requested.	Additional funding will not be forthcoming from FEMA. The City has entered into an IGA with Larimer County to provide grant funding to repair the riverbank. This mitigation repair work should be complete by the end of the 2016. Larimer County will take over repairs and maintenance of the Lions Park Riverbank.	Completed (Punch List Done)	\$20,096	\$21,260	\$175,000	12/13/2016
Boyd Raw Water Line Maintenance	This project will perform maintenance and cleaning activities on the raw water lines from Boyd Lake to the Boyd Lake Water Treatment Plant.	Design was completed during early 2016 with construction scheduled to be completed later during the year. In April, two 36" butterfly valves were replaced and a camera was inserted into the pipe to view condition.	Design/Study	\$411,464	\$7,002	\$411,464	12/23/2016
Milton Seaman Effluent Tunnel	Engineering evaluation, design, and construction of remedial work to prevent catastrophic failure of the outlet gate actuator hydraulic tubing from water impingement during releases through outlet gate #3.	Engineering evaluation, design, and construction of remedial work to prevent catastrophic failure of the Milton Seaman outlet gate controls. Construction bids were opened in November 2015. A contract was awarded to and executed with Harrison Western Construction, project was completed in March 2016.	Completed (Punch List Done)	\$143,445	\$134,018	\$176,605	10/15/2015

Fund 406 - Water Capital Replacement

Project	Scope	Update	Status	2016 Budget	2016 Spent	Lifetime Budget	Construction Completion Date
Bellvue Needs Assessment Projects	This project encapsulates all of the rehabilitation work for Bellvue Water Treatment Plant outlined in the water treatment Needs Assessment. The most significant portion of the project dollars will be the replacement of the filters at Bellvue.	The Bellvue water treatment plant is due for significant rehabilitation due to the aging infrastructure. The first phase (Package A) in the rehabilitation process was completed in April 2016 with the replacement of filter media and repairing 10 filter basins. The second phase (Package B) design with HDR for two new 10 Million Gallon per day treatment trains is 30% complete. The Construction Manager At Risk (CMAR) has been selected and Hydro Construction will be the contractor. Construction is anticipated to start in the summer or fall of 2017.	Design/Study	\$5,000,000	\$752,140	\$5,000,000	3/1/2019
Water Operations Master Plan	The Water Operations Plan is a SharePoint system designed for capturing and documenting the copious amounts of paper data the water and sewer department has. It is also capturing the vast knowledge of an aging workforce before they retire.	Work on this project will be on-going through 2016 with priorities on operations of the water and sewer infrastructure and transfer of knowledge from seasoned staff.	Completed (Punch List Done)	\$110,000	\$105,440	\$208,000	12/3/2017
Milton Seaman Bridge Replacement	Replace the existing south bridge with a 12' x 100' long free span steel bridge placed on new abutments.	The project replaces the existing second segment of Milton Seaman's access bridge over the New Cache La Poudre River. The engineering design work will be completed in the Spring of 2017 and planned for construction in winter of 2017.	Design/Study	\$130,000	\$56,662	\$130,000	12/3/2017
Bellvue Road & Bridge Realignment	Replace the existing bridge over the Pleasant Valley & Lake Canal with a 14' wide x 100' long free span bridge and new abutments, construct 20' wide by 500' long access road between existing roadway segments.	This project will replace the existing bridge over the Pleasant Valley & Lake Canal and adjust the alignment of the access road into the Bellvue Water Treatment Plant. The engineering design of the bridge and road realignment will be completed in the spring of 2017 with the planned construction in the spring/summer of 2017.	Design/Study	\$1,000,000	\$69,913	\$1,000,000	12/3/2017
Hourglass Outlet Gates and Comanche Outlet Rehab	Replace the Hourglass Reservoir outlet gates, operator shafts, actuators, trash rack, and structure in 2016. Rehab the 1st barrel section of Comanche's main outlet in 2016.	The engineer consultant recommended no remedial work was required for Hourglass outlet at this time. The concrete surface of the 1st two pipe sections in Comanche's main outlet has eroded down to the reinforcing steel and additional erosion sites along the outlet pipe need to be restored to comply with State Engineer's Office-Dam Safety Branch requirements. A cured in place pipe (CIPP) rehabilitation was designed and bids were opened on November 9th. Bid award recommendation has been made to execute a contract with Insituform. Construction scheduled to start in late summer of 2017 due to weather and access to site.	Construction	\$588,500	\$380,398	\$588,500	11/30/2017

WATER & SEWER BOARD AGENDA MARCH 15, 2017

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 6

TITLE: ACTION: APPROVE AND RECOMMEND
APPROVAL TO CITY COUNCIL DIVESTMENT
OF MILL FARM

RECOMMENDATION: APPROVE AND RECOMMEND APPROVAL TO
CITY COUNCIL

ADDITIONAL INFORMATION:

The City of Greeley, acting by and through its Water and Sewer Board, purchased property, located in Weld County, Colorado, Section 7, Township 7 North, Range 67 West, 6th P.M., known as the Mill Farm, in 2007, along with 3 shares of the stock in the Water Supply and Storage Company (“WSSC Water Rights”), and 1 water tap in the North Weld County Water District. Since 2007, the City has leased the farm, along with the WSSC Water Rights, to a tenant farmer in order to sustain historical use of the WSSC Water Rights on the historic farm. In 2016, the City received an offer to purchase the water tap and a 2.593 acres portion, more or less, of the farm and divested the parcel. The City continued to lease the WSSC Water Rights for use on the retained parcel, which encompasses the historically irrigated land. The City has received an offer to purchase the remaining 143 acres of farm land. Staff recommends the divestment of the 143 acre farm to the potential buyer. Details of the purchase agreement will be presented to the Water & Sewer Board

1 The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
2 (CBS4-6-15) (Mandatory 1-16)

3
4 **THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR
5 OTHER COUNSEL BEFORE SIGNING.**

6
7 **CONTRACT TO BUY AND SELL REAL ESTATE**
8 **(LAND)**
9 **(Property with No Residences)**
10 **(Property with Residences-Residential Addendum Attached)**

11
12 Date: _____

13 **AGREEMENT**

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

16 **2. PARTIES AND PROPERTY.**

17 **2.1. Buyer.** Buyer, _____,
18 will take title to the Property described below as **Joint Tenants** **Tenants In Common** **Other** _____.

19 **2.2. No Assignability.** This Contract **Is Not** assignable by Buyer unless otherwise specified in **Additional Provisions**.

20
21 **2.3. Seller.** Seller, _____, is
22 the current owner of the Property described below.

23 **2.4. Property.** The Property is the following legally described real estate in the County of _____, Colorado:

24
25
26
27
28
29 known as No. _____,
30 Street Address City State Zip

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

33
34 **2.5. Inclusions.** The Purchase Price includes the following items (Inclusions):

35 **2.5.1. Inclusions.** The following items, whether fixtures or personal property, are included in the Purchase Price
36 unless excluded under **Exclusions**:

37
38
39
40
41
42 If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the
43 Purchase Price.

44 **2.5.2. Personal Property - Conveyance.** Any personal property must be conveyed at Closing by Seller free and
45 clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except _____.
46 Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

47
48 **2.6. Exclusions.** The following items are excluded (Exclusions):
49
50
51
52
53

54 **2.7. Water Rights, Well Rights, Water and Sewer Taps.**
 55 **2.7.1. Deeded Water Rights.** The following legally described water rights:

56
 57
 58 Any deeded water rights will be conveyed by a good and sufficient _____ deed at Closing.

59 **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in §§ 2.7.1, 2.7.3,
 60 2.7.4 and 2.7.5, will be transferred to Buyer at Closing:

61
 62
 63 **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well. Buyer understands that
 64 if the well to be transferred is a “Small Capacity Well” or a “Domestic Exempt Water Well,” used for ordinary household
 65 purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been
 66 registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must
 67 complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing
 68 service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well
 69 Permit # is _____.

70 **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are as follows:

71
 72
 73 **2.7.5. Water and Sewer Taps.** The parties agree that water and sewer taps listed below for the Property are being
 74 conveyed as part of the Purchase Price as follows:

75
 76
 77
 78
 79
 80 **If any water or sewer taps are included in the sale, Buyer is advised to obtain, from the provider, written confirmation of**
 81 **the amount remaining to be paid, if any, time and other restrictions for transfer and use of the taps.**

82 **2.7.6. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other Rights Relating to Water),
 83 § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey such rights to Buyer by executing the
 84 applicable legal instrument at Closing.

85 **2.8. Growing Crops.** With respect to growing crops, Seller and Buyer agree as follows:
 86
 87

88 **3. DATES AND DEADLINES.**

Item No.	Reference	Event	Date or Deadline
1	§ 4.3	Alternative Earnest Money Deadline	
		Title	
2	§ 8.1	Record Title Deadline	
3	§ 8.2	Record Title Objection Deadline	
4	§ 8.3	Off-Record Title Deadline	
5	§ 8.3	Off-Record Title Objection Deadline	
6	§ 8.4	Title Resolution Deadline	
7	§ 8.6	Right of First Refusal Deadline	
		Owners' Association	
8	§ 7.3	Association Documents Deadline	
9	§ 7.4	Association Documents Objection Deadline	
		Seller's Property Disclosure	
10	§ 10.1	Seller's Property Disclosure Deadline	
		Loan and Credit	
11	§ 5.1	Loan Application Deadline	
12	§ 5.2	Loan Objection Deadline	
13	§ 5.3	Buyer's Credit Information Deadline	
14	§ 5.3	Disapproval of Buyer's Credit Information Deadline	
15	§ 5.4	Existing Loan Documents Deadline	
16	§ 5.4	Existing Loan Documents Objection Deadline	

17	§ 5.4	Loan Transfer Approval Deadline	
18	§ 4.7	Seller or Private Financing Deadline	
		Appraisal	
19	§ 6.2	Appraisal Deadline	
20	§ 6.2	Appraisal Objection Deadline	
21	§ 6.2	Appraisal Resolution Deadline	
		Survey	
22	§ 9.1	New ILC or New Survey Deadline	
23	§ 9.3	New ILC or New Survey Objection Deadline	
24	§ 9.4	New ILC or New Survey Resolution Deadline	
		Inspection and Due Diligence	
25	§ 10.3	Inspection Objection Deadline	
26	§ 10.3	Inspection Resolution Deadline	
27	§ 10.5	Property Insurance Objection Deadline	
28	§ 10.6	Due Diligence Documents Delivery Deadline	
29	§ 10.6	Due Diligence Documents Objection Deadline	
30	§ 10.6	Due Diligence Documents Resolution Deadline	
31	§ 10.6	Environmental Inspection Objection Deadline	
32	§ 10.6	ADA Evaluation Objection Deadline	
33	§ 10.7	Conditional Sale Deadline	
34	§ 11.1	Tenant Estoppel Statements Deadline	
35	§ 11.2	Tenant Estoppel Statements Objection Deadline	
		Closing and Possession	
36	§ 12.3	Closing Date	
37	§ 17	Possession Date	
38	§ 17	Possession Time	
39	§ 28	Acceptance Deadline Date	
40	§ 28	Acceptance Deadline Time	

89 **3.1. Applicability of Terms.** Any box checked in this Contract means the corresponding provision applies. Any box,
90 blank or line in this Contract left blank or completed with the abbreviation “N/A”, or the word “Deleted” means such provision,
91 including any deadline, is not applicable and the corresponding provision of this Contract to which reference is made is deleted. If
92 no box is checked in a provision that contains a selection of “None”, such provision means that “None” applies.

93 The abbreviation “MEC” (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

94

95 **4. PURCHASE PRICE AND TERMS.**

96 **4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount		Amount	
1	§ 4.1	Purchase Price	\$			
2	§ 4.3	Earnest Money			\$	
3	§ 4.5	New Loan			\$	
4	§ 4.6	Assumption Balance			\$	
5	§ 4.7	Private Financing			\$	
6	§ 4.7	Seller Financing			\$	
7						
8						
9	§ 4.4	Cash at Closing			\$	
10		TOTAL	\$		\$	

97 **4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$_____ (Seller Concession). The Seller
98 Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer’s lender
99 and is included in the Closing Statement or Closing Disclosure, at Closing. Examples of allowable items to be paid for by the
100 Seller Concession include, but are not limited to: Buyer’s closing costs, loan discount points, loan origination fees, prepaid items
101 and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or
102 credit Buyer elsewhere in this Contract.

103 **4.3. Earnest Money.** The Earnest Money set forth in this section, in the form of a _____, will be
104 payable to and held by _____ (Earnest Money Holder), in its trust account, on behalf of
105 both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually
106 agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to
107 the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has
108 agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing
109 to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the
110 Earnest Money Holder in this transaction will be transferred to such fund.

111 **4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the
112 time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

113 **4.3.2. Return of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to
114 the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 25 and, except as provided
115 in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute
116 and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three
117 days of Seller's receipt of such form.

118 **4.4. Form of Funds; Time of Payment; Available Funds.**

119 **4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing
120 and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified
121 check, savings and loan teller's check and cashier's check (Good Funds).

122 **4.4.2. Time of Payment; Available Funds.** All funds, including the Purchase Price to be paid by Buyer, must be
123 paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at
124 Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**. Buyer represents that Buyer, as of the date of this
125 Contract, Does Does Not have funds that are immediately verifiable and available in an amount not less than the amount
126 stated as Cash at Closing in § 4.1.

127 **4.5. New Loan.**

128 **4.5.1. Buyer to Pay Loan Costs.** Buyer, except as provided in § 4.2, if applicable, must timely pay Buyer's loan
129 costs, loan discount points, prepaid items and loan origination fees, as required by lender.

130 **4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing appropriate and acceptable to
131 Buyer, including a different loan than initially sought, except as restricted in § 4.5.3 or § 30 (Additional Provisions).

132 **4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following types of loans:
133 Conventional Other _____.

134 **4.6. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption
135 Balance set forth in § 4.1, presently payable at \$ _____ per _____ including principal and interest
136 presently at the rate of _____% per annum, and also including escrow for the following as indicated: Real Estate Taxes
137 Property Insurance Premium and _____.

138 Buyer agrees to pay a loan transfer fee not to exceed \$ _____. At the time of assumption, the new interest rate will
139 not exceed _____% per annum and the new payment will not exceed \$ _____ per _____ principal and
140 interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance,
141 which causes the amount of cash required from Buyer at Closing to be increased by more than \$ _____, then Buyer has
142 the Right to Terminate under § 25.1, on or before **Closing Date**, based on the reduced amount of the actual principal balance.

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

147 **4.7. Seller or Private Financing.**

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

152 **4.7.1. Seller Financing.** If Buyer is to pay all or any portion of the Purchase Price with Seller financing,
153 Buyer Seller will deliver the proposed Seller financing documents to the other party on or before _____ days before
154 **Seller or Private Financing Deadline**.

155 **4.7.1.1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is conditional upon
156 Seller determining whether such financing is satisfactory to the Seller, including its payments, interest rate, terms, conditions, cost
157 and compliance with the law. Seller has the Right to Terminate under § 25.1, on or before **Seller or Private Financing Deadline**,
158 if such Seller financing is not satisfactory to the Seller, in Seller's sole subjective discretion.

159 **4.7.2. Buyer May Terminate.** If Buyer is to pay all or any portion of the Purchase Price with Seller or private
160 financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to the Buyer, including its
161 availability, payments, interest rate, terms, conditions and cost. Buyer has the Right to Terminate under § 25.1, on or before **Seller**

162 ~~or Private Financing Deadline, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective~~
163 ~~discretion.~~

164

TRANSACTION PROVISIONS

165 5. FINANCING CONDITIONS AND OBLIGATIONS.

166 **5.1. Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New
167 Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, must make an application verifiable
168 by such lender, on or before **Loan Application Deadline** and exercise reasonable efforts to obtain such loan or approval.

169 **5.2. Loan Objection.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is conditional
170 upon Buyer determining, in Buyer's sole subjective discretion, whether the New Loan is satisfactory to Buyer, including its
171 availability, payments, interest rate, terms, conditions, and cost of such New Loan. This condition is for the sole benefit of Buyer.
172 Buyer has the Right to Terminate under § 25.1, on or before **Loan Objection Deadline**, if the New Loan is not satisfactory to
173 Buyer, in Buyer's sole subjective discretion. **IF SELLER IS NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE**
174 **BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY WILL BE NONREFUNDABLE**, except
175 as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).

176 **5.3. Credit Information.** If an existing loan is not to be released at Closing, this Contract is conditional (for the sole
177 benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be at Seller's sole
178 subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's
179 expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit
180 condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information
181 and documents received by Seller must be held by Seller in confidence, and not released to others except to protect Seller's interest
182 in this transaction. If the Cash at Closing is less than as set forth in § 4.1 of this Contract, Seller has the Right to Terminate under
183 § 25.1, on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective
184 discretion, Seller has the Right to Terminate under § 25.1, on or before **Disapproval of Buyer's Credit Information Deadline**.

185 **5.4. Existing Loan Review.** If an existing loan is not to be released at Closing, Seller must deliver copies of the loan
186 documents (including note, deed of trust, and any modifications) to Buyer by **Existing Loan Documents Deadline**. For the sole
187 benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer
188 has the Right to Terminate under § 25.1, on or before **Existing Loan Documents Objection Deadline**, based on any
189 unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the
190 Property is required, this Contract is conditional upon Buyer's obtaining such approval without change in the terms of such loan,
191 except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will
192 terminate on such deadline. Seller has the Right to Terminate under § 25.1, on or before Closing, in Seller's sole subjective
193 discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth
194 in § 4.6.

195 6. APPRAISAL PROVISIONS.

196 ~~**6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged~~
197 ~~on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set~~
198 ~~forth certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property~~
199 ~~to be valued at the Appraised Value.~~

200 ~~**6.2. Appraisal Condition.** The applicable appraisal provision set forth below applies to the respective loan type set forth~~
201 ~~in § 4.5.3, or if a cash transaction (i.e. no financing), § 6.2.1 applies.~~

202 ~~**6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the~~
203 ~~Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal**~~
204 ~~**Objection Deadline**, notwithstanding § 8.3 or § 13:~~

205 ~~**6.2.1.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or~~

206 ~~**6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by either a copy of the~~
207 ~~Appraisal or written notice from lender that confirms the Appraisal Value is less than the Purchase Price.~~

208 ~~**6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or before **Appraisal**~~
209 ~~**Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution**~~
210 ~~**Deadline** (§ 3), this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written~~
211 ~~withdrawal of the Appraisal Objection before such termination, i.e., on or before expiration of **Appraisal Resolution Deadline**.~~
212

213 ~~**6.3. Lender Property Requirements.** If the lender imposes any requirements, replacements, removals or repairs,~~
214 ~~including any specified in the Appraisal (Lender Requirements) to be made to the Property (e.g., roof repair, repainting), beyond~~
215 ~~those matters already agreed to by Seller in this Contract, Seller has the Right to Terminate under § 25.1, (notwithstanding § 10 of~~
216 ~~this Contract), on or before three days following Seller's receipt of the Lender Requirements, in Seller's sole subjective discretion.~~
217 ~~Seller's Right to Terminate in this § 6.3 does not apply if, on or before any termination by Seller pursuant to this § 6.3: (1) the~~

218 parties enter into a written agreement regarding the Lender Requirements; or (2) the Lender Requirements have been completed; or
219 (3) the satisfaction of the Lender Requirements is waived in writing by Buyer.

220 **6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by
221 **Buyer** **Seller**. The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company,
222 lender's agent or all three.

223

224 **7. OWNERS' ASSOCIATION.** This Section is applicable if the Property is located within a Common Interest
225 Community and subject to such declaration.

226 ~~**7.1. Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A COMMON
227 INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF
228 THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE
229 COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE
230 ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL
231 OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY
232 ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE
233 ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE
234 DECLARATION, BYLAWS, AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE
235 OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE
236 ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION.
237 PURCHASERS OF PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE
238 FINANCIAL OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY
239 READ THE DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF
240 THE ASSOCIATION.~~

241 ~~**7.2. Owners' Association Documents.** Owners' Association Documents (Association Documents) consist of the
242 following:~~

243 ~~**7.2.1.** All Owners' Association declarations, articles of incorporation, bylaws, articles of organization, operating
244 agreements, rules and regulations, party wall agreements;~~

245 ~~**7.2.2.** Minutes of most recent annual owners' meeting;~~

246 ~~**7.2.3.** Minutes of any directors' or managers' meetings during the six-month period immediately preceding the
247 date of this Contract. If none of the preceding minutes exist, then the most recent minutes, if any (§§ 7.2.1, 7.2.2 and 7.2.3,
248 collectively, Governing Documents); and~~

249 ~~**7.2.4.** The most recent financial documents which consist of: (1) annual and most recent balance sheet, (2) annual
250 and most recent income and expenditures statement, (3) annual budget, (4) reserve study, and (5) notice of unpaid assessments, if
251 any (collectively, Financial Documents).~~

252 ~~**7.3. Association Documents to Buyer.**~~

253 ~~**7.3.1. Seller to Provide Association Documents.** Seller is obligated to provide to Buyer the Association
254 Documents, at Seller's expense, on or before **Association Documents Deadline**. Seller authorizes the Association to provide the
255 Association Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon
256 Buyer's receipt of the Association Documents, regardless of who provides such documents.~~

257 ~~**7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents. Buyer has the Right to
258 Terminate under § 25.1, on or before **Association Documents Objection Deadline**, based on any unsatisfactory provision in any
259 of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after
260 **Association Documents Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 25.1 by Buyer's Notice to
261 Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive
262 the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing
263 Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to
264 Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory, and Buyer waives any
265 Right to Terminate under this provision, notwithstanding the provisions of § 8.6 (Right of First Refusal or Contract Approval).~~

266 **8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**

267 **8.1. Evidence of Record Title.**

268 **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance
269 company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish
270 to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase
271 Price, or if this box is checked, an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be
272 issued and delivered to Buyer as soon as practicable at or after Closing.

273 **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance
274 company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must

275 furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase
276 Price.
277 If neither box in § 8.1.1 or § 8.1.2 is checked, § 8.1.1 applies.

278 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment Will Will Not contain Owner's
279 Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard
280 exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics'
281 liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded), and (6)
282 unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC
283 will be paid by Buyer Seller One-Half by Buyer and One-Half by Seller Other _____.
284 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over
285 any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined
286 below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to
287 object under § 8.4 (Right to Object to Title, Resolution).

288 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations,
289 covenants, conditions and restrictions burdening the Property, and (2) copies of any other documents (or, if illegible, summaries of
290 such documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title
291 Documents).

292 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**, copies of all Title
293 Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county
294 where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the
295 party or parties obligated to pay for the owner's title insurance policy.

296 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any
297 portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

298 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the
299 Title Documents as set forth in § 8.4 (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**.
300 Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding
301 § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or
302 Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title
303 Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be
304 delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object
305 to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or
306 Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of
307 Title Objection, pursuant to this § 8.2 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.4
308 (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents
309 required by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection
310 by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title
311 Commitment and Title Documents as satisfactory.

312 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing
313 surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without
314 limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights
315 of first refusal and options) not shown by public records, of which Seller has actual knowledge (Off-Record Matters). Buyer has
316 the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g.,
317 unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any
318 unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2 and § 13), in Buyer's
319 sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter
320 is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer
321 to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection
322 pursuant to this § 8.3 (Off-Record Title), any title objection by Buyer and this Contract are governed by the provisions set forth in
323 § 8.4 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by
324 the applicable deadline specified above, Buyer accepts title subject to such rights, if any, of third parties of which Buyer has actual
325 knowledge.

326 **8.4. Right to Object to Title, Resolution.** Buyer's right to object to any title matters includes, but is not limited to those
327 matters set forth in §§ 8.2 (Record Title), 8.3 (Off-Record Title) and 13 (Transfer of Title), in Buyer's sole subjective discretion. If
328 Buyer objects to any title matter, on or before the applicable deadline, Buyer has the following options:

329 **8.4.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice
330 of Title Objection) on or before the applicable deadline, and if Buyer and Seller have not agreed to a written settlement thereof on
331 or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller
332 receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such

333 items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the
334 Record Title Deadline or the Off-Record Title Deadline, or both, are extended to the earlier of Closing or ten days after receipt of
335 the applicable documents by Buyer, pursuant to § 8.2 (Record Title) or § 8.3 (Off-Record Title), the Title Resolution Deadline also
336 will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

337 **8.4.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 25.1, on or
338 before the applicable deadline, based on any unsatisfactory title matter, in Buyer's sole subjective discretion.

339 **8.5. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION**
340 **INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE**
341 **PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK**
342 **FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE**
343 **CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH**
344 **INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE**
345 **SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY**
346 **TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING**
347 **FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND**
348 **RECORDER, OR THE COUNTY ASSESSOR.**

349 Buyer has the Right to Terminate under § 25.1, on or before **Off-Record Title Objection Deadline**, based on any
350 unsatisfactory effect of the Property being located within a special taxing district, in Buyer's sole subjective discretion.

351 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property or a right to approve
352 this Contract, Seller must promptly submit this Contract according to the terms and conditions of such right. If the holder of the
353 right of first refusal exercises such right or the holder of a right to approve disapproves this Contract, this Contract will terminate.
354 If the right of first refusal is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and
355 effect. Seller must promptly notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval
356 of this Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.

357 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed
358 carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property,
359 including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations,
360 unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property, and
361 various laws and governmental regulations concerning land use, development and environmental matters.

362 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**
363 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER**
364 **OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR**
365 **WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS,**
366 **GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS**
367 **MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE**
368 **MINERAL ESTATE, OIL, GAS OR WATER.**

369 **8.7.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO**
370 **ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A**
371 **MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND**
372 **RECORDER.**

373 **8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT**
374 **TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION**
375 **OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING**
376 **OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING FACILITIES.**

377 **8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL**
378 **INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING**
379 **DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL**
380 **AND GAS CONSERVATION COMMISSION.**

381 **8.7.5. Title Insurance Exclusions.** Matters set forth in this Section, and others, may be excepted, excluded from,
382 or not covered by the owner's title insurance policy.

383 **8.8. Consult an Attorney.** Buyer is advised to timely consult legal counsel with respect to all such matters as there are
384 strict time limits provided in this Contract (e.g., **Record Title Objection Deadline** and **Off-Record Title Objection Deadline**).

385 **9. NEW ILC, NEW SURVEY.**

386 **9.1. New ILC or New Survey.** If the box is checked, a **New Improvement Location Certificate (New ILC)**
387 **New Survey** in the form of _____ is required and the following will apply:

388 **9.1.1. Ordering of New ILC or New Survey.** **Seller** **Buyer** will order the New ILC or New Survey. The
389 New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a
390 date after the date of this Contract.

391 **9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on or
392 before Closing, by: Seller Buyer or:
393
394
395

396 **9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or the provider
397 of the opinion of title if an Abstract of Title), and _____ will receive a New ILC or New Survey on or before
398 **New ILC or New Survey Deadline.**

399 **9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by the surveyor
400 to all those who are to receive the New ILC or New Survey.

401 **9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a New ILC or New
402 Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New**
403 **Survey Objection Deadline.** Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to
404 Seller incurring any cost for the same.

405 **9.3. New ILC or New Survey Objection.** Buyer has the right to review and object to the **New ILC or New Survey.** If
406 the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion,
407 Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3 or § 13:

408 **9.3.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

409 **9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that was to be
410 shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.

411 **9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received by Seller, on
412 or before **New ILC or New Survey Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement
413 thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC**
414 **or New Survey Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the New ILC or New Survey
415 Objection before such termination, i.e., on or before expiration of **New ILC or New Survey Resolution Deadline.**

416

DISCLOSURE, INSPECTION AND DUE DILIGENCE

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

419 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to
420 Buyer the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed
421 by Seller to Seller's actual knowledge, current as of the date of this Contract.

422 **10.2. Disclosure of Latent Defects; Present Condition.** Seller must disclose to Buyer any latent defects actually known
423 by Seller. Seller agrees that disclosure of latent defects will be in writing. Except as otherwise provided in this Contract, Buyer
424 acknowledges that Seller is conveying the Property to Buyer in an "As Is" condition, "Where Is" and "With All Faults."

425 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections
426 (by one or more third parties, personally or both) of the Property and Inclusions (Inspection), at Buyer's expense. If (1) the
427 physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the electrical,
428 plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions, (3) service to the
429 Property (including utilities and communication services), systems and components of the Property (e.g., heating and plumbing),
430 (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise (whether on or
431 off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's sole subjective
432 discretion, Buyer may, on or before **Inspection Objection Deadline**:

433 **10.3.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

434 **10.3.2. Inspection Objection.** Deliver to Seller a written description of any unsatisfactory physical condition that
435 Buyer requires Seller to correct.

436 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection**
437 **Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**,
438 this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the
439 Inspection Objection before such termination, i.e., on or before expiration of **Inspection Resolution Deadline.**

440 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement
441 between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at
442 Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer
443 must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify,
444 protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such
445 Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against
446 any such liability, damage, cost or expense, or to enforce this section, including Seller's reasonable attorney fees, legal fees and

447 expenses. The provisions of this section survive the termination of this Contract. This § 10.4 does not apply to items performed
448 pursuant to an Inspection Resolution.

449 **10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of and premium for
450 property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or before **Property Insurance**
451 **Objection Deadline**, based on any unsatisfactory provision of the Property Insurance, in Buyer's sole subjective discretion.

452 **10.6. Due Diligence.**

453 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver copies of the following
454 documents and information pertaining to the Property (Due Diligence Documents) to Buyer on or before **Due Diligence**

455 **Documents Delivery Deadline:**

- 456 **10.6.1.1.** All contracts relating to the operation, maintenance and management of the Property;
- 457 **10.6.1.2.** Property tax bills for the last _____ years;
- 458 **10.6.1.3.** As-built construction plans to the Property and the tenant improvements, including
459 architectural, electrical, mechanical, and structural systems, engineering reports, and permanent Certificates of Occupancy, to the
460 extent now available;
- 461 **10.6.1.4.** A list of all Inclusions to be conveyed to Buyer;
- 462 **10.6.1.5.** Operating statements for the past _____ years;
- 463 **10.6.1.6.** A rent roll accurate and correct to the date of this Contract;
- 464 **10.6.1.7.** All current leases, including any amendments or other occupancy agreements, pertaining to the
465 Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing are as follows (Leases):

466
467
468 **10.6.1.8.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet
469 been completed and capital improvement work either scheduled or in process on the date of this Contract;

470 **10.6.1.9.** All insurance policies pertaining to the Property and copies of any claims which have been
471 made for the past _____ years;

472 **10.6.1.10.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not
473 delivered earlier under § 8.3);

474 **10.6.1.11.** Any and all existing documentation and reports regarding Phase I and II environmental reports,
475 letters, test results, advisories, and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or
476 other toxic, hazardous or contaminated substances, and/or underground storage tanks and/or radon gas. If no reports are in Seller's
477 possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;

478 **10.6.1.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of
479 the Property with said Act;

480 **10.6.1.13.** All permits, licenses and other building or use authorizations issued by any governmental
481 authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations,
482 if any; and

483 **10.6.1.14.** Other documents and information:

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485
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487

488 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object to Due
489 Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory in Buyer's sole subjective
490 discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

491 **10.6.2.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

492 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any
493 unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

494 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received
495 by Seller, on or before **Due Diligence Documents Objection Deadline**, and if Buyer and Seller have not agreed in writing to a
496 settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence**
497 **Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection
498 before such termination, i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**.

499 **10.6.3. Zoning.** Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence Documents Objection**
500 **Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any governmental agency with jurisdiction over
501 the Property, in Buyer's sole subjective discretion.

502 **10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental inspections of the
503 Property including Phase I and Phase II Environmental Site Assessments, as applicable. **Seller** **Buyer** will order or provide
504 **Phase I Environmental Site Assessment, Phase II Environmental Site Assessment** (compliant with most current version of the
505 applicable ASTM E1527 standard practices for Environmental Site Assessments) and/or _____, at the expense

506 of Seller Buyer (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation
507 whether the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations
508 must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants'
509 business uses of the Property, if any.

510 If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the
511 **Environmental Inspection Objection Deadline** will be extended by _____ days (Extended Environmental Inspection Objection
512 Deadline) and if such Extended Environmental Inspection Objection Deadline extends beyond the **Closing Date**, the **Closing Date**
513 will be extended a like period of time. In such event, Seller Buyer must pay the cost for such Phase II Environmental Site
514 Assessment.

515 Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.5, Buyer has the
516 Right to Terminate under § 25.1, on or before **Environmental Inspection Objection Deadline**, or if applicable, the Extended
517 Environmental Inspection Objection Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole
518 subjective discretion.

519 Buyer has the Right to Terminate under § 25.1, on or before **ADA Evaluation Objection Deadline**, based on any
520 unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.

521 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property
522 owned by Buyer and commonly known as _____. Buyer has the Right to Terminate
523 under § 25.1 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such
524 property is not sold and closed by such deadline. This § 10.7 is for the sole benefit of Buyer. If Seller does not receive Buyer's
525 Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this provision.

526 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer Does Does Not
527 acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water
528 for the Property. There is **No Well**. Buyer Does Does Not acknowledge receipt of a copy of the current well permit.

529 **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND**
530 **WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO**
531 **DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

532 **10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of the Leases to be assigned
533 to the Buyer at the time of Closing contain any rent concessions, rent reductions or rent abatements except as disclosed in the
534 Lease or other writing received by Buyer. Seller will not amend, alter, modify, extend or cancel any of the Leases nor will Seller
535 enter into any new leases affecting the Property without the prior written consent of Buyer, which consent will not be unreasonably
536 withheld or delayed.

537 ~~11. TENANT ESTOPPEL STATEMENTS.~~

538 ~~**11.1. Tenant Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel Statements.~~
539 ~~Seller must obtain and deliver to Buyer on or before **Tenant Estoppel Statements Deadline**, statements in a form and substance~~
540 ~~reasonably acceptable to Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease~~
541 ~~stating:~~

542 ~~**11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;~~

543 ~~**11.1.2.** That said Lease is in full force and effect and that there have been no subsequent modifications or~~
544 ~~amendments;~~

545 ~~**11.1.3.** The amount of any advance rentals paid, rent concessions given, and deposits paid to Seller;~~

546 ~~**11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;~~

547 ~~**11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and~~

548 ~~**11.1.6.** That the Lease to which the Estoppel is attached is a true, correct and complete copy of the Lease demising~~
549 ~~the premises it describes.~~

550 ~~**11.2. Tenant Estoppel Statements Objection.** Buyer has the Right to Terminate under § 25.1, on or before **Tenant**~~
551 ~~**Estoppel Statements Objection Deadline**, based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion,~~
552 ~~or if Seller fails to deliver the Estoppel Statements on or before **Tenant Estoppel Statements Deadline**. Buyer also has the~~
553 ~~unilateral right to waive any unsatisfactory Estoppel Statement.~~

554

555

CLOSING PROVISIONS

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

557 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing Company to
558 enable the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If
559 Buyer is obtaining a new loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing
560 Company, in a timely manner, all required loan documents and financial information concerning Buyer's new loan. Buyer and

561 Seller will furnish any additional information and documents required by Closing Company that will be necessary to complete this
562 transaction. Buyer and Seller will sign and complete all customary or reasonably required documents at or before Closing.

563 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions **Are** **Are Not** executed with
564 this Contract.

565 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as
566 the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing will be as designated by
567 _____.

568 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality, and extent of service vary
569 between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

570 **13. TRANSFER OF TITLE.** Subject to tender of payment at Closing as required herein and compliance by Buyer with the
571 other terms and provisions hereof, Seller must execute and deliver a good and sufficient _____ deed
572 to Buyer, at Closing, conveying the Property free and clear of all taxes except the general taxes for the year of Closing. Except as
573 provided herein, title will be conveyed free and clear of all liens, including any governmental liens for special improvements
574 installed as of the date of Buyer's signature hereon, whether assessed or not. Title will be conveyed subject to:

575 **13.1.** Those specific Exceptions described by reference to recorded documents as reflected in the Title Documents
576 accepted by Buyer in accordance with **Record Title**,

577 **13.2.** Distribution utility easements (including cable TV),

578 **13.3.** Those specifically described rights of third parties not shown by the public records of which Buyer has actual
579 knowledge and which were accepted by Buyer in accordance with **Off-Record Title** and **New ILC or New Survey**,

580 **13.4.** Inclusion of the Property within any special taxing district, and

581 **13.5.** Any special assessment if the improvements were not installed as of the date of Buyer's signature hereon, whether
582 assessed prior to or after Closing, and

583 **13.6.** Other _____.

584 **14. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid will be paid at or before Closing from the
585 proceeds of this transaction or from any other source.

586 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

587 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required
588 to be paid at Closing, except as otherwise provided herein.

589 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by **Buyer** **Seller**
590 **One-Half by Buyer and One-Half by Seller** **Other** _____.

591 **15.3. Status Letter and Record Change Fees.** Any fees incident to the issuance of Association's statement of
592 assessments (Status Letter) must be paid by **None** **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller**.
593 Any record change fee assessed by the Association including, but not limited to, ownership record transfer fees regardless of name
594 or title of such fee (Association's Record Change Fee) must be paid by **None** **Buyer** **Seller** **One-Half by Buyer**
595 **and One-Half by Seller**.

596 **15.4. Local Transfer Tax.** **The Local Transfer Tax** of _____% of the Purchase Price must be paid at Closing by
597 **None** **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller**.

598 **15.5. Private Transfer Fee.** Private transfer fees and other fees due to a transfer of the Property, payable at Closing, such
599 as community association fees, developer fees and foundation fees, must be paid at Closing by **None** **Buyer** **Seller**
600 **One-Half by Buyer and One-Half by Seller**. The Private Transfer fee, whether one or more, is for the following association(s):
601 _____ in the total amount of _____% of the Purchase Price or \$_____.

602 **15.6. Water Transfer Fees.** The Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed
603 \$_____ for:

604 Water Stock/Certificates

Water District

605 Augmentation Membership

Small Domestic Water Company _____

606 and must be paid at Closing by **None** **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller**

607 **15.7. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by
608 **None** **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller**.

609 **16. PRORATIONS.** The following will be prorated to the **Closing Date**, except as otherwise provided:

610 **16.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the
611 year of Closing, based on **Taxes for the Calendar Year Immediately Preceding Closing** **Most Recent Mill Levy and**
612 **Most Recent Assessed Valuation**, **Other** _____.

613 **16.2. Rents.** Rents based on **Rents Actually Received** **Accrued**. At Closing, Seller will transfer or credit to
614 Buyer the security deposits for all Leases assigned, or any remainder after lawful deductions, and notify all tenants in writing of

615 such transfer and of the transferee's name and address. Seller must assign to Buyer all Leases in effect at Closing and Buyer must
616 assume Seller's obligations under such Leases.

617 **16.3. Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in
618 advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred
619 maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents.
620 Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital.
621 Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of Buyer Seller. Except
622 however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature
623 hereon, whether assessed prior to or after Closing, will be the obligation of Seller. Seller represents that the Association
624 Assessments are currently payable at approximately \$_____ per _____ and that there are no unpaid regular
625 or special assessments against the Property except the current regular assessments and _____. Such
626 assessments are subject to change as provided in the Governing Documents. Seller agrees to promptly request the Association to
627 deliver to Buyer before **Closing Date** a current Status Letter.

628 **16.4. Other Prorations.** Water and sewer charges, propane, interest on continuing loan, and _____.

629 **16.5. Final Settlement.** Unless otherwise agreed in writing, these prorations are final.

630 **17. POSSESSION.** Possession of the Property will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to
631 the Leases as set forth in § 10.6.1.7.

632

633 If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable
634 to Buyer for payment of \$_____ per day (or any part of a day notwithstanding § 18.1) from **Possession Date** and
635 **Possession Time** until possession is delivered.

636

GENERAL PROVISIONS

637 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**

638 **18.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States Mountain
639 Time (Standard or Daylight Savings as applicable).

640 **18.2. Computation of Period of Days, Deadline.** In computing a period of days, when the ending date is not specified,
641 the first day is excluded and the last day is included (e.g., three days after MEC). If any deadline falls on a Saturday, Sunday or
642 federal or Colorado state holiday (Holiday), such deadline Will Will Not be extended to the next day that is not a
643 Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

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

647 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of
648 loss prior to Closing in an amount of not more than ten percent of the total Purchase Price (Property Damage), and if the repair of
649 the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance
650 proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under
651 § 25.1, on or before **Closing Date** if the Property is not repaired before **Closing Date** or if the damage exceeds such sum. Should
652 Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance
653 proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus
654 the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event
655 Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the
656 Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if
657 acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the
658 parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and
659 will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the
660 insurance claim.

661 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication
662 services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged
663 between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement
664 of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the
665 maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance
666 proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or
667 replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 25.1, on or before
668 **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or
669 Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the

670 Association, if any, will survive Closing. Seller and Buyer are aware of the existence of pre-owned home warranty programs that
671 may be purchased and may cover the repair or replacement of such Inclusions.

672 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may
673 result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation
674 action. Buyer has the Right to Terminate under § 25.1, on or before **Closing Date**, based on such condemnation action, in Buyer's
675 sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and
676 Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value
677 of the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the Purchase Price.

678 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the
679 Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

680 **19.5. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other casualty will be borne
681 by the party entitled to the growing crops as provided in § 2.8 and such party is entitled to such insurance proceeds or benefits for
682 the growing crops.

683 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge
684 that the respective broker has advised that this Contract has important legal consequences and has recommended the examination
685 of title and consultation with legal and tax or other counsel before signing this Contract.

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

690 **21.1. If Buyer is in Default:**

691 **21.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid
692 by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the Parties agree
693 the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect
694 to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

695 **21.1.2. Liquidated Damages, Applicable. This § 21.1.2 applies unless the box in § 21.1.1. is checked.** Seller
696 may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller, and retained by Seller. It is
697 agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree
698 is fair and reasonable and (except as provided in §§ 10.4, 22, 23 and 24), said payment of Earnest Money is SELLER'S ONLY
699 REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific
700 performance and additional damages.

701 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received
702 hereunder will be returned and Buyer may recover such damages as may be proper. Alternatively, Buyer may elect to treat this
703 Contract as being in full force and effect and Buyer has the right to specific performance or damages, or both.

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

707 **23. MEDIATION.** If a dispute arises relating to this Contract, (whether prior to or after Closing) and is not resolved, the parties
708 must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps
709 to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is
710 binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator
711 and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire
712 dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at
713 that party's last known address (physical or electronic as provided in § 27). Nothing in this Section prohibits either party from
714 filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation.
715 This section will not alter any date in this Contract, unless otherwise agreed.

716 **24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must release the Earnest
717 Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding
718 the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole
719 subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and
720 deposit Earnest Money into a court of competent jurisdiction, (Earnest Money Holder is entitled to recover court costs and
721 reasonable attorney and legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money
722 Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the
723 lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is

724 authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit, and has
725 not interpled the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order
726 of the Court. The parties reaffirm the obligation of **Mediation**. This Section will survive cancellation or termination of this
727 Contract.

728 **25. TERMINATION.**

729 **25.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the
730 termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written
731 notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or
732 before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as
733 satisfactory and waives the Right to Terminate under such provision.

734 **25.2. Effect of Termination.** In the event this Contract is terminated, all Earnest Money received hereunder will be
735 returned and the parties are relieved of all obligations hereunder, subject to §§ 10.4, 22, 23 and 24.

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

742 **27. NOTICE, DELIVERY, AND CHOICE OF LAW.**

743 **27.1. Physical Delivery and Notice.** Any document, or notice to Buyer or Seller must be in writing, except as provided in
744 § 27.2, and is effective when physically received by such party, any individual named in this Contract to receive documents or
745 notices for such party, the Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after
746 Closing must be received by the party, not Broker or Brokerage Firm).

747 **27.2. Electronic Notice.** As an alternative to physical delivery, any notice, may be delivered in electronic form to Buyer
748 or Seller, any individual named in this Contract to receive documents or notices for such party, the Broker or Brokerage Firm of
749 Broker working with such party (except any notice or delivery after Closing must be received by the party; not Broker or
750 Brokerage Firm) at the electronic address of the recipient by facsimile, email or _____.

751 **27.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at the email
752 address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to
753 access the documents, or (3) facsimile at the Fax No. of the recipient.

754 **27.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with
755 the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property
756 located in Colorado.

757 **28. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and
758 Seller, as evidenced by their signatures below, and the offering party receives notice of such acceptance pursuant to § 27 on or
759 before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between
760 Seller and Buyer. A copy of this Contract may be executed by each party, separately, and when each party has executed a copy
761 thereof, such copies taken together are deemed to be a full and complete contract between the parties.

762 **29. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not
763 limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations, Title**
764 **Insurance, Record Title and Off-Record Title, Current Survey Review** and **Property Disclosure, Inspection, Indemnity,**
765 **Insurability, Due Diligence, Buyer Disclosure and Source of Water.**

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ADDITIONAL PROVISIONS AND ATTACHMENTS
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767 **30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate
768 Commission.)

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31. ATTACHMENTS.

31.1. The following attachments **are a part** of this Contract:

31.2. The following disclosure forms **are attached** but are **not** a part of this Contract:

SIGNATURES

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Buyer's Name: _____

Buyer's Name: _____

Buyer's Signature _____ Date _____

Buyer's Signature _____ Date _____

Address: _____

Address: _____

Phone No.: _____

Phone No.: _____

Fax No.: _____

Fax No.: _____

Email Address: _____

Email Address: _____

791 **[NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 32]**

Seller's Name: _____

Seller's Name: _____

Seller's Signature _____ Date _____

Seller's Signature _____ Date _____

Address: _____

Address: _____

Phone No.: _____

Phone No.: _____

Fax No.: _____

Fax No.: _____

Email Address: _____

Email Address: _____

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32. COUNTER; REJECTION. This offer is **Countered** **Rejected.**

Initials only of party (Buyer or Seller) who countered or rejected offer _____

END OF CONTRACT TO BUY AND SELL REAL ESTATE

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Buyer)

Broker **Does** **Does Not** acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the

executed written mutual instructions, provided the Earnest Money check has cleared.

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

This is a **Change of Status**.

Brokerage Firm's compensation or commission is to be paid by **Listing Brokerage Firm** **Buyer** **Other** _____.
Seller to pay \$20,000 of selling price as commission to Broker.

Brokerage Firm's Name: _____
Broker's Name: _____

Broker's Signature Date

Address: _____

Phone No.: _____

Fax No.: _____

Email Address: _____

34. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker **Does** **Does Not** acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

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

This is a **Change of Status**.

Brokerage Firm's compensation or commission is to be paid by **Seller** **Buyer** **Other** _____.

Brokerage Firm's Name: _____
Broker's Name: _____

Broker's Signature Date

Address: _____

Phone No.: _____

Fax No.: _____

Email Address: _____

WATER & SEWER BOARD AGENDA MARCH 15, 2017

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 7

TITLE: LEPRINO DEVELOPMENT AGREEMENT AMENDMENT

ACTION: APPROVE RESOLUTION INCLUDING 150 ACRE-FEET OF ADDITIONAL WATER SUPPLIES IN WATER BANK UPON COUNCIL APPROVAL OF FOURTH AMENDMENT TO LEPRINO DEVELOPMENT AGREEMENT

RECOMMENDATION: APPROVE RESOLUTION [ACTION TO TAKE EFFECT ON CITY COUNCIL APPROVAL OF FOURTH AMENDMENT TO LEPRINO DEVELOPMENT AGREEMENT]

ADDITIONAL INFORMATION:

In 2008, the City and Leprino entered into a Development Agreement (“Development Agreement”) for Leprino’s construction of a dairy product manufacturing, processing, and storage facility in the City. The Development Agreement required the City to provide Leprino with treated water service for all three planned phases of its development, which was then estimated at 1,344 acre feet per year at full buildout. With respect to meeting City raw water requirements for the facility, the Development Agreement granted Leprino certain credits (including credit for “Produced Water” generated from milk, as a byproduct during processing at the facility), and allowed Leprino to pay cash in lieu of providing raw water (“cash in lieu”) at a favorable rate via the City’s Industrial Water Bank.

Leprino is in the process of constructing the third phase of its facility. Through 2016, Leprino has satisfied its obligation to supply the City with raw water sufficient to meet the needs of the first two phases of the facility through a combination of methods, including by 1) receiving the 600 acre-foot maximum interim credit for “Produced Water,” pending a final court determination of the actual amount of such water available to the City; and 2) paying cash in lieu at a “Leprino Water Bank Rate” defined in the Development Agreement (initially \$4500 per acre-foot, but adjusted over time to approximately \$6500 today). In March 2016, Leprino paid for the remaining approximately 320 acre-feet of cash-in-lieu raw water credit available at the Leprino Water Bank Rate, which brought the total amount of cash-in-lieu credit Leprino has purchased to 1,133 acre-feet.

Leprino’s operations to date have required, and will in the future require, more treated water from the City than initially anticipated. The Development

Agreement capped Leprino's ability to purchase water at the Leprino Water Bank Rate at 1,133 acre feet, but provided that Leprino could, if needed, purchase additional water at a rate no greater than the City's most favorable cash in lieu rate, or at an available water bank rate, in effect at the time.

In consultation with City Council and the Board, staff and counsel have negotiated an amendment to the Development Agreement in order to address Leprino's satisfaction of its raw water obligations with respect to its anticipated water demands for Phase III of the facility, and to make certain other changes to the agreement that generally address determining the final amount of Produced Water that will be available to the City for its use.

Approval of the Fourth Amendment to the Development Agreement (attached) ("Fourth Amendment") is scheduled for Council's consideration at its March 21, 2017 meeting. The Board is being asked here to direct the inclusion of additional raw water supplies with a 50-year critical drought yield of 150 acre-feet in the Industrial Water Bank, in order to permit Leprino to rely on such supplies when it makes up to a total of 205 acre-feet of additional cash-in-lieu purchases to meet its Phase III water demand. 55 acre-feet of currently uncommitted supplies are already in the bank and available at the Leprino Water Bank Rate, and the additional 150 acre-feet would be available at a "New" Leprino rate of \$12,000 per acre-foot (also subject to adjustments in future years). Importantly, the agreement requires Leprino to match each purchase of an acre-foot of cash-in-lieu with transfer to the City of an acre-foot of Colorado Big Thompson Project water, to meet a total potential additional treated water demand of 410 acre-feet.

Inclusion of these supplies in the Industrial Water Bank would occur if, and when, Council approves the Fourth Amendment.

FOURTH AMENDMENT TO THE DEVELOPMENT AGREEMENT

This Fourth Amendment to the DEVELOPMENT AGREEMENT (“Fourth Amendment”) is entered into as of _____, 2017 by and between LEPRINO FOODS COMPANY (“Leprino”), a Colorado corporation, and THE CITY OF GREELEY, COLORADO, a home rule municipal corporation (“City”).

WHEREAS, on June 13, 2008, the City and Leprino entered into a Development Agreement (“Development Agreement”); and

WHEREAS, on November 25, 2008, the City and Leprino entered into the First Amendment to the Development Agreement (“First Amendment”); and

WHEREAS, on July 15, 2013, the City and Leprino entered into the Second Amendment to the Development Agreement (“Second Amendment”); and

WHEREAS, on February 17, 2016, the City and Leprino entered into the Third Amendment to the Development Agreement (“Third Amendment”); and

WHEREAS, pursuant to the Development Agreement, First Amendment and Second Amendment, Leprino has constructed the first two phases of the “Project,” defined therein to include, without limitation, a manufacturing, processing and refrigerated/dry storage facility for dairy and related products, including, but not limited to, cheese, nonfat dried milk and whey products, and

WHEREAS, pursuant to the Development Agreement, through 2015 Leprino has satisfied its obligation to supply the City with raw water sufficient to meet the needs of the first two phases of the Project by a) applying the 211 acre-feet initial raw water credit extended by the City at no charge to Leprino; b) receiving the 600 acre-feet maximum “applicable credit” for “Produced Water” defined therein and extended by the City, pending a final court determination of the actual amount of such water available to the City; and c) paying cash in lieu of water for approximately 813 acre-feet of water at the applicable “Leprino Water Bank Rate” defined therein; and

WHEREAS, in March 2016 Leprino paid for the remaining approximately 320 acre-feet of cash-in-lieu raw water credit available at the applicable Leprino Water Bank Rate under the Development Agreement, which brought the total amount of cash-in-lieu of raw water credit Leprino has purchased to 1,133 acre-feet, and

WHEREAS, the Development Agreement capped Leprino’s entitlement thereunder to purchase water at the applicable Leprino Water Bank Rate at 1,133 acre feet (1,344 acre-feet estimated demand minus 211 acre-feet of initial raw water credit), but provided that Leprino could, if needed, purchase additional water in excess of 1,133 acre-feet at a rate no greater than the City’s most favorable cash in lieu rate, or at an available water bank rate, in effect at the time of such additional purchase; and

WHEREAS, Leprino has determined that it will require water service for Phase III of the Project that exceeds the amounts initially estimated and addressed in the Development Agreement and previously purchased by Leprino pursuant thereto; and

WHEREAS, the City and Leprino desire to address Leprino's satisfaction of its raw water obligations with respect to its anticipated water demands for Phase III of the Project and, in connection therewith, amend certain related provisions of the Development Agreement; and

WHEREAS, the Development Agreement may be amended from time to time, in whole or in part, by mutual written consent of the parties hereto or their successors in interest; and

WHEREAS, the City and Leprino desire to amend the Development Agreement in accordance with this Fourth Amendment.

IN CONSIDERATION OF THE RECITALS, COVENANTS AND PROVISIONS SET FORTH HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT, SUFFICIENCY AND ADEQUACY OF WHICH ARE HEREBY ACKNOWLEDGED BY AND BETWEEN THE PARTIES, THE PARTIES AGREE AS FOLLOWS:

- I. Other Terms in Full Force and Effect. Except as specifically modified herein, all of the terms and conditions of the Development Agreement, First Amendment, Second Amendment and Third Amendment remain in full force and effect.
- II. Section I(F)(1)(d)(iii) of the Development Agreement is hereby amended to read as follows:
 - iii. Leprino's entitlement, under this Agreement, to purchase water at the Leprino Water Bank Rate, shall be capped at 1,133 acre-feet (1,344 acre-feet demand minus 211 acre-feet credit) except as specifically provided in the remainder of this subparagraph. Leprino may acquire additional water service in excess of 1,133 acre-feet as follows:
 - (a) Leprino may acquire additional water service of up to 410 acre-feet (for a total demand, including the 1,133 acre-feet of credit previously purchased, the 211 acre-feet of initial raw water credit extended at no charge, and the 600 interim Produced Water Credits further described herein, of 2,354 acre-feet) as follows:
 1. For every one and one-third (1 1/3) units of Colorado-Big Thompson Project water available under an allotment contract with the Northern Colorado Water Conservancy District ("C-BT Unit") that Leprino successfully assigns, dedicates and transfers to the City, Leprino shall receive one acre-foot of raw water credit pursuant to this subparagraph (a).
 2. For every successful assignment, dedication and transfer of an acre-foot of raw water credit attributable to C-BT Units as described in subparagraph (a)(1) above, Leprino shall further be

entitled to purchase, at rates and in the quantities described below, one acre-foot of cash-in-lieu raw water credit.

- a. Leprino may purchase the first 55 acre-feet of cash-in-lieu raw water credit described in this subparagraph (a)(2) at the Leprino Water Bank Rate, as calculated pursuant to Section I(F)(1)(d)(ii).
 - b. Commencing January 1, 2017, Leprino may purchase an additional 150 acre-feet of cash-in-lieu raw water credit described in this subparagraph (for a total of 205 acre-feet of cash-in-lieu raw water credits) from credits to be transferred into the City's water bank at the rate of \$12,000 per acre-foot (the "New Leprino Water Bank Rate"). Beginning January 1, 2018, the New Leprino Water Bank Rate for all of Leprino's future water dedication requirements shall increase at the rate of 4% per year, accruing and compounded annually from January 1, 2017.
3. Leprino may satisfy the raw water credits described in this subparagraph (a) in increments of at least 200 acre-feet at one time (with one final increment of less than 200 acre-feet permitted). For example, if in 2017 Leprino anticipates that it will require additional water service in 2018 of 240 acre-feet, it shall provide the City with the successful dedication of 160 C-BT units (for a raw water credit of 120 acre-feet) and may purchase 120 acre-feet of cash-in-lieu raw water credits for \$1,139,767.50 (55 acre-feet at the (adjusted) Leprino Water Bank Rate of \$6,541.23 per acre-foot, plus 65 acre-feet of cash-in-lieu raw water credits at the New Leprino Water Bank Rate of \$12,000). The timing and surcharge provisions of subsections I(F)(1)(d)(iv)-(v) of the Development Agreement shall apply to Leprino's acquisition of additional water service pursuant to this subparagraph (a).
- (b) Leprino may acquire additional water service beyond the amount described in subparagraph (a) hereof only by satisfying the City's raw water dedication requirements in existence at the time of any request for such additional service.

III. Subsections I(F)(1)(e)(i)-(v) of the Development Agreement are hereby amended to read as follows:

- i. Leprino hereby grants to the City a license, in accordance with and subject to the terms of this Agreement, to use, reuse, successively use, and/or dispose of all of the Produced Water portion of Leprino's wastewater discharge from the Plant for as long as Leprino operates the Plant (the "License"). The grant of the License shall be a condition precedent to the rights and obligations of the parties under this paragraph I(F)(1)(e).

- ii. Subsequent to the grant of the License stated above, the City will file a new or amended application in the Division 1 Water Court located in Weld County, Colorado (“Water Court”) to confirm its right, as the licensee of Leprino under and in accordance with this Agreement, to use, reuse, successively use, and/or dispose of the Produced Water, including without limitation the right to use the Produced Water for augmentation and replacement purposes (the “Water Court Application”). Leprino shall be entitled to review and approve the Water Court Application, any amendment thereto, and any proposed decree submitted to the Water Court. Leprino agrees to reasonably cooperate with the City and assist the City with such Application. The City shall prosecute the Water Court Application with reasonable diligence. The City shall pay its costs of filing and prosecuting the Water Court Application, including without limitation all necessary legal and engineering costs. Leprino may, at its option and expense, appear as a co-applicant in the Water Court Application to ensure that it is consistent with the terms of this Agreement. In the event of an appeal of a final decree of the Water Court, the parties shall share equally in the cost of such appeal. The City shall pay its costs of any proceedings on remand following an appeal. If additional measurement devices at the Plant are required by the State or Division Engineer (either during or after the pendency of the Water Court Application) or by the Water Judge entering a decree that confirms the right to use the Produced Water, the parties agree to share equally the costs of installation of such devices, and to mutually agree upon any burden to be assumed by either party to read, report the results of, and maintain such devices.
- iii. The City may lease the Produced Water Credits to third parties (“Lessees”); provided however, that any such lease shall expressly provide that the License of Produced Water Credits can be revoked as provided in Subsection I(F)(1)(e)(iv) below. In addition to the other provisions stated in this Agreement, including but not limited to the “No Third Party Beneficiary” clause stated in Section X.J below, any said lease shall expressly provide that no claim, right or cause of action whatsoever may be made by the Lessee against Leprino due to Leprino’s revocation of the City’s License for the Produced Water. The City and/or the City’s Lessees, consistent with the terms of the License, may at its option and expense, also file an application with the Colorado State Engineer for approval of a substitute supply plan allowing the use of the Produced Water under and in accordance with this Agreement, prior to obtaining a Water Court decree, in accordance with C.R.S. §37-92-308 (the “Substitute Supply Plan”). Leprino agrees to reasonably cooperate with the City and assist the City with such Plan. Leprino may, at its option and expense, appear as a co-applicant and participate in, the Substitute Supply Plan application to ensure that it is consistent with the terms of this Agreement.
- iv. Leprino shall have the right to revoke the License at any time: (a) during the pendency of the Water Court Application and/or Substitute Supply Plan, or (b) within 60 days of the entry of a Water Court Decree or (c) within 60 days following the issuance of an opinion on appeal from the Water Court decree, in

the event that Leprino in its sole discretion determines that any aspect of any of the following are unacceptable: (1) a substantive motion filed by any party in the Water Court proceeding, (2) a pretrial ruling or (3) a decree of the Water Judge in the Water Court Application, (4) a decision of the State Engineer denying or adding conditions to the Substitute Supply Plan, or (6) an opinion of the Colorado Supreme Court in an appeal of the Water Court Decree. In the event of such revocation, Leprino may use the formerly licensed Produced Water in any way it deems appropriate, subject to the following terms of this Agreement:

(a) In the event Leprino revokes the License, whether before or after the entry of a final Water Court decree, Leprino shall pay the Leprino Water Bank Rate, as calculated pursuant to Section I(F)(1)(d)(ii), for each acre-foot of Produced Water Credits realized and used by Leprino (currently 600 acre-feet); provided, however, that if the revocation occurs after January 1, 2024, then Leprino will be required to pay the then existing cash-in-lieu market rate for each acre-foot of Produced Water Credits realized and used by Leprino that are revoked by Leprino (unless a lower rate is separately negotiated between Leprino and the City at such time).

(b) If Leprino revokes the License during the pendency of the Water Court Application, following the entry of any Water Court decree, or during the pendency of any appeal thereof, the City agrees to seek dismissal of the Water Court Application (but not any other claim that may be pending in the same application brought by the City that does not involve use of the Produced Water) without prejudice (unless Leprino consents to dismissal with prejudice), move to vacate the portion of any decree involving use of the Produced Water, terminate use of the Produced Water following the conclusion of the then-existing term (not to exceed one year) of any previously approved Substitute Supply Plan, relinquish any right to the Produced Water, except as may be needed to fulfill the then existing term (not to exceed one year) of any such previously approved Substitute Supply Plan, and cease all ongoing proceedings; provided, that Leprino shall pay any and all costs (including attorney's fees) that are:

1. directly attributable to the claim for the Produced Water and are incurred by and awarded by the Court to third parties as a condition of the dismissal of the Water Court Application; and
2. not attributable to the City's conduct in the Water Court proceedings that was unrelated to prosecution of the claim for Produced Water under the terms of this Agreement; and

3. Fifty percent (50%) of all City costs (including, but not limited to, all attorneys' fees, fully-burdened City staff time, expert fees and other costs and fees) incurred in connection with the Water Court Application that are attributable to the claim for the Produced Water (including without limitation associated costs of calculating the portion of Leprino's wastewater discharge attributable to City water provided to Leprino, using the quantification method also needed to determine the Produced Water portion of such discharge), as a detailed description and total of the same shall be provided to Leprino in writing within 30 days of Leprino's exercise of its right to revoke the License and certified by the Water & Sewer Director and the City's outside water counsel.
- (c) If Leprino revokes the License, and Leprino wishes to accept an offer to license, lease or sell the formerly licensed Produced Water to another party (the "Offer"), Leprino shall:
1. afford the City a 120-day right of first refusal to license, lease, or purchase the formerly licensed Produced Water on terms identical to those stated in the Offer; and
 2. in the event that Leprino, its third party licensee, lessee or grantee seek to use the formerly licensed Produced Water for any purpose outside the Plant following the City's failure to exercise its right of first refusal described above, the quantification of such use must be consistent with the quantification method used by the City and included in any Substitute Supply Plan (during the term of said plan) or Decree of the Water Court to calculate the portion of Leprino's wastewater discharge attributable to City water provided to Leprino, and any Substitute Supply Plan, Water Court application, or other governmental approval needed for such outside use shall not be filed for at least 10 years after such revocation (unless Greeley in its sole discretion agrees to an earlier filing date).
- v. In the event that the Water Court enters a decree (after expiration or exhaustion of all rights of appeal) acceptable to Leprino in its sole discretion approving the Water Court Application, but the quantity of Produced Water available to the City thereunder (based upon the accounting approach approved in the Water Court Application and based upon the average quantity of water available to the City annually over a 36 month time period commencing after Leprino has completed Phase III of the Project and achieved full production and milk receiving capacity at the anticipated Phase III milk receiving design capacity) is less than 600 acre-feet of water per year, Leprino agrees to pay cash-in-lieu at the Leprino Water Bank Rate, as calculated pursuant to Section I(F)(1)(d)(ii), for an additional quantity of water that is necessary to achieve a total dedication that is

commensurate with Leprino 's estimated annual water usage at the time. In the event the Water Court enters a final decree (after expiration or exhaustion of all rights of appeal) acceptable to Leprino in its sole discretion approving the Water Court application, and the quantity of Produced Water useable by the City (based upon the 36 month average after Phase III completion as described above) is greater than 600 acre-feet of water per year (the "Excess Decreed Amount"), the City will have an exclusive option to license any, or all, of the Excess Decreed Amount. If the City exercises the option, no further credit against Leprino's raw water dedication requirement, as stated in subsection I(F)(1)(d) above, will be granted by the City; however, the City shall pay Leprino, at the New Leprino Water Bank Rate, as calculated pursuant to Section I(F)(1)(d)(iii)(a)(2)(b), for each acre-foot of the Excess Decreed Amount licensed to the City. In the event the City does not exercise its option to license any or all of the Excess Decreed Amount within 120 days following the entry of such final Water Court decree and quantification of Produced Water as described in this subparagraph (whichever occurs later), or to the extent that the City exercises such option within said 120-day period with respect to less than all of the Excess Decreed Amount, the City will relinquish any right to the unlicensed Excess Decreed Amount and City agrees that Leprino is free to use, license, lease, or sell to any other party on terms selected by Leprino in its sole discretion, the right to use such unlicensed Excess Decreed Amount.

- IV. The City's and Leprino's obligations pursuant to this Fourth Amendment are contingent upon the City Water and Sewer Board's transfer of 150 acre-feet of eligible raw water credits into the City's water bank, which shall occur no later than March 31, 2017. Except as provided herein, Leprino shall have no entitlement to purchase raw water credits from the City's water bank.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

CITY OF GREELEY, COLORADO

By: Mayor

ATTEST:

By: _____
City Clerk

APPROVED AS TO SUBSTANCE:

By: _____
City Manager

APPROVED AS TO LEGAL FORM:

By: _____
City Attorney

APPROVED AS TO AVAILABILITY OF FUNDS:

By: _____
Director of Finance

LEPRINO FOODS COMPANY,

a Colorado Corporation,

By: _____
Its: _____

APPROVED AS TO FORM AND ENFORCEABILITY:

By: _____
Its: Vice-President and General Counsel

WATER & SEWER BOARD AGENDA MARCH 15, 2017

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 8

TITLE: EXECUTIVE SESSION

RECOMMENDATION: INFORMATION ONLY

ADDITIONAL INFORMATION:

WATER & SEWER BOARD AGENDA MARCH 15, 2017

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 9

TITLE: LEGAL REPORT

POSSIBLE ACTION: STATEMENTS OF OPPOSITION, IF ANY

RECOMMENDATION: INFORMATION ONLY

ADDITIONAL INFORMATION:

WATER & SEWER BOARD AGENDA MARCH 15, 2017

ENCLOSURE _____ NO ENCLOSURE X

ITEM NUMBER: 10

TITLE: DIRECTOR'S REPORT

RECOMMENDATION: INFORMATIONAL ONLY

ADDITIONAL INFORMATION:

- Variance on Watering Restrictions from March 15th to April 15th, 2017
- C-BT Subcontract Allotment Approval by NCWCD Board
- CWCB Board Meeting to be held in Greeley in March

WATER & SEWER BOARD AGENDA MARCH 15, 2017

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 11

TITLE: SUCH OTHER BUSINESS THAT MAY BE
 BROUGHT BEFORE THE BOARD AND
 ADDED TO THIS AGENDA BY MOTION OF
 THE BOARD

RECOMMENDATION: TO BE DETERMINED

ADDITIONAL INFORMATION: