

WATER & SEWER BOARD AGENDA

Wednesday, March 21, 2018
2:00 p.m.

DISTRICT 6
ADMINISTRATION BUILDING
1025 9th Avenue
Greeley, CO 80631

1. Roll Call: _____ Chairman Harold Evans _____ Vice Chairman Mick Todd
 _____ Mr. Bob Ruyle _____ Mr. Fred Otis
 _____ Mr. Joe Murphy _____ Mr. Tony Miller
 _____ Mr. Manuel Sisneros _____ Mayor John Gates
 _____ Mr. Roy Otto _____ Mrs. Victoria Runkle
2. Approval of Minutes
3. Approval of and/or Additions to Agenda
4. Action: Approve and Recommend to City Council the Intergovernmental Agreement with Garden City for Treated Water and Sewer Service
5. Action: Approve 2018 Irrigation Farm Leases
6. Action: Approve WSSC Water Lease
7. Report: Waste Water Treatment Plant (#5 in educational series)
8. Executive Session
9. Action: Approve Rodenberger Farm Divestment (Dyecrest Dairy)
10. Legal Report
11. Director's Report
12. Such Other Business That May Be Brought Before The Board and Added to This Agenda by Motion of the Board



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

**City of Greeley
Water and Sewer Board
Minutes of February 21, 2018
Regular Board Meeting**

Chairman Harold Evans called the Water and Sewer Board meeting to order at 2:02 p.m. on Wednesday, February 21, 2018.

1. Roll Call

The Clerk called the roll and those present included:

Board Members:

Chairman Harold Evans, Vice Chairman Mick Todd, Tony Miller, Joe Murphy, Manual Sisneros, Mayor Gates, Roy Otto

Water and Sewer Department staff:

Water and Sewer Director Burt Knight, Operations Manager Bob Neal, Water Resources Operations Manager John Thornhill, Water Rights Manager Jennifer Petrzelka, Chief Engineer Adam Prior, Office Manager Shannon Metcalf, and Senior Administrative Assistant Ettie Arnold

Legal Counsel:

Water and Sewer Board Counsel Jim Witwer, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer and Environmental and Water Resources Attorney Aaron Goldman

Other Guests: Brad Mueller, Community Development Director, Citizens Jack Snyder and Ron Randall

2. Approval of Minutes

Mr. Murphy moved and Vice-Chairman Todd seconded to approve the January 18, 2018 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. Action: Approve Suburban Ditch Agreement

Mr. Thornhill presented information on the development proposal. WJY Enterprises, LLC is proposing a residential development on a parcel located just west of 47th Avenue and south of 24th Street that is historically dry land. The Suburban Ditch Company is willing to sell 3 shares of GLIC System water to the developer, which shares the developer would like to dedicate to the City in order to satisfy its raw water obligation for the proposed development. Because the shares were not historically used to irrigate the property being developed, acceptance of the shares in dedication by the City requires approval by the Water & Sewer Board of an exception to the standards set forth in Resolution 3, 1995.

Mr. Miller made motion for approval of agreement, which was seconded by Mr. Sisneros. The motion carried 5-0.

5. Report: 4th Quarter Financial Summary

Mr. Dial presented the year-end summary for water and sewer expenditures and revenues. Overall water revenue exceeded the budget for the year. Inside Residential, the City of Evans, and the Town of Milliken all exceeded their revenue targets for the year. Inside Industrial, Inside Commercial, and the Town of Windsor were all below their revenue targets for the year. Water sales through fire hydrants and augmentation water sales were both well above their revenue targets. Overall sewer revenue missed the year-end budget target by 5.5% due to lower than anticipated growth and less usage per account for residential and commercial customers than what was modeled. Water Plant Investment Fee revenue totaled \$2,571,225 through the end of 2017. This represents 37% of the anticipated budget of \$6,828,660. Sewer Plant Investment Fee revenue totaled \$1,234,693 through the end of 2017. This represents 40% of the anticipated budget of \$3,121,885. Operating expenditures for both water and sewer were below their budgets at year-end.

Mr. Mueller joined the meeting at 2:17 p.m.

6. Report: CIP Update

Mr. Prior presented the 4th Quarter 2017 CIP report. He reported on the status of distribution, transmission, man-hole rehab and water treatment plant projects. Active projects include the 59th Avenue and F Street Sewer Repairs, Milton Seaman Access Bridge Replacement and Ashcroft Draw Sewer, Phase I.

7. Report: Distribution and Collections (Fourth in Series)

Mr. Neal provided a summary on Greeley water resources, water storage facilities, operation modifications, transmission, and use of water shares.

8. Action: Approve and Recommend to Council the Third Amendment to the Fifth Interim Agreement for the Windy Gap Firing Project

Ms. Petrzelka explained that the Fifth Phase of the Project consists of continuation of work to obtain local, state and federal permits and approvals required for the Project. The Third Amendment to the Fifth Interim Agreement is an intergovernmental agreement that requires approval of City Council.

The WGF Enterprise estimated that Greeley's pro rata share of the costs of the Fifth Phase of the Project was \$1,167,649 for the 2017 calendar year for 9,189 acre feet storage allocation. Greeley has paid the WGF Enterprise its pro rata share of the 2017 calendar year costs.

The WGF Enterprise estimated that Participant's pro rata share of the costs of the Fifth Phase of the Project is \$918,900 for the 2018 calendar year. Participant will pay the WGF Enterprise its pro rata share of the 2018 calendar year costs on or before March 15, 2018.

Vice-Chairman Todd made motion, seconded by Mr. Murphy to approve and recommend to City Council the Third Amendment to the Fifth Interim Agreement for the Windy Gap Firing Project. The motion carried 5-0.

Mrs. Vic Runkle joined the meeting at 3:12 p.m.

9. Executive

10. Legal Report

Mr. Witwer stated there was one statement of opposition:

- a. The Water Supply and Storage Company (17CW3194): Application for Conditional Storage Water Right and Change of Conditional Water Right related to Curtis Lake

Mr. Witwer provided the following update:

In January, Greeley filed an application for a finding of reasonable diligence, and to make absolute in part, conditional exchange rights associated with its change of Tunnel Water Company water rights (Case No. 18CW3016).

Mr. Murphy moved and Vice Chairman Todd seconded to authorize the filing of a statement of opposition in Case No. 17CW3194 for staff and legal counsel to seek

resolution of issues raised by the case as consistent with Water and Sewer Board Resolution No. 3, 2015. The motion carried 5-0.

He also provided an update on Windy Gap. There was a federal court challenge brought forth by several environmental groups to the Army Corps of Engineers regarding permit decisions on Windy Gap Firing Project and it was filed last year. Northern Colorado Water Conservancy District's Municipal Subdistrict, the project sponsor, moved to intervene in that lawsuit as they were not original parties to the suit. The Petitioners recently filed a response which showed no genuine opposition. The Judge has not ruled on the motion to intervene yet, but will likely grant it. This will allow the Subdistrict to participate in the lawsuit, rather than just rely on federal agencies to defend their decisions. The Petitioner's Response contained offhand comments, noting the project should not proceed while the litigation is going forward, being strategic about potentially stopping the project. They could show they are entitled to a preliminary injunction, which potentially would include posting bonds, etc. They took the opportunity to tell the court what they thought about that without filing the motion.

11. Director's Report

Mr. Knight spoke to the following:

- Poudre Runs Through It Forum
- Colorado Water Congress
- Snowpack Update

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

Harold Evans, Chairman

Shannon Metcalf, Office Manager

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 4

TITLE: ACTION: APPROVE AND RECOMMEND TO
CITY COUNCIL THE INTERGOVERNMENTAL
AGREEMENT WITH GARDEN CITY FOR
TREATED WATER AND SEWER SERVICE

RECOMMENDATION: APPROVE AND RECOMMEND TO CITY
COUNCIL

ADDITIONAL INFORMATION:

Staff recommends that the Water and Sewer Board approve the enclosed IGA for treated water and sewer service with the Town of Garden City, and recommend approval of the same to City Council. Greeley has been providing treated water and sewer service to its customers in Garden City for many years, and this agreement formalizes the details of that service.

The agreement acknowledges the ongoing consent that Garden City has given Greeley to serve these extra-territorial customers, and grants to Greeley the necessary access to operate, maintain, and repair its infrastructure within Garden City. The agreement also requires that Garden City incorporate relevant sections of the Greeley Municipal Code by reference to ensure that this service is subject to the same standards and requirements as service within the City. Garden City customers will be charged in accordance with the outside-the-city water and sewer rates set annually by the City. The agreement is for an initial term of 25 years with automatic 10-year renewals, subject to the provisions governing termination with and without cause.

**INTERGOVERNMENTAL AGREEMENT FOR
TREATED WATER SERVICE & SEWER SERVICE
BETWEEN THE CITY OF GREELEY, COLORADO
AND THE TOWN OF GARDEN CITY, COLORADO**

This Intergovernmental Agreement for Treated Water Service and Sewer Service (“**Agreement**”) is made this ____ day of _____, 2018, by and between the City of Greeley, a Colorado home rule municipality (“**Greeley**”) and the Town of Garden City, a Colorado statutory town (“**Garden City**”) for the treatment and delivery of potable water to Garden City by and through Greeley’s treatment facilities and transmission and distribution lines, and conveyance of sanitary sewer from Garden City to Greeley’s wastewater treatment facility for treatment and discharge back to the Cache la Poudre River.

WHEREAS, pursuant to § 29-1-203, C.R.S., governments may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units of government; and

WHEREAS, Greeley and Garden City desire to enter into a long-term agreement by which Greeley will continue to provide for the treatment and delivery of potable water to taps within the territorial limits of Garden City and the collection, conveyance, and treatment of sanitary sewer from Garden City; and

WHEREAS, Greeley and Garden City desire to reduce the understandings, terms, and conditions of said agreement to writing.

NOW, THEREFORE, in consideration of the mutual covenants, undertakings, terms, and conditions contained herein, Greeley and Garden City agree as follows:

1. **Acknowledgement of Water and Sewer Service.** In accordance with §31-35-402(1)(b), C.R.S., Garden City hereby acknowledges that, pursuant to the terms and conditions of this Agreement, Greeley is providing and will provide treated, potable water and sanitary sewer service to all classes of water users and sanitary sewer users in Garden City and Garden City hereby consents to the same. Greeley and Garden City acknowledge that all classes (residential, commercial, industrial, municipal, and all other classes) of Garden City users receiving potable water and sanitary sewer service from Greeley are customers of the Greeley Water and Sewer Department (“**Garden City Customers**”). The territory to be served by Greeley pursuant this Agreement is the entirety of Garden City’s corporate limits, as it now exists or expands during the term of this Agreement. The treated water delivered by Greeley to Garden City residents shall be potable water, the quality of which complies with applicable state and federal law.
2. **Ownership of Greeley Water System.** The “**Greeley Water System**” is defined as Greeley’s water treatment plants, treated water conveyance and storage systems, pump stations and related appurtenances for the collection, distribution, measurement, and management of water, as well as Greeley’s similar systems for the collection, transmission, and treatment of sewage, whether located within Greeley, Garden City, or outside of both municipalities. Garden City acknowledges and agrees that no rights or ownership of the Greeley Water System shall become vested in Garden City as a result of the services provided by Greeley pursuant to this Agreement, including those portions of the Greeley Water System located within Garden City (the “**Garden City Portion**”).

3. **Maintenance, Repair, and Replacement of Garden City Portion.** Greeley shall be solely responsible for the maintenance, repair, and replacement of the Garden City Portion. Maintenance, repair, and replacement of the Garden City Portion should be undertaken by Greeley to the same objective standards as the rest of the Greeley Water System in accordance with industry standards and the Greeley Municipal Code; water and sewer service to Garden City residents shall meet the same objective standards as those set for customers inside the City of Greeley. Notice of routine maintenance and repair of the Garden City Portion that lies within Garden City public areas shall be provided to Garden City at least fourteen (14) days in advance of such maintenance. The parties agree to work cooperatively to identify times for conducting routine maintenance and repairs to mitigate potential impact to Garden City residents, businesses, and scheduled public events to the extent practicable. When circumstances require Greeley to conduct emergency maintenance or repairs on the Garden City Portion situated within Garden City public areas, Greeley shall provide as much notice as practicable under the circumstances. Prior to performing routine or emergency maintenance, Greeley shall be responsible for locating any utilities in proximity to the Garden City Portion. During the performance of any such maintenance, Greeley shall take all precautions necessary to protect members of the public, including the utilization of proper signage and barriers, and shall coordinate such activities with Garden City. Following the completion of any maintenance activities of the Garden City Portion, Greeley shall promptly restore, to the extent reasonably practicable, areas in Garden City disturbed by the maintenance to their pre-maintenance conditions. Replacement of the Garden City Portion, including design, materials, demolition, construction, and restoration (“**Replacement Activities**”), shall be at Greeley’s sole expense, notwithstanding that the Garden City Portion is located outside of the municipal boundaries of the City of Greeley. Greeley agrees to consult and coordinate Replacement Activities with Garden City, but Greeley shall retain sole discretion over all project specifications related to the Garden City Portion and Replacement Activities; provided the project specifications are in accordance with this Agreement.
4. **Grant of Easement.** Garden City hereby grants to Greeley an easement to access public property within Garden City for conducting operation, maintenance, repair, and replacement activities on the Garden City Portion (the “**Easement**”). The term of this Easement shall coincide with the Term of this Agreement, as defined below. The Easement shall grant access to representatives of the City of Greeley, its Water and Sewer Department, their authorized agents, and contractors to the Garden City Portion located within municipally-owned areas in Garden City for purposes of inspecting, maintaining, repairing, replacing, operating, testing, and locating the Garden City Portion (“**Easement Activities**”). The Easement permits Greeley to access those portions of Garden City’s municipally-owned property as necessary for Greeley to conduct Easement Activities on the Garden City Portion, and Greeley agrees to complete such Easement Activities in a similar fashion, using similar equipment, and within a similar timeframe, as it would for other portions of the Greeley Water System.
5. **Garden City Taps.** As of the time this Agreement is entered into, there are 111 taps within Garden City receiving treated water from Greeley (“**Existing Taps**”). Garden City shall direct applicants for new or modified residential, commercial, industrial, or other developments within Garden City (“**Future Garden City Taps**”) to the Greeley Water and Sewer Department, and Garden City further agrees that it shall not take final action on any such applications until such time as the Greeley Water and Sewer Department acknowledges in writing that the Future Garden City Tap applicant has satisfied all applicable conditions and requirements for municipal water service, as set forth by the City of Greeley, its Water and Sewer Board, and the applicable provisions of the Greeley Municipal

Code adopted by Garden City. The process used by the City of Greeley and its Water and Sewer Department for considering Future Garden City Taps shall be substantially similar to the process used to consider new or modified taps within the City of Greeley. The proponent of a Future Garden City Tap shall bear all costs associated with obtaining the necessary approvals from Greeley. Nothing in this Agreement is intended to grant to Greeley the right or ability to affect the types, location, or manner of development within Garden City, other than to ensure that Future Garden City Taps comply with applicable objective standards and requirements for municipal water service. Greeley agrees not to refuse water service to Existing Taps and Future Garden City Taps solely based on the uses to which the water is put in Garden City, so long as such uses are compatible with State Law. Garden City shall not issue a final permit for occupancy to any Future Garden City Taps unless and until Greeley provides the aforementioned written acknowledgment that a water tap has been issued.

6. **Raw Water Requirements.** Greeley and Garden City agree that any unpaid raw water and plant investment fees for which Existing Taps may be responsible in exchange for municipal water service historically provided by Greeley shall be considered paid in full. Greeley permanently and irrevocably waives any and all claims for the recovery of said raw water and fees as partial consideration for this Agreement. As described above, Future Garden City Taps shall be subject to all applicable City of Greeley standards and requirements for municipal water service set forth by the Greeley Water and Sewer Board and the Greeley Municipal Code, including but not limited to those pertaining to raw water dedication and plant investment fees. Garden City shall not be entitled to any refund for raw water dedicated, cash paid in lieu of dedication, or plant investment fees upon termination of this Agreement.
7. **Sanitary Sewer Line.** On September 1, 1955 Garden City issued a permit to Greeley for the construction of a main sewer line in Garden City (“**1955 Permit**”). The sewer line was constructed in 1956. As part of the 1955 Permit, Greeley agreed to (a) maintain the sewer line at all times, (b) assume full responsibility for any damages it may cause, (c) pay for any repairs that must be made to this portion of the street as a result of the sewer line installation, and (d) protect the travelling public during installation of the sewer line. The terms of the 1955 Permit remain in full force and effect, and are incorporated herein by reference.

The 1955 Permit does not explicitly grant to Greeley a right to access the sewer line within Garden City for the maintenance, repair, or replacement of the sewer line. The Easement described in ¶ 4 of this Agreement shall include access for Greeley to the sewer line described in the 1955 Permit. Maintenance of the sewer line shall be undertaken in accordance with ¶¶ 3 and 4 of this Agreement.

8. **Rates.**
 - 8.1. **Treated Water Rates.** Greeley shall charge its Garden City Customers in accordance with the Outside-the-City water rates set annually by the City of Greeley.
 - 8.2. **Sanitary Sewer Rates.** Greeley shall charge its Garden City sewer Customers in accordance with the Outside-the-City sewer rates set annually by the City of Greeley.
 - 8.3. **Review of and Comment on Rates.** Greeley acknowledges that the processes for setting water and sewer rates, as well as the City budget, are undertaken during public meetings of the Greeley Water and Sewer Board and the Greeley City Council. Nothing in this Agreement shall be

construed to deprive Garden City Customers, or representatives of the Garden City Board of Trustees, of the right to review and comment to the Greeley Water and Sewer Board and Greeley City Council during the annual rate-setting and budgeting processes.

9. **Billing.** Greeley shall be responsible for billing its Garden City Customers for treated water and sanitary sewer service in accordance with the Rates set under this Agreement.

10. **Garden City Municipal Code.** Within twelve (12) months of the effective date of this Agreement, the Garden City Board of Trustees shall adopt and incorporate by reference into the Garden City Municipal Code the following provisions of the Greeley Municipal Code, as these sections are currently written and may be hereafter amended. Greeley shall provide notice to Garden City of any relevant amendments to the Greeley Municipal Code provisions below, and Garden City shall update its incorporation of such provisions into the Garden City Municipal Code accordingly.

- 10.1. Chapter 14.04 (Water and Sewer Administration) – §§14.04.180 through 14.04.270
- 10.2. Chapter 14.08 (Water) – all sections
- 10.3. Chapter 14.11 (Industrial Pretreatment) – all sections
- 10.4. Chapter 14.12 (Sanitary Sewers) – all sections
- 10.5. Chapter 14.24 (Irrigation) – all sections

11. **Emergency Water Operations.** In the event of a shortage of treated water caused by drought conditions or the inability of a component of the Greeley Water System to function, Greeley and Garden City agree to share proportionally in in water use reductions. Without limiting the foregoing contemplated reductions, Garden City shall incorporate any outdoor watering restrictions imposed by Greeley in response to drought conditions. Greeley and Garden City staff shall meet and mutually agree to a schedule for reducing treated water demand, with an emphasis on reducing nonessential uses such as lawn and parks irrigation. If a treated water shortage persists, emergency rates may be imposed by Greeley to reduce discretionary consumption of treated water, provided that any such emergency rates are imposed equitably.

12. **General Terms.**

- 12.1. **Term.** In the interest of reliability, security, and public health and welfare, this Agreement shall be for an initial term of twenty-five (25) years from the date it is fully executed. After this initial term, this Agreement shall automatically renew for successive ten (10) year terms, unless terminated as provided below.

12.2. **Default and Termination.**

12.2.1. In the event either party fails to meet the terms and conditions of this Agreement, such failure shall constitute a default of this Agreement and the non-defaulting party may give notice of the perceived default to the defaulting party. The defaulting party shall have the opportunity to cure any default within ninety (90) days following receipt of the notice. Upon the cure of any default, this Agreement shall remain in full force and effect. Upon receipt of notice of the perceived default, the defaulting party may invoke dispute resolution as provided below.

12.2.2. If after the ninety (90) day cure period or any mutually agreed-to extensions, the non-defaulting party determines that the default has not been cured, it may give five (5) years' notice of its termination of this Agreement. Nothing herein shall limit either party from seeking damages and amounts due from the other party upon termination of this Agreement by default.

12.2.3. **Termination in Absence of Default.** This Agreement may be terminated by either party, without cause, by giving an advance written notice to the other party at least eight (8) years before the end of the Agreement Term or any subsequent renewals thereof.

12.2.4. **Effect of Termination; Continuation of Service.** Greeley and Garden City acknowledge that Garden City Customers receive treated water and sewer service from Greeley subject to the applicable legal authority governing extraterritorial service by a municipal water and sewer provider. Termination of this Agreement, by default, expiration, or otherwise, shall not prohibit Greeley from providing water and sewer services to its Garden City Customers. Termination of this Agreement by default, expiration, or otherwise shall not be construed in and of itself as a revocation by Garden City of the consent to service more particularly described in Paragraph 1 of this Agreement and required by §31-35-402(1)(b), C.R.S. Revocation of such consent by Garden City shall only be made in a written form and delivered to Greeley in accordance with the Notice provisions in Paragraph 12.3 below.

12.3. **Notice.** Any notice required to be given under this Agreement shall be delivered to the following:

Garden City: Town Administrator
Town of Garden City
621 27th Street Road
Garden City, CO 80631
E-mail: info@townofgardencity.com

Copy to: Town Attorney
Amy C. Penfold, Esq.
Law Office of Amy C. Penfold, LLC
1813 61st Avenue, #101
Greeley, CO 80634
E-mail: amy.penfold.jd@gmail.com

Greeley: City of Greeley
Attn: Roy Otto, City Manager
1000 10th Street
Greeley, CO 80631
E-mail: roy.otto@greeleygov.com

Copy to: Greeley City Attorney's Office
Attn: Doug Marek, City Attorney
1100 10th Street, Suite 401
Greeley, CO 80631
E-mail: doug.marek@greeleygov.com

- 12.4. **Dispute Resolution.** Should disagreements arise regarding the interpretation of any portion of this Agreement, the parties agree to make efforts to resolve such disputes through negotiation; first, at the staff level; and second, with the respective Water and Sewer Boards and/or governing bodies of each municipality. Procedures for such negotiations shall be established by mutual agreement at the time, and may, with the mutual agreement of the parties, involve the use of outside mediators. Any negotiations and resolution agreements reached must be within the legal authority granted to the parties by appropriate City Charters and/or State Statutes, or shall be null and void. Notwithstanding anything to the contrary in this Agreement, it is expressly agreed between the parties that this dispute resolution shall not be applied to the authorities granted to the Greeley Water and Sewer Board pursuant to the Greeley City Charter, including but not limited to, the authority to establish minimum water rates.
- 12.5. **No Public Utilities Commission Control.** The parties acknowledge that the Greeley Water System is an Enterprise, as that term is defined by Article X, §20 of the Colorado Constitution, and is not a public utility subject to the jurisdiction of the Colorado Public Utilities Commission. Garden City, its employees, and elected or appointed officials, agree neither to assert nor support any statement, policy, petition, rulemaking, or other legislative action in an attempt to subject the Greeley Water System to the rate-making authority or jurisdiction of the Colorado Public Utilities Commission.
- 12.6. **Amendment.** This Agreement shall be amended only via a written agreement duly authorized and executed by the governing bodies of each municipality.
- 12.7. **Jurisdiction and Venue.** This Agreement shall be interpreted pursuant to the laws of the State of Colorado. Venue to enforce the terms of this Agreement shall be in Weld County District Court.
- 12.8. **Release; Hold Harmless; Indemnification.** Both Garden City and Greeley are public entities as that term is defined in the Colorado Governmental Immunity Act, § 24-10-101 *et seq*, C.R.S. (the “Act”) and both have the benefits and responsibility enumerated in said Act. Nothing herein should be construed as a waiver of either party of their rights under the Act. Both Garden City and Greeley shall defend any and all claims for injuries and damages arising as a result of negligent or intentional acts or omissions of the parties, their agents, employees or assigns in accordance with the requirements and limitations of the Act.

Greeley shall be responsible for any and all liability for injuries or damages caused by any negligent acts or omissions of Greeley, its officers, employees and agents, performing functions or activities within Garden City corporate limits. Greeley shall provide adequate worker’s compensation insurance for all of its employees, agents and assigns engaged in activities and functions within Garden City corporate limits.

Garden City shall be responsible for any and all liability for injuries or damages caused by any negligent acts or omissions of Garden City, its officers, employees and agents, performing functions or activities upon the property of Greeley. Garden City shall provide adequate worker’s compensation insurance for all of its employees, agents and assigns engaged in activities and functions upon the property of Greeley.

Upon request of the either, Garden City and Greeley shall provide current certificates or other adequate proof of insurance stating the coverages outlined in this paragraph are in full force and effect.

- 12.9. **This Agreement Controls and Supersedes Prior Agreements.** This Agreement shall supersede any and all terms and conditions of treated water service and sewer service previously existing between Garden City and Greeley.

IN WITNESS WHEREOF, the parties hereto have executed this Intergovernmental Agreement for Treated Water Service and Sewer Service on the day and year first written above.

CITY OF GREELEY, COLORADO

ATTEST:

By: _____
Greeley Mayor

By: _____
Greeley City Clerk

APPROVED AS TO SUBSTANCE:

APPROVED AS TO LEGAL FORM:

By: _____
Greeley City Manager

By: _____
Greeley City Attorney

WATER AND SEWER BOARD

APPROVED AS TO AVAILABILITY OF FUNDS:

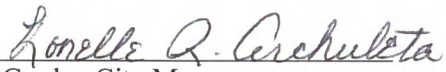
By: _____
Board Chairman

By: _____
Greeley Finance Director

ATTEST:

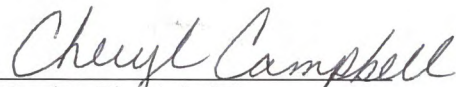
TOWN OF GARDEN CITY, COLORADO

By: 
Garden City Clerk

By: 
Garden City Mayor

APPROVED AS TO SUBSTANCE:

APPROVED AS TO LEGAL FORM:

By: 
Garden City Administrator

By: 
Garden City Town Attorney

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 5

TITLE: ACTION: APPROVE 2018 IRRIGATION
 WATER AND FARM LEASE AGREEMENTS

RECOMMENDATION: APPROVE 2018 LEASE AGREEMENTS

ADDITIONAL INFORMATION:

Water Resources staff recommends that the Water and Sewer Board approve the four (4) enclosed irrigation water and farm leases. The leases are for an initial term of one year each, with the potential for up to four subsequent annual renewals upon written mutual agreement between the City and lessee.

Three of the enclosed leases are for Water Supply and Storage Company farms previously acquired by the City, and the WSSC shares associated with one of those farms have already been changed. The fourth lease is for an agricultural property inside the City limits that has historically been irrigated with water from the Boyd Irrigation Company and Greeley Irrigation Company.

Water Resources staff also recommends that the Board approve this form of irrigation water and farm lease agreement for use on similar farm lease transactions in the future.

FARM LEASE AGREEMENT

This FARM LEASE AGREEMENT ("Lease Agreement") is entered into this ____ day of _____, 2018, by and between the CITY OF GREELEY, COLORADO, c/o Burt Knight, Director of Water and Sewer, whose address is 1100 10th Street, Third Floor, Greeley, Colorado 80631 ("Greeley"), and TERRY GLOVER (a.k.a. GLOVER FARMS), whose legal address is 3907 West 4th Street, Greeley, Colorado 80634 ("Glover" or "Lessee").

RECITALS

WHEREAS, Greeley owns agricultural property consisting of approximately thirty (30) acres of irrigable cropland located at 4949 F Street in Greeley, Colorado, which is legally described on Exhibit A, attached hereto and made a part hereof, (the "Property"); and,

WHEREAS, Greeley owns certain shares in the Greeley Irrigation Company and in the Boyd Irrigation Company that may be used to irrigate the Property (the "Water Rights"); and,

WHEREAS, Greeley desires to lease, under the terms of this Lease Agreement, the Water Rights and the Property to Glover for agricultural purposes; and,

THEREFORE, for and in good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Greeley and Glover agree as follows:

LEASE AGREEMENT

1. **FARM LEASE.** Greeley does hereby lease to Glover the above-described Property and Water Rights for agricultural purposes, subject to the terms and conditions of this Lease Agreement.

2. **TERM OF LEASE.** This lease of the Property shall begin on the effective date of the Lease Agreement set forth above, and end on December 31, 2018 (the "Lease Term"). The Agreement expires at the end of this initial term, but may be renewed for up to four subsequent terms of one year each, upon execution of a written mutual agreement of renewal by the parties. Notwithstanding the foregoing, this Lease Agreement may be terminated for any reason by Lessee or the City prior to any irrigation season by delivering an advance written notice to the other party on or before March 1 of that calendar year.

3. **LEASE AMOUNT.** Lessee shall pay to Greeley, Three Thousand Nine Hundred Dollars (\$3,900.00) ("Lease Amount") for the use and occupancy of the Property, which is equal to One Hundred and Thirty Dollars (\$130.00) per acre of approximately thirty (30) acres irrigable cropland. The Lease Amount shall be due and payable in two equal installments. The first installment of One Thousand Nine Hundred and Fifty Dollars (\$1,950.00) shall be due March 31st. The second installment of One Thousand Nine Hundred and Fifty Dollars (\$1,950.00) shall be due December 15th.

a. For each year this Lease Agreement is renewed in accordance with Paragraph 2 above, the Lease Amount shall be adjusted in accordance with the increase in the Consumer Price Index ("CPI") for the Denver-Boulder-Greeley Region, using the CPI level on the date this Lease Agreement is mutually executed as the basis for comparison. Regardless of any future decrease in the CPI, the Lease Amount shall never be less than \$130.00 per acre.

4. IMPROVEMENTS; CONDITION OF PROPERTY. This Lease Agreement does not grant Lessee any right to the use of structures or improvements located on the Property. Prior to signing this Lease Agreement, Lessee has inspected or caused to be inspected the Property and acknowledges that the Property is being leased "as-is." No additional representation, statement or warranty, express or implied, has been made by or on behalf of Greeley as to the condition of the Property or of any improvement located thereon and used in connection with the Property. In no event shall Greeley be liable for any defect in the Property or for any limitation on the use of the Property as irrigated cropland. In addition, Lessee acknowledges that the minerals have been severed from the surface rights, and the surface rights may be subject to the development of the mineral rights.

5. WATER RIGHTS.

a. Lessee may, at no additional expense, use the Water Rights for agricultural irrigation of the Property, subject to the terms and conditions of this Lease Agreement. This Lease Agreement entitles the Lessee to the use of irrigation water pursuant to the Water Rights only up to the amount necessary to irrigate the Property, which shall be determined by Greeley in its sole discretion.

b. Greeley shall be responsible for any ditch, reservoir, or augmentation company assessments or other charges and expenses attributable to the Water Rights.

c. Lessee agrees to use the Water Rights, and the water delivered pursuant to this Lease Agreement, only for agricultural irrigation of the Property.

d. Lessee agrees to take and use the water delivered pursuant to the Water Rights to the fullest extent possible, and shall undertake no action which could be construed as abandonment of the Water Rights. Lessee shall provide advance written notice, on or before February 1, of any year, to Greeley if he no longer intends to irrigate the Real Estate, or any portion thereof, with the Water Rights during the following Lease Term.

e. Lessee shall not sublease or rent the Water Rights to others or allow others to use the Water Rights or water delivered pursuant to said Water Rights on lands or for uses other than those described in this Section 5.

f. Lessee shall comply with all of the rules, regulations, and policies of the ditch and reservoir companies that delivers the Water Rights.

g. Greeley makes no warranties or guarantees of, or representations about, the amount of water that will be yielded or delivered pursuant to the Water Rights.

h. Greeley shall not be liable for any failure of delivery of water pursuant to the Water Rights due to drought or other force of nature or failure of any ditch and/or reservoir delivery systems.

6. AUTHORIZED USE OF THE PROPERTY.

a. Lessee shall occupy and use the Property solely for agricultural purposes.

b. Lessee shall be responsible for the proper care of the Property consistent with sound agricultural practices.

c. Lessee shall apply all weed control chemicals and fertilizers in compliance with applicable federal, state, and local regulations.

d. Lessee shall irrigate the Property with the Water Rights and the water delivered pursuant to this Lease Agreement.

e. Lessee shall furnish, at Lessee's sole expense, all labor, machinery, fertilizer, weed spray, and other items needed for farming the Property.

7. LESSEE'S COVENANTS AND AGREEMENTS.

a. Lessee shall maintain and make any necessary repairs, at Lessee's expense, to any lateral ditches, headgates, and other personal property necessary to deliver the Water Rights to the Property and to the pivots, wells, siphons, and pumping lagoons used in connection with the Water Rights on the Property.

b. Lessee shall keep the Property, including any non-irrigated land, clear of weeds.

c. Lessee shall not assign this Lease Agreement nor sublet the Property or any part thereof without the prior written consent of Greeley, which consent shall not be unreasonably withheld.

d. Lessee shall not construct, nor permit construction of any structure, building or other improvement, temporary or otherwise, on the Property without Greeley's prior written consent, which consent shall be in the sole discretion of Greeley.

e. Lessee shall not erect, paint, or maintain any signs on the Property without securing the prior written consent of Greeley, which consent shall be in the sole discretion of Greeley.

f. Lessee shall not allow any noise, odors, fumes, or vibrations on the Property other than those caused by normal agricultural practices that would cause disruption of normal activities on adjacent properties.

g. Lessee shall not use or permit to be used any insecticide, pesticide, rodenticide, herbicide, or other chemical substance on the Property for weed, pest, or rodent control or fertilization which is prohibited by any federal, state or local statute, ordinance, resolution, rule or regulation.

h. Lessee shall not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or claim on or with respect to the Property.

i. Lessee agrees, covenants, and warrants to maintain the Property throughout the term of the Lease in as good repair and condition as at the commencement of this Lease Agreement.

i. Lessee agrees to deliver up and surrender to Greeley possession of the Property at the expiration or termination of this Lease Agreement.

j. Lessee agrees to pay all utilities, including but not limited to, gas, water, electricity, and trash, that are used in connection with the Property.

8. INDEMNIFICATION.

a. Lessee assumes the risk of loss or damage to any crops on the Property whether from windstorm, fire, earthquake, snow, water run-off, soil conditions, or any other causes whatsoever.

b. Lessee releases and agrees to indemnify, defend and hold harmless Greeley, its agents, officers, employees, and volunteers from and against all damages, claims, actions, causes of action, demands, judgments, costs, expenses of every kind and nature, predicated upon injury to or death of any person or loss of or damage to any property, arising, in any manner, from Lessee's operations or use of the Property under this Lease Agreement.

c. Nothing in this Lease Agreement is intended constitute a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 et seq., as applicable now or hereafter amended.

9. HAZARDOUS WASTE.

a. Lessee shall not cause or permit any "Hazardous Material" (defined below) to be brought upon, kept, or used in or about the Property by Lessee, its agents, employees, contractors, or invitees without the prior written consent of Greeley. Greeley shall not unreasonably withhold consent so long as Lessee demonstrates to Greeley's reasonable satisfaction that such Hazardous Material is necessary or useful to Lessee's use of the Property for agricultural purposes, so long as any chemicals (including without limitation fertilizer, herbicides, insecticides) are applied in conformance with good farming methods, applicable rules and regulations and the label directions of each chemical and kept, and stored in a manner that complies with all laws regulating such chemicals.

b. If Lessee breaches the obligations stated herein, or if the presence of Hazardous Material on the Property caused or permitted by Lessee results in contamination of the Property, or if contamination of the Property by Hazardous Material otherwise occurs for which Lessee is legally liable to Greeley for damage resulting therefrom, then Lessee shall indemnify, defend, and hold Greeley harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses which arise during or after the lease term as a result of such contamination. This indemnification of Greeley by Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on or under the Property.

c. Without limiting the foregoing, if the presence of any Hazardous Material on the Property caused or permitted by Lessee results in any contamination of the Property, Lessee shall promptly take all actions at its sole expense as are necessary to return the Property to the condition existing prior to the introduction of any such Hazardous Material to the Property; provided that Greeley's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse effect on the Property.

d. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Colorado, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under appropriate state law provisions; (ii) petroleum; (iii) asbestos; (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321; (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6903; (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601; or (vii) defined as a

“regulated substance” pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. § 6991.

10. RESERVATIONS. Greeley reserves its rights under this Lease Agreement to (i) have its officers, employees, and representatives enter and inspect or protect the Property at any time; (ii) use any portion of the Property for public utilities and as ingress and egress for public use and rights of way; (iii) use, repair, install, replace, and maintain public utilities and rights-of-way on, over, or under the Property; and (iv) use any portion of the Property as a site for the application of digested biosolids.

11. TERMINATION FOR CAUSE.

a. Lessee agrees to observe and perform the terms and conditions of this Lease Agreement. If Lessee fails to make payment of the Lease Amount, or any part thereof, or if Lessee fails to observe or perform any term or condition of this Lease Agreement, then Greeley, upon written notice to Lessee, may in its sole discretion terminate this Lease Agreement and re-enter and repossess the Property, with or without legal proceedings, using such force as may be necessary, and remove any property belonging to Lessee without prejudice to any claim for rent or for the breach of covenants hereof. Lessee agrees to indemnify and hold Greeley harmless from and against any costs for the removal and storage of Lessee's property incurred by Greeley under the provisions of this section.

b. If Greeley determines that Lessee has created a public safety hazard, then Greeley may immediately take action to secure the safe operation of the Property, including without limitation, terminating this Lease Agreement and/or removing Lessee and any of Lessee's equipment or crops from the Property.

c. If Lessee, after the expiration or termination of this Lease Agreement, shall remain in possession of the Property without a written agreement, the holding over shall constitute a month-to-month tenancy at a monthly rental rate equivalent to one-twelfth of the Lease Amount as adjusted in accordance with Section 3(a) above, payable in advance on the first day of each month. No payments of money by Lessee after the expiration or termination of this Lease Agreement shall constitute a renewal of this Lease Agreement in the absence of a written mutual agreement.

12. INSURANCE REQUIREMENTS.

a. Lessee shall purchase and maintain for the full period of this Lease Agreement, including any additional extension periods, at Lessee's sole expense, insurance policies providing coverage as follows:

i. Farm liability insurance, including coverage for bodily injury, property damage, contractual liability, and broad-form property damage and owner/contractor's protective coverage, with a minimum coverage of not less than \$1,000,000.00 or as approved by the City of Greeley Risk Manager; and

ii. Workers' compensation and employers' liability insurance, if applicable, which shall cover the obligations of Lessee in accordance with the provisions of the Workers' Compensation Act of Colorado, as amended.

b. Before commencement of the lease term, Lessee must present all applicable insurance policies, certificates of insurance, and endorsements, along with a signed copy of this Lease Agreement, to the City of Greeley Risk Manager, and receive the Risk Manager's written approval as to the adequacy of such insurance coverage.

c. The insurance policies shall contain an endorsement naming the City of Greeley, Colorado, a municipal corporation, and its council members, officers, agents, employees, and volunteers as additional insured parties with respect to all activities Lessee may perform under this Lease Agreement. Moreover, such endorsement shall include a notice provision requiring 30 days written notice to Greeley before any cancellation.

d. Only insurance companies with authority to issue policies in the State of Colorado shall provide insurance coverage under this Lease Agreement.

e. For the term of this Lease Agreement, Lessee shall not cancel, materially change, or fail to renew the insurance coverage, and Lessee shall notify Greeley of any material reduction or exhaustion of aggregate policy limits. If Lessee fails to purchase or maintain the insurance coverage stated in this Lease Agreement, Greeley shall have the right to procure such insurance coverage at Lessee's expense.

f. Nothing in this Section 12 shall limit the extent of Lessee's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from Lessee's occupancy, use, or control of the Property or Lessee's performance or nonperformance under this Lease Agreement.

13. NO VESTED INTEREST IN SHARES OR JOINT VENTURE. This Lease Agreement is made expressly subject to Section 17-4 of the Charter of the City of Greeley. Greeley grants no interest in the Property to Lessee other than as explicitly set forth in this Lease Agreement. Lessee shall make no claim to any rights, title, or interest in the Property other than as explicitly set forth in this Lease Agreement. This Lease Agreement does not create a partnership or joint venture of any kind between the Parties, and Lessee shall bear the entirety of any loss, cost, or expense incurred through its use of the Property.

14. MISCELLANEOUS PROVISIONS.

a. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

b. No waiver or default by Greeley of any of the terms, covenants, warranties, or conditions hereof to be performed, kept, or observed by Lessee shall be construed as, or operate as, a waiver by Greeley of any of the terms, covenants, warranties, or conditions herein contained, to be performed, kept, or observed by Lessee.

c. Lessee agrees that Greeley shall be under no obligation to maintain the Property in a particular condition or for a particular use, and Lessee waives all claims for damages of any kind or nature, whatsoever, resulting therefrom.

d. Article and section headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Lease Agreement.

e. The provisions of this Lease Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party of the language in question.

f. Lessee shall perform all obligations under this Lease Agreement in strict compliance with all applicable laws, rules, charters, ordinances and regulations, as now exist or are later

enacted or amended, of Greeley, and all county, state and federal entities having jurisdiction over the Property.

g. None of the terms, conditions, or covenants in this Lease Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than Greeley or Lessee receiving services or benefits under this Lease Agreement shall be only an incidental beneficiary.

h. Invalidation of any specific provisions of this Lease Agreement shall not affect the validity of any other provision of this Lease Agreement.

i. Lessee acknowledges that this Lease Agreement may not be recorded.

j. This Lease Agreement shall extend to and be binding upon the heirs, successors, and permitted assigns of the parties. Notwithstanding the foregoing, Lessee acknowledges and agrees that Greeley may sell the Property and intends to retain the Water Rights. In the event the Property is sold, Greeley may assign or terminate, in full or in part, the Lease Agreement by providing notice to Lessee of the assignment or terminating in accordance with Section 2.

k. This Lease Agreement is an integration of the entire understanding of the parties with respect to the matters set forth herein. No representations, warranties, or certifications, expressed or implied, shall exist as between the parties, except as specifically set forth in this Lease Agreement. The parties shall only amend this Lease Agreement in writing with the proper official signatures attached thereto.

l. The Lessee's use of the Property shall be subject to the Conveyor Access Agreement between the City of Greeley, the Boyd Irrigation Company, and LaFarge West, Inc., dated August 5, 2010, which is attached hereto as Exhibit B and incorporated herein by reference.

15. NOTICE. Any notice or payment required by this Lease Agreement shall be provided by U.S. mail or hand delivery to Greeley or to Lessee at the addresses set forth above, unless the party to receive such notice or payment provides to other party written notice of a change of the address listed above.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement as of the date stated in the preamble.

CITY OF GREELEY, COLORADO,
a Municipal Corporation, acting by
and through its Water and Sewer Board

Attest:

By: _____
Mayor

City Clerk

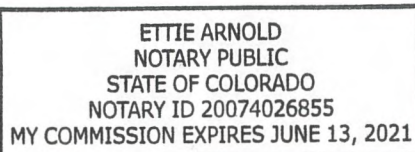
LESSEE

By: Terry Glover
Terry Glover

STATE OF COLORADO)
COUNTY OF WELD) ss.

The foregoing instrument was acknowledged before me this 15 day of March
2018 by Terry Glover.

Witness my hand and official seal.



My commission expires: June 13, 2021

Ettie Arnold
Notary Public



Exhibit A:
City of Greeley Property
4949 F St

 Ditch
 Farmable lands
 Conveyor easement
 Parcel Boundary

0 400 800 Feet



3/14/2013 City of Greeley, jmt
FarmLcase4949F st.mxd
2012 Imagery

CONVEYOR ACCESS AGREEMENT

COPY

THIS CONVEYOR ACCESS AGREEMENT ("Agreement") is made and entered into this 5th day of August, 2010 (the "Effective Date"), between the CITY OF GREELEY, a Colorado home rule municipal corporation, the mailing address of which, for purposes of this Agreement, 1100 10th Street, Suite 300, Greeley, CO 80631 ("Grantor"), the Boyd Irrigation Company, a Colorado non-profit corporation, the mailing address of which, for purposes of this Agreement, 1100 10th Street, Suite 300, Greeley, CO 80631 ("Ditch Company"), and LAFARGE WEST, INC., a Delaware corporation ("Grantee").

RECITALS

WHEREAS, Grantor is the owner of certain real property located in part of the NE4 of the SE4 of Section 34, Township 6 North, Range 66 West and part of the SE4 of the NE4 of Section 34, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado lying south of the Rail road right-of-way (the "Grantor's Property"); and

WHEREAS, the Boyd Irrigation Company ("Ditch Company"), of which Grantor is the majority shareholder in such Company, holds legal title to, manages and operates the Boyd and Freeman Ditch and easement for said ditch which traverses Grantor's property; and

WHEREAS, Grantee has mining rights in certain real property adjoining Grantor's Property on the north in Sections 34 and 35 known as the Lafarge 35th Avenue Property, (the "Grantee's Property"), and desires to secure access by conveyor equipment and limited motor vehicles to and from said real property; and

WHEREAS, Grantor and Ditch Company is willing to grant, subject to all of the terms and provisions of this Agreement, to Grantee a revocable right-of-way ("Right-of-Way") for conveyor and limited vehicle ingress and egress across Grantor's Property using Ditch Company's easement and associated access road which traverses Grantor's Property from and to Grantee's Property on the east and north, the approximate location of which is shown on Exhibit B.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby confessed and acknowledged, the parties agree as follows:

1. **Recitals.** By execution of this Agreement, the parties agree that the above recitals are true and correct and are hereby incorporated into this Agreement.

2. **Grant of Right-of-Way.** Grantor and Ditch Company hereby grant to Grantee the Right-of-Way, specifically, a tract of land to be initially 100 feet wide in an east-west direction in the southern half of the property and north of the Boyd and Freeman Ditch but within Ditch Company's easement, then along the eastern property boundary to the north property boundary as illustrated on Exhibit B. The width of said Right-of-Way shall initially be 100 feet, and shall be available to Grantee from the time of the harvesting of crops on Grantor's Property until the planting of crops on Grantor's Property in the spring of the following year, all subject to paragraph 7 below. After construction of the conveyor, the easement shall be reduced to a total width of twenty (20) feet, This grant of Right-of-Way in no way restricts the Ditch Company's

right to use its easement for the ditch to construct, operate, maintain, repair and replace structures and facilities related to the operation of the Boyd and Freeman Ditch, which right of use by the Ditch Company shall always be recognized as a dominant and superior right. Grantor hereby agrees to participate in any conveyor crossing agreement with the Great Western Rail Company as necessary. Grantor's participation for any crossing agreement is limited to signing documents only in its capacity as Owner of its property and shall not incur any financial obligations to Great Western Railway or any party regarding any crossing agreement.

3. **Term.** The Term of this Agreement shall be an initial period of ten (10) years commencing on the effective date of this Agreement ("Term"). The initial Term may be extendable by mutual agreement of the parties.

4. **Consideration.** As consideration for granting of the Right-of-Way, Grantee shall annually pay Grantor on or before December 31 of each year of this Agreement, a royalty of \$0.02 per ton of material transported by conveyor across the Right-of Way; such material to be weighed via a belt scale at Grantee's Greeley 35th Avenue Plant. Said scale will be calibrated by Grantee's personnel and its accuracy certified annually by a qualified independent party. The royalty will be increased annually by 3% so long as this Agreement is in effect. The City will waive its right to receive the Conveyor royalty should Grantee commence mining upon the Grantor's Property. After such commencement, Grantor shall receive the appropriate mining royalty in lieu of the Conveyor royalty. In addition, as consideration for the Ditch Company granting the Right-of-Way, Grantee shall pay Ditch Company a use fee of \$1,000.00 due at the time of document execution.

5. **Roadway.** Grantee shall have the right to construct, operate, use, maintain, and repair a dirt or graveled roadway (the "Roadway") upon the Right-of-Way, a portion of which is already in existence and owned and used by the Ditch Company, upon which Grantee plans to erect a conveyor and construct a dirt or graveled road adjacent to the conveyor. The cost of construction, maintenance and repair of the Roadway shall be borne solely by Grantee.

6. **Roadway Construction Standards and Requirements.**

(a) All construction of the Roadway shall be performed in a workmanlike manner in accordance with and compliance with all applicable federal, state and local laws,

(b) Grantee shall construct and maintain access road ("Roadway") to the satisfaction of Grantor and Ditch Company and shall repair damage to existing access road within 48 hours notice, not including weekends, from Grantor or Ditch Company. Grantee shall upgrade Roadway with gravel or recycled asphalt. Surface type shall be at the sole discretion of Grantee.

(c) Upon abandonment of the Roadway by Grantee, Grantee shall, at its sole expense, reclaim the Right-of-Way as nearly as possible to its former condition with the exception of road surface as described in Paragraph 6(b) above.

(d) Grantee shall notify Grantor and Ditch Company prior to October 1 of the year preceding the start of construction. Grantee shall not interfere with crops on the site unless Grantor is notified and Grantor's Lessee is fully compensated for lost crops due to construction activity. Grantee shall not restrict the Ditch Company's

right to use its easement and associated access road for the ditch to construct, operate, maintain, repair or replace structures and facilities related to the operation of the Boyd and Freeman Ditch.

(e) Access to the Poudre Trail, Ditch Company structures and facilities, and service access roads shall not be restricted. The conveyor shall be elevated to allow a 14'6" (fourteen foot six inch) clearance over the Poudre River Trail and Ditch Company's easement and associated access road.

(f) The Roadway and conveyor shall be constructed so as not to interfere with the flow of water through the Boyd and Freeman Ditch to shareholders and water recipients. Grantee shall not spill any dirt, debris, or other foreign material into the Ditch.

7. **Non-Exclusive Right-of-Way Grant.** Grantee's use of the Right-of-Way shall be non-exclusive, and Grantor, Ditch Company and Grantee, and their respective employees, agents, tenants, invitees, licensees, customers, successors, and assigns, shall have the right to use the Right-of-Way provided, however, no additional parties shall be permitted to use the Right-of-Way without Grantee's prior written consent. Grantee recognizes that the Ditch Company and certain oil and gas interests utilize the existing access roads that traverse the Right-of-Way in an essentially east-west direction and Grantee shall maintain the portions of these access roads that cross the Right-of Way during the term of this Agreement at its sole cost.

8. **Use of Right-of-Way.** Grantee's use of the Right-of-Way shall be consistent with that associated with sand and gravel mining and processing operations. The Right-of-Way shall be irrevocable for as long as this Agreement remains in effect and is not terminated pursuant to paragraph 11.

9. **Indemnification.** Grantee agrees to and does hereby assume all liability for, and indemnify, protect, save, and hold harmless Grantor and Ditch Company, its stockholders, directors, officers, agents, employees, successors, and assigns, from and against any and all losses, costs, expenses, attorneys' fees, claims, demands, suits, and actions of any character whatsoever which may be imposed upon or incurred by Grantor and/or Ditch Company on account of, or arising directly or indirectly from this Agreement, the grant of Right-of-Way herein contained, Grantee's construction of the Roadway, or Grantee's performance of its duties and obligations hereunder.

10. **Good Title.** Grantor represents and warrants that it is the owner of Grantor's Property in fee and that Grantor's Property is free and clear of all prior easements, liens, encumbrances and restrictions of any nature whatsoever that would interfere with or take priority over the Right-of-Way.

11. **Termination.** Each party shall have the right to terminate this Agreement and revoke the Right-of-Way at any time with five (5) days written notice to the other party. Grantor or Ditch Company shall not be entitled to receive additional compensation after the date of termination, other than any and all royalties due. Upon termination of this Agreement for any reason, Grantee shall continue to be liable for the performance of all obligations and the satisfaction of all liabilities to Grantor and Ditch Company including, but not limited to, the

payment of royalties which have accrued prior to the date of termination, reclamation of the Right-of-Way pursuant to Paragraph 6(c), and the compliance with all laws, regulations, and permit conditions that apply to the Right-of-Way. Any obligation to pay Advance Minimum Royalty that would otherwise accrue after the date of termination of the Agreement shall end upon Agreement termination. Should a Colorado State Mined Land Reclamation Board Permit ("Permit") and Bond ("Bond") be required for this activity, Grantee shall be allowed access to the site following termination of this Agreement without incurring any obligation to pay Grantor or Ditch Company any monies for this right in order to complete Grantee's reclamation obligations under the Permit and to recover its Bond. Upon termination of this Agreement, Grantee shall have six (6) months in which to remove its equipment and complete its reclamation obligations, excepting any activities including ongoing seeding and weed control activities required to achieve Bond release.

12. **Assignment.** This Agreement, and performance under this Agreement, may be assigned by Grantee without Grantor's consent if the rights granted to Grantee under the terms and conditions of this Agreement should be acquired by another person or entity as part of a transfer or sale of assets by Grantee. Grantee shall provide Grantor and Ditch Company written notice of any such assignment within 30 days of any such transfer or sale of assets. This Agreement may not be further assignable by Assignee except to an affiliate of Grantee's Assignee.

13. **Miscellaneous.**

(a) **Binding Effect.** The obligations and benefits of this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

(b) **Notice.** Notices, payments, consents, reports, or other documents required or permitted by the terms of this Agreement shall be in writing, and shall be deemed made and received on the date of the United States postmark thereon when placed in the United States mails, postage prepaid, return receipt requested, addressed as follows:

If to Grantor:

City of Greeley
Attention: Chuck Esterly
1100 10th Street, Suite 300
Greeley, CO 80631

If to Ditch Company:

The Boyd Irrigation Company
Attention: Roger Schmidt, President & Lory Stephens, Secretary/Treasurer
1100 10th Street, Suite 300
Greeley, CO 80631

with a copy to:

Melvin Dinner, Esq.
822 7th Street, Suite 540
Greeley, CO 80631

If to Grantee:

Lafarge West, Inc.
11409 Business Park Circle, Suite 200
Longmont, CO 80504

with a copy to

Lafarge West, Inc.
Land Department
10170 Church Ranch Way, Suite 200
Westminster, CO 80021

(c) Waiver and Amendments. No waiver, amendment or modification of this Agreement shall be valid unless in writing signed by an authorized officer of such party in writing.

(d) Entire Agreement. This Agreement contains the entire understanding between the parties and any and all prior oral or written agreements, representations or warranties, contracts, understandings, correspondence, conversations, and memoranda, whether written or oral, between Grantor and Grantee or between or among any agents, representatives, parents, subsidiaries, affiliates, predecessors in interest or successors in interest, with respect to the subject matter hereof, are merged herein and replaced hereby.

(e) Governing Law. This Agreement shall be construed in accordance with the laws of the State of Colorado without giving effect to principles of conflict of laws. All parties consent to the jurisdiction of all state and federal courts of record situated in the State of Colorado. Service of process upon any party shall be deemed, in every respect, effective upon such party if made by prepaid registered or certified mail, return receipt requested, or if personally delivered against receipt to the address set forth herein or to such other address as a party may designate in writing to the others.

(f) Headings. The Section and other headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. Wherever in this Agreement words indicating the plural number appear, such words shall be considered as words indicating the singular number and vice versa where the context indicates the propriety of such use.

(g) Severability. The paragraphs of this Agreement shall be severable and should any part be declared invalid or unenforceable, the remainder shall continue in full force and effect between the parties.

(h) Counterparts. This Agreement may be executed in counterparts, each of which when so executed shall be deemed to be an original, and all such counterparts shall together constitute one and the same instrument.

(i) No Third Party Beneficiary. It is expressly understood and agreed that the terms and enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, are strictly reserved to the undersigned parties.

Nothing in this Agreement shall give or allow any claim or right or cause of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned parties that no person and/or entity, other than the undersigned parties, receiving services or benefits under this Agreement shall be deemed anymore than an incidental beneficiary only.

(j) No Waiver of Governmental Immunity. No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions for the parties, of the Colorado Governmental Immunity Act, C.R.S. §24-10-101 *et seq.* or the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.* as applicable, as now or hereafter amended.

IN WITNESS WHEREOF, the parties have executed this Conveyor Access Agreement as of the date first above written.

CITY OF GREELEY, COLORADO



[Signature]
Clerk

[Signature]
Clerk

APPROVED AS TO LEGAL FORM:

By: *[Signature]*
City Attorney

APPROVED AS TO SUBSTANCE:

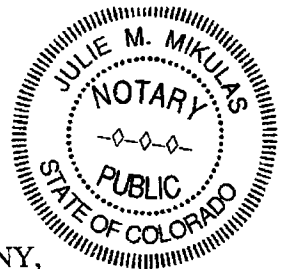
By: *[Signature]*
City Manager

LAFARGE WEST, INC.
a Delaware Corporation

By: *[Signature]*
Title: *[Signature]*

ATTEST:

By: *[Signature]*



BOYD IRRIGATION COMPANY,
a Colorado non-profit Corporation

By: *[Signature]*
President

AVAILABILITY OF FUNDS

By: *[Signature]*
Director of Finance

EXHIBIT A

PROPERTY LEGAL DESCRIPTION

A parcel of land situated in Weld County, Colorado, more particularly described as follows: Part of the NE4 of the SE4 of Section 34, Township 6 North, Range 66 West and part of the SE4 of the NE4 of Section 34, Township 6 North, Range 66 West of the 6th P.M., Weld County, Colorado lying south of the Rail road right-of-way.

The following graphic is from the Weld County Assessor and highlights the subject site in red.

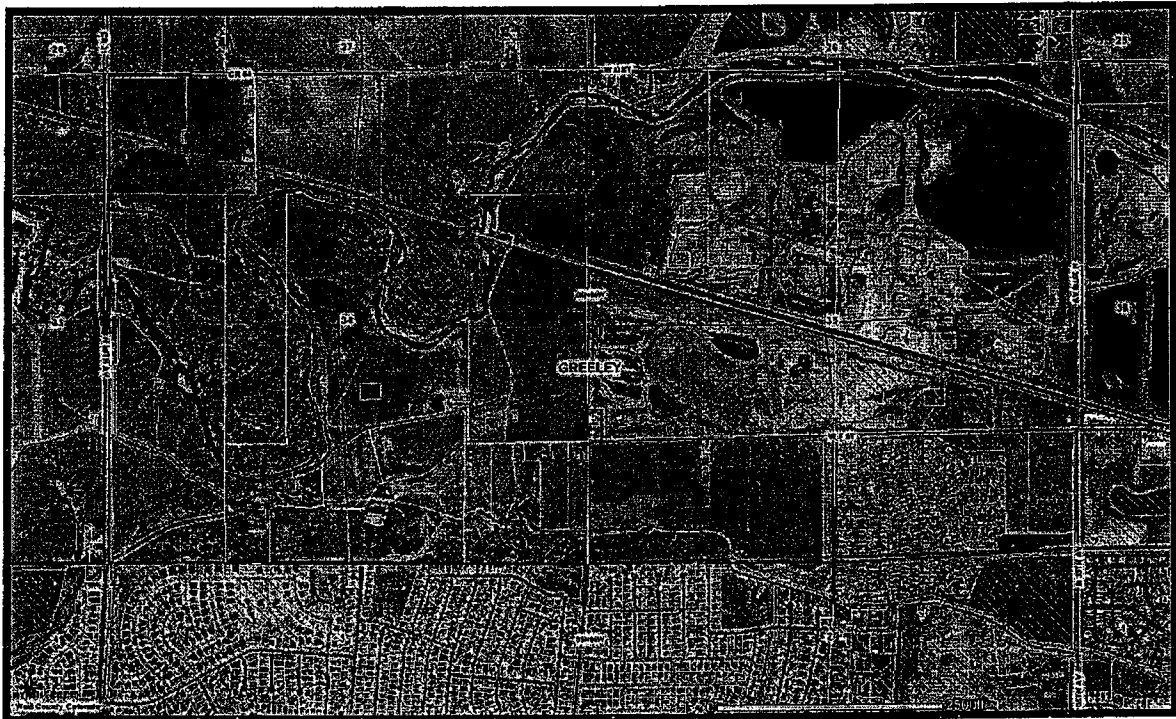
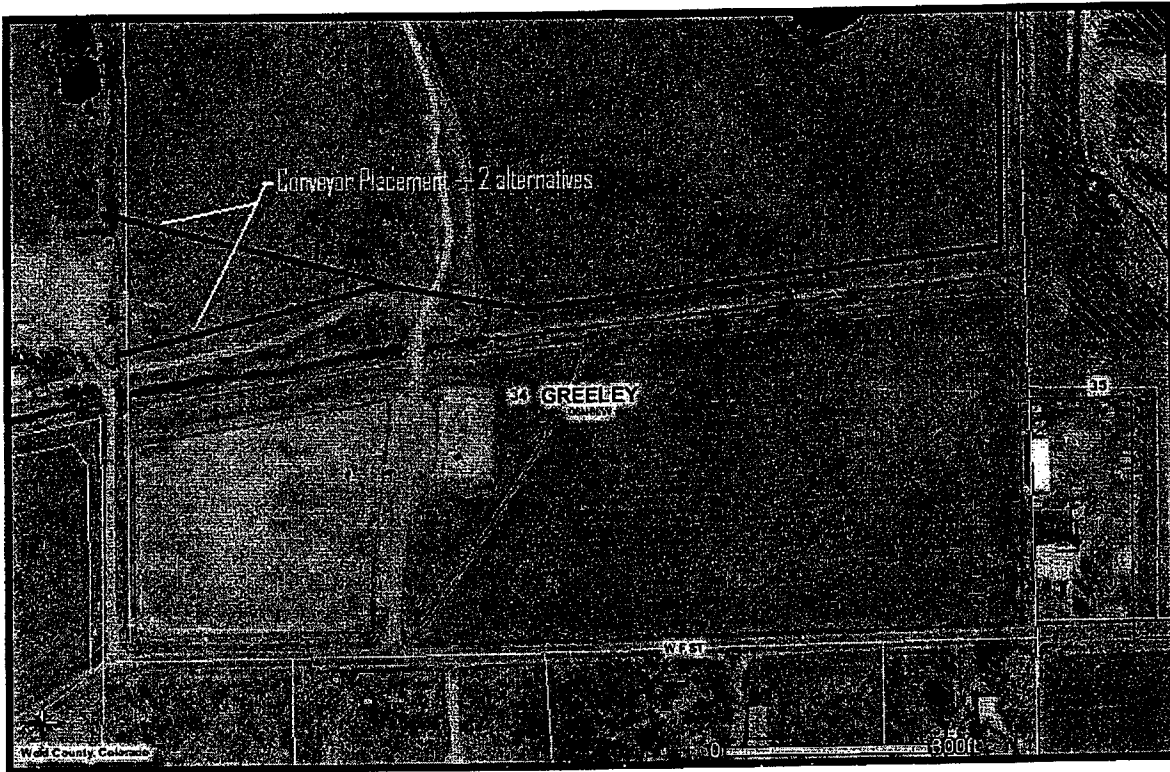


EXHIBIT B
EASEMENT FOR CONVEYOR LEASE AREA



Conveyor would extend along the eastern property boundary and cross the rail line onto Lafarge property.

Alternative locations of the conveyor placement/entrance to the property are approximate and may be modified with City approval, not to be unreasonably withheld.

The conveyor is approximately 5 feet wide. Placement will be north of the existing access road.

FARM LEASE AGREEMENT

This FARM LEASE AGREEMENT ("Lease Agreement") is entered this 15th day of March 2018, by and between the CITY OF GREELEY, COLORADO, c/o Burt Knight, Director of Water and Sewer, whose address is 1100 10th Street, Third Floor, Greeley, Colorado 80631 ("Greeley"), and LELAND LEBSACK, whose address is 21003 County Road 90, Pierce, Colorado 80650 ("Lebsack").

RECITALS

WHEREAS, Greeley owns agricultural property consisting of approximately three hundred and thirteen (313) acres of irrigated cropland located in Weld County, Colorado, which is legally described on Exhibit A, attached hereto and made a part hereof, (the "Real Estate"); and,

WHEREAS, Greeley owns three (3) Shares of capital stock in the Water Supply & Storage Company represented by Stock Certificate No. 6729 for one-half ($\frac{1}{2}$) share and Stock Certificate No. 6728 for two and one-half ($2\frac{1}{2}$) shares (the "Water Rights"), which have been historically used to irrigate the Real Estate; and,

WHEREAS, Greeley desires to lease, under the terms of this Lease Agreement, the Water Rights and the Real Estate (collectively, the "Property") to Lebsack for agricultural and residential purposes; and,

THEREFORE, for and in good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Greeley and Lebsack agree as follows:

LEASE AGREEMENT

1. **FARM LEASE.** Greeley does hereby lease to Lebsack the above-described Property, together with all Improvements (defined below) located thereon, for agricultural purposes, subject to the terms and conditions of this Lease Agreement.

2. **TERM OF LEASE.** This lease of the Property shall begin on the effective date of the Lease Agreement set forth above, and end on December 31, 2018 (the "Lease Term"). The Agreement expires at the end of this initial term, but may be renewed for up to four subsequent terms of one year each, upon execution of a written mutual agreement of renewal by the parties. Notwithstanding the foregoing, this Lease Agreement may be terminated for any reason by Lebsack or the City prior to any irrigation season by delivering an advance written notice to the other party on or before March 1 of that calendar year.

3. **LEASE AMOUNT.** Lebsack shall pay to Greeley, Twenty-six Thousand, Six Hundred and Five Dollars (\$26,605.00) ("Lease Amount") for the use and occupancy of the Property, which is equal to Eighty-five Dollars (\$85.00) per acre of approximately three hundred and thirteen (313) acres irrigated cropland. The Lease Amount shall be due and payable in two equal installments. The first installment of Thirteen Thousand Three Hundred Two and 50/100th Dollars (\$13,302.50) shall be due March 31st. The second installment of Thirteen Thousand Three Hundred Two and 50/100th Dollars (\$13,302.50) shall be due December 15th.

a. For each year this Lease Agreement is renewed in accordance with Paragraph 2 above, the Lease Amount shall be adjusted in accordance with the increase in the Consumer Price Index ("CPI") for the Denver-Boulder-Greeley Region, using the CPI level on the date this Lease

Agreement is mutually executed as the basis for comparison. Regardless of any future decrease in the CPI, the Lease Amount shall never be less than \$85.00 per acre.

4. IMPROVEMENTS; CONDITION OF PROPERTY. The Property includes all existing improvements, structures, and fixtures placed, constructed, installed or located on the Real Estate; all fences, gates, plants, trees, landscaping and other appurtenances, if any, upon, over or under the Real Estate; and all furnishings (including, but not limited to, storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods, drapery rods, fireplace inserts, fireplace screens fireplace grates, heating stoves, storage sheds, carbon monoxide alarms, smoke/fire detectors, and all keys), appliances, equipment, machinery and other items of personal property (including, but not limited to, two [2] center-pivot irrigation sprinkler systems and all associated pumps, motors, pipes, and fuel injection systems), if any, upon, over or under the Real Estate (collectively, "Improvements"). Prior to signing this Lease Agreement, Lebsack has inspected or caused to be inspected the Property, including all Improvements, and acknowledges that the Property is being leased "as-is." No additional representation, statement or warranty, express or implied, has been made by or on behalf of Greeley as to the condition of the Property or of any Improvement located thereon and used in connection with the Property. In no event shall Greeley be liable for any defect in the Property or the Improvements or for any limitation on the use of the Property's, including the Improvements, or any portion thereof, as a residence or irrigated cropland or pasture. In addition, Lebsack acknowledges that the minerals have been severed from the surface rights, and the surface rights are subject to the development of the mineral rights.

5. WATER RIGHTS.

a. Lebsack may, at no additional expense, use the Water Rights for agricultural irrigation of the Real Estate, subject to the terms and conditions of this Lease Agreement.

b. Lebsack shall deliver to Greeley a completed Historical Use Affidavit and Questionnaire, in the form attached hereto as Exhibit B, on or before December 15th of each year this Lease Agreement is in effect. Lebsack acknowledges that Greeley may file an application to change the use of the Water Rights with the Division 1 Water Court for the State of Colorado during the term of this Agreement. Lebsack shall cooperate with Greeley and its agents or representatives in the review and analysis of the historical use of the Water Rights. Upon request from Greeley, Lebsack shall provide information regarding use of the Water Rights in preparation for any proceeding before the Division 1 Water Court.

c. Greeley shall be responsible for any ditch, reservoir, or augmentation company assessments or other charges and expenses attributable to the Water Rights.

d. Lebsack shall have no right to any rebates or other payments from Greeley for the lease of transmountain return flows associated with the Water Rights.

e. Lebsack agrees to use the Water Rights, and the water delivered pursuant to this Lease Agreement, only for agricultural irrigation of the Real Estate.

f. Lebsack agrees to take and use the water delivered pursuant to the Water Rights to the fullest extent possible, and shall undertake no action which could be construed as abandonment of the Water Rights. Lebsack shall provide advance written notice, on or before February 1, of any year, to Greeley if he no longer intends to irrigate the Real Estate, or any portion thereof, with the Water Rights during the following Lease Term.

g. Lebsack shall not sublease or rent the Water Rights to others or allow others to use the Water Rights or water delivered pursuant to said Water Rights on lands or for uses other than those described in this Section 5.

h. Lebsack shall comply with all of the rules, regulations, and policies of the ditch and reservoir companies that delivers the Water Rights.

i. Greeley makes no warranties or guarantees of, or representations about, the amount of water that will be yielded or delivered pursuant to the Water Rights.

j. Greeley shall not be liable for any failure of delivery of water pursuant to the Water Rights due to drought or other force of nature or failure of any ditch and/or reservoir delivery systems.

6. AUTHORIZED USE OF THE PROPERTY.

a. Lebsack shall occupy and use the Property solely for agricultural purposes.

b. Lebsack shall be responsible for the proper care of the Property consistent with sound agricultural practices.

c. Lebsack shall apply all weed control chemicals and fertilizers in compliance with applicable federal, state, and local regulations.

d. Lebsack shall irrigate the Property with the Water Rights and the water delivered pursuant to this Lease Agreement.

e. Lebsack shall furnish, at Lebsack's sole expense, all labor, machinery, fertilizer, weed spray, and other items needed for farming the Property.

7. LEBSACK'S COVENANTS AND AGREEMENTS.

a. Lebsack shall maintain and make any necessary repairs, at Lebsack's expense, to any lateral ditches, headgates, and other personal property necessary to deliver the Water Rights to the Real Estate and to the pivots, wells, siphons, and pumping lagoons used in connection with the Water Rights on the Real Estate.

b. Lebsack shall keep the Property, including any non-irrigated land, clear of weeds.

c. Lebsack shall not assign this Lease Agreement nor sublet the Property or any part thereof without the prior written consent of Greeley, which consent shall not be unreasonably withheld.

d. Lebsack shall not construct, nor permit construction of any structure, building or other improvement, temporary or otherwise, on the Property without Greeley's prior written consent, which consent shall be in the sole discretion of Greeley.

e. Lebsack shall not erect, paint, or maintain any signs on the Property without securing the prior written consent of Greeley, which consent shall be in the sole discretion of Greeley.

f. Lebsack shall not allow any noise, odors, fumes, or vibrations on the Property other than those caused by normal agricultural practices that would cause disruption of normal activities on adjacent properties.

g. Lebsack shall not use or permit to be used any insecticide, pesticide, rodenticide, herbicide, or other chemical substance on the Property for weed, pest, or rodent control or fertilization which is prohibited by any federal, state or local statute, ordinance, resolution, rule or regulation.

h. Lebsack shall not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or claim on or with respect to the Property.

i. Lebsack agrees, covenants, and warrants to maintain the Property throughout the term of the Lease in as good repair and condition as at the commencement of this Lease Agreement.

k. Lebsack agrees to deliver up and surrender to Greeley possession of the Property at the expiration or termination of this Lease Agreement.

l. Lebsack agrees to pay all utilities, including but not limited to, gas, water, electricity, and trash, that are used in connection with the Property.

8. INDEMNIFICATION.

a. Lebsack assumes the risk of loss or damage to any crops on the Property whether from windstorm, fire, earthquake, snow, water run-off, soil conditions, or any other causes whatsoever.

b. Lebsack releases and agrees to indemnify, defend and hold harmless Greeley, its agents, officers, employees, and volunteers from and against all damages, claims, actions, causes of action, demands, judgments, costs, expenses of every kind and nature, predicated upon injury to or death of any person or loss of or damage to any property, arising, in any manner, from Lebsack's operations or use of the Property under this Lease Agreement.

c. Nothing in this Lease Agreement is intended constitute a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 et seq., as applicable now or hereafter amended.

9. HAZARDOUS WASTE.

a. Lebsack shall not cause or permit any "Hazardous Material" (defined below) to be brought upon, kept, or used in or about the Property by Lebsack, its agents, employees, contractors, or invitees without the prior written consent of Greeley. Greeley shall not unreasonably withhold consent so long as Lebsack demonstrates to Greeley's reasonable satisfaction that such Hazardous Material is necessary or useful to Lebsack's use of the Property for agricultural purposes, so long as any chemicals (including without limitation fertilizer, herbicides, insecticides) are applied in conformance with good farming methods, applicable rules and regulations and the label directions of each chemical and kept, and stored in a manner that complies with all laws regulating such chemicals.

b. If Lebsack breaches the obligations stated herein, or if the presence of Hazardous Material on the Property caused or permitted by Lebsack results in contamination of the Property, or if contamination of the Property by Hazardous Material otherwise occurs for which Lebsack is legally liable to Greeley for damage resulting therefrom, then Lebsack shall indemnify, defend, and hold Greeley harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses which

arise during or after the lease term as a result of such contamination. This indemnification of Greeley by Lebsack includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on or under the Property.

c. Without limiting the foregoing, if the presence of any Hazardous Material on the Property caused or permitted by Lebsack results in any contamination of the Property, Lebsack shall promptly take all actions at its sole expense as are necessary to return the Property to the condition existing prior to the introduction of any such Hazardous Material to the Property; provided that Greeley's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse effect on the Property.

d. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Colorado, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under appropriate state law provisions; (ii) petroleum; (iii) asbestos; (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321; (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6903; (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601; or (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. § 6991.

10. RESERVATIONS. Greeley reserves its rights under this Lease Agreement to (i) have its officers, employees, and representatives enter and inspect or protect the Property at any time; (ii) use any portion of the Property for public utilities and as ingress and egress for public use and rights of way; (iii) use, repair, install, replace, and maintain public utilities and rights-of-way on, over, or under the Property; and (iv) use any portion of the Property as a site for the application of digested biosolids.

11. TERMINATION FOR CAUSE.

a. Lebsack agrees to observe and perform the terms and conditions of this Lease Agreement. If Lebsack fails to make payment of the Lease Amount, or any part thereof, or if Lebsack fails to observe or perform any term or condition of this Lease Agreement, then Greeley, upon written notice to Lebsack, may in its sole discretion terminate this Lease Agreement and re-enter and repossess the Property, with or without legal proceedings, using such force as may be necessary, and remove any property belonging to Lebsack without prejudice to any claim for rent or for the breach of covenants hereof. Lebsack agrees to indemnify and hold Greeley harmless from and against any costs for the removal and storage of Lebsack's property incurred by Greeley under the provisions of this section.

b. If Greeley determines that Lebsack has created a public safety hazard, then Greeley may immediately take action to secure the safe operation of the Property, including without limitation, terminating this Lease Agreement and/or removing Lebsack and any of Lebsack's equipment or crops from the Property.

c. If Lebsack, after the expiration or termination of this Lease Agreement, shall remain in possession of the Property without a written agreement, the holding over shall constitute a month-to-month tenancy at a monthly rental rate equivalent to one-twelfth of the Lease Amount as adjusted in accordance with Section 3(a) above, payable in advance on the first day of each month. No

payments of money by Lebsack after the expiration or termination of this Lease Agreement shall constitute a renewal of this Lease Agreement in the absence of a written mutual agreement.

12. INSURANCE REQUIREMENTS.

a. Lebsack shall purchase and maintain for the full period of this Lease Agreement, including any additional extension periods, at Lebsack's sole expense, insurance policies providing coverage as follows:

i. Farm liability insurance, including coverage for bodily injury, property damage, contractual liability, and broad-form property damage and owner/contractor's protective coverage, with a minimum coverage of not less than \$1,000,000.00 or as approved by the City of Greeley Risk Manager; and

ii. Workers' compensation and employers' liability insurance, if applicable, which shall cover the obligations of Lebsack in accordance with the provisions of the Workers' Compensation Act of Colorado, as amended.

b. Before commencement of the lease term, Lebsack must present all applicable insurance policies, certificates of insurance, and endorsements, along with a signed copy of this Lease Agreement, to the City of Greeley Risk Manager, and receive the Risk Manager's written approval as to the adequacy of such insurance coverage.

c. The insurance policies shall contain an endorsement naming the City of Greeley, Colorado, a municipal corporation, and its council members, officers, agents, employees, and volunteers as additional insured parties with respect to all activities Lebsack may perform under this Lease Agreement. Moreover, such endorsement shall include a notice provision requiring 30 days written notice to Greeley before any cancellation.

d. Only insurance companies with authority to issue policies in the State of Colorado shall provide insurance coverage under this Lease Agreement.

e. For the term of this Lease Agreement, Lebsack shall not cancel, materially change, or fail to renew the insurance coverage, and Lebsack shall notify Greeley of any material reduction or exhaustion of aggregate policy limits. If Lebsack fails to purchase or maintain the insurance coverage stated in this Lease Agreement, Greeley shall have the right to procure such insurance coverage at Lebsack's expense.

f. Nothing in this Section 12 shall limit the extent of Lebsack's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from Lebsack's occupancy, use, or control of the Property or Lebsack's performance or nonperformance under this Lease Agreement.

13. NO VESTED INTEREST IN SHARES OR JOINT VENTURE. This Lease Agreement is made expressly subject to Section 17-4 of the Charter of the City of Greeley. Greeley grants no interest in the Property to Lebsack other than as explicitly set forth in this Lease Agreement. Lebsack shall make no claim to any rights, title, or interest in the Property other than as explicitly set forth in this Lease Agreement. This Lease Agreement does not create a partnership or joint venture of any kind between the Parties, and Lebsack shall bear the entirety of any loss, cost, or expense incurred through its use of the Property.

14. MISCELLANEOUS PROVISIONS.

a. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

b. No waiver or default by Greeley of any of the terms, covenants, warranties, or conditions hereof to be performed, kept, or observed by Lebsack shall be construed as, or operate as, a waiver by Greeley of any of the terms, covenants, warranties, or conditions herein contained, to be performed, kept, or observed by Lebsack.

c. Lebsack agrees that Greeley shall be under no obligation to maintain the Property in a particular condition or for a particular use, and Lebsack waives all claims for damages of any kind or nature, whatsoever, resulting therefrom.

d. Article and section headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Lease Agreement.

e. The provisions of this Lease Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party of the language in question.

f. Lebsack shall perform all obligations under this Lease Agreement in strict compliance with all applicable laws, rules, charters, ordinances and regulations, as now exist or are later enacted or amended, of Greeley, and all county, state and federal entities having jurisdiction over the Property.

g. None of the terms, conditions, or covenants in this Lease Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than Greeley or Lebsack receiving services or benefits under this Lease Agreement shall be only an incidental beneficiary.

h. Invalidity of any specific provisions of this Lease Agreement shall not affect the validity of any other provision of this Lease Agreement.

i. Lebsack acknowledges that this Lease Agreement may not be recorded.

j. This Lease Agreement shall extend to and be binding upon the heirs, successors, and permitted assigns of the parties. Notwithstanding the foregoing, Lebsack acknowledges and agrees that Greeley may sell the Real Estate and intends to retain the Water Rights. In the event the Real Estate is sold, Greeley may assign or terminate, in full or in part, the Lease Agreement by providing notice to Lebsack of the assignment or terminating in accordance with Section 2.

k. This Lease Agreement is an integration of the entire understanding of the parties with respect to the matters set forth herein. No representations, warranties, or certifications, expressed or implied, shall exist as between the parties, except as specifically set forth in this Lease Agreement. The parties shall only amend this Lease Agreement in writing with the proper official signatures attached thereto.

15. NOTICE. Any notice or payment required by this Lease Agreement shall be provided by U.S. mail or hand delivery to Greeley or to Lebsack at the addresses set forth above, unless the party to

receive such notice or payment provides to other party written notice of a change of the address listed above.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement as of the date stated in the preamble.

CITY OF GREELEY, COLORADO,
a Municipal Corporation, acting by
and through its Water and Sewer Board

Attest:

By: _____
Mayor

City Clerk

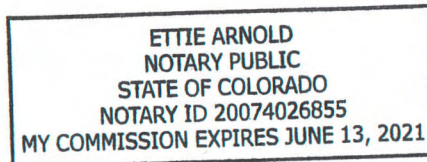
LELAND LEBSACK

By: [Signature]
Leland Lebsack

STATE OF COLORADO)
COUNTY OF WELD) ss.
)

The foregoing instrument was acknowledged before me this 15 day of March 2018 by Leland Lebsack.

Witness my hand and official seal.



My commission expires: June 13, 2021

Ettie Arnold
Notary Public

EXHIBIT A
to
FARM LEASE AGREEMENT
(LEBSACK)

The Land shall include the real property legally described as follows:

- Balmer Farm: Lot B of Recorded Exemption 582, recorded April 27, 1983, in Book 0994, Reception No. 01924815, Weld County Records, being a part of the East Half (E1/2) of Section Four (4), Township Seven (7) North, Range Sixty-Six (66) West of the 6th P.M., Weld County, Colorado.
- McWilliams Farm: Lot D of Recorded Exemption No. 0707-16-04 RECX15-0084, recorded October 21, 2015, at Reception No. 4151984, Weld County Records, being a part of the Southeast Quarter of Section 16, Township 7 North, Range 66 West of the 6th Principal Meridian, Weld County, State of Colorado.
- Henry Farm: A tract of land located in the South Half (S1/2) of the Northeast Quarter (NE1/4) of Section Sixteen (16), Township Seven (7) North, Range Sixty-Six (66) West of the 6th P.M., being more particularly described as follows: COMMENCING at the East Quarter Corner (E1/4Cor) of Section 16, and considering the East line of said Section 16 as bearing North 00°09'27" West, with all other bearings contained herein relative thereto; thence North 00°09'27" West along said East section line, 402.90 feet to the true point of beginning; thence North 61°31'43" West, 655.95 feet; thence North 89°59'31" West, 269.82 feet; thence South 87°15'43" West 1785.40 feet, thence South 00°25'17" East, 662.15 feet, thence South 89°18'24" West, 34.10 feet; thence North 00°04'44" West, 1327.06 feet; thence North 89°18'24" East, 2658.50 feet to a point on the East line of said Section 16; thence South 00°09'27" East along said East section line, 924.14 feet to the true point of beginning.

Said described parcels being ~ 313 Acres, more or less.

Lot B of Recorded Exemption No. 582
Section 4, Township 7 North, Range 66 West of the 6th P.M.
County of Weld, State of Colorado

LINE TABLE				LINE TABLE			
LINE	BEARING	LENGTH		LINE	BEARING	LENGTH	
1.1	N 01° 47' 52" E	284.00		1.32	S 84° 00' 00" E	80.00	
1.2	S 02° 00' 00" E	40.00		1.34	N 02° 00' 00" E	80.00	
1.3	S 04° 00' 00" E	60.00		1.36	S 04° 00' 00" E	80.00	
1.4	N 01° 30' 00" W	100.00		1.38	N 34° 00' 00" E	100.00	
1.5	N 03° 00' 00" E	40.00		1.37	S 04° 00' 00" E	80.00	
1.6	S 03° 00' 00" E	40.00		1.39	N 03° 00' 00" E	20.00	
1.7	S 04° 00' 00" E	40.00		1.38	S 03° 00' 00" E	100.00	
1.8	S 04° 00' 00" E	20.00		1.40	N 03° 00' 00" E	100.00	
1.9	S 04° 00' 00" E	40.00		1.51	N 03° 00' 00" E	20.00	
1.10	S 04° 00' 00" E	240.00		1.52	N 03° 00' 00" E	20.00	
1.11	S 03° 00' 00" E	80.00		1.53	S 04° 00' 00" E	20.00	
1.12	S 04° 00' 00" E	70.00		1.23	S 04° 00' 00" E	20.00	

[illegible]

NOTES

According to Colorado law you must commence any legal action based upon my default in this contract within three years after the last payment made under it. In no event may my action based upon my default in this contract be commenced more than two years from the date of the certification given herein.

112-80-148 C.R.S. 2012

① 無償で譲渡した財産に課税されない

1. Fence corner is 1.674 East of the property line.
2. Fence corner is 1.674 East of the property line.
3. Fence line is on the property line.
4. Fence line is 6.073 West of the property line.
5. Southeast corner of the lot corner is 6.073 West of the property line
6. North edge of concrete ditch is 18.073 Southwest of the property corner
7. North edge of concrete ditch is 18.073 Southwest of the property corner
8. Fence pole is 13.674 Southwest of the property corner
9. Northeast house corner is 3.793 South of the property line
4. Northeast house corner is 3.793 South of the property line
5. Southwest house corner is 7.874 West of the property line.
6. End of fence is 3.793 North of the property line.
7. Fence line is on the property line.

LEGEND

- [illegible]

NORTH-CLARKSON CO.
 600 A. 3RD ST.
 FORD, MI 48030
 313-487-1111

Ronald L. Edwards - On Guard 20 King
 Corvair Limited Production
 Last Survivor Alerted

KING SURVEYORS
 650 E. Garden Drive | Windsor, Colorado 80550
 Phone: (970) 686-5011 | email: info@KingSurveyors.com

POLYMER		AIR CONDITIONING SYSTEMS
DATE OF ORDER		
QUANTITY		
TOTAL PRICE		\$90876.00

ALTA/NSPS LAND TITLE SURVEY
FOR
CITY OF GREELEY
3000 10TH STREET
GREELEY, CO 80631

PROJECT #	20V00670
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2

SHEET 2 OF 2

Of Multiple Parcels of Land,
Situate in the East Half of Section 16, Township 7 North, Range 66 West of the 6th P.M.,
County of Weld, State of Colorado

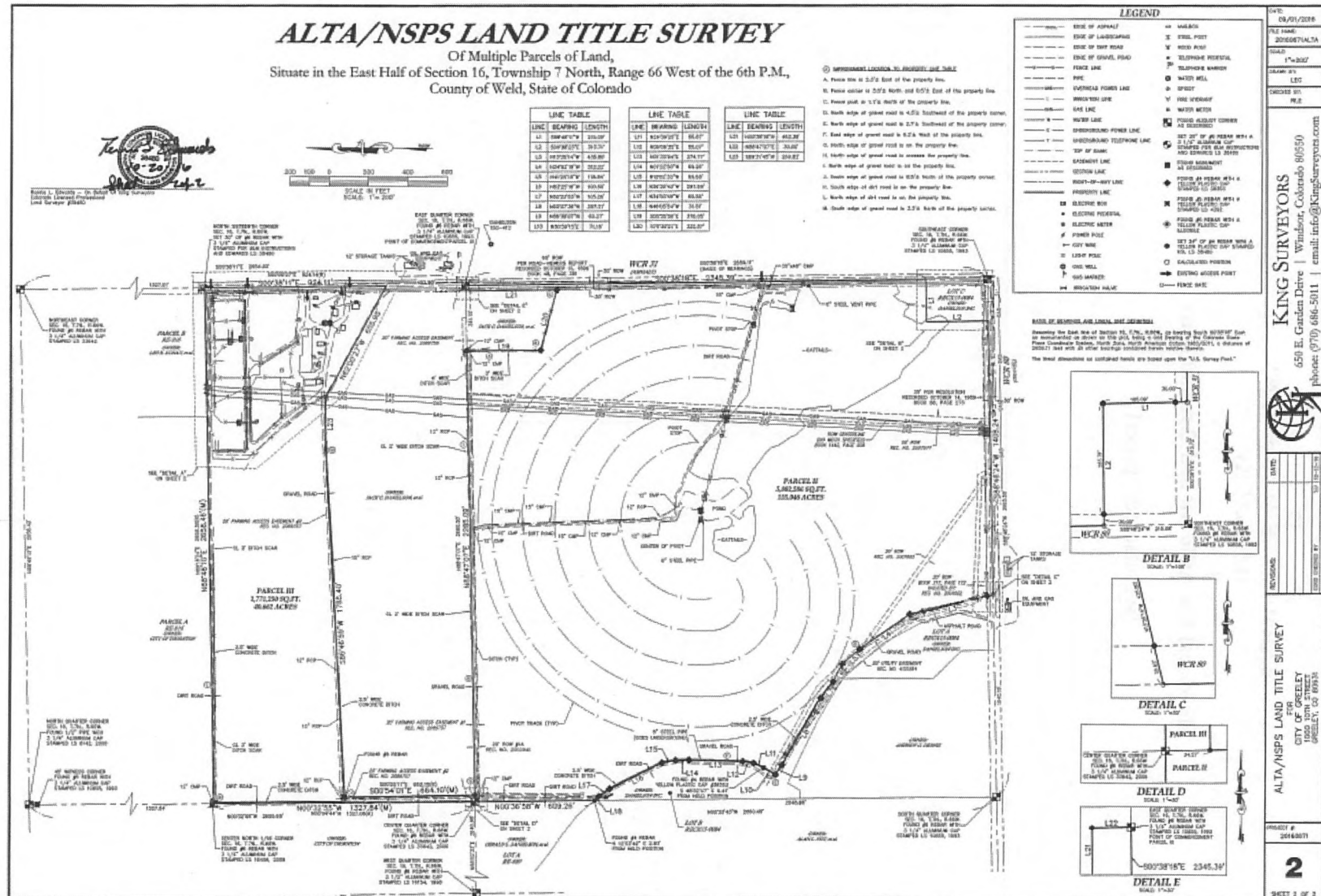


EXHIBIT B
to
FARM LEASE AGREEMENT
(LEBSACK)

Historical Use Affidavit and Questionnaire

[see attached 5 pages]

AFFIDAVIT OF HISTORICAL USE OF WATER RIGHTS

WATER RIGHTS:

Ditch or Reservoir Company: _____
Shares or Interest: _____

Name and address of owner and user of water rights:

Owner: _____
User(s): _____

Year water rights were used as described: _____

IRRIGATED LAND:

Legal description and size/acreage of land irrigated by above-mentioned water rights:

_____.

Name and address of owner(s) of above-mentioned irrigated land if different from owner or user of the water rights: _____.

I have not intended to abandon the aforementioned water rights during my period of use. I state that the information contained here and in the attached Questionnaire Regarding Use of Water Shares, which is incorporated herein by reference, is known to me and is correct.

The undersigned _____, having personal knowledge of the irrigation of the above described lands by virtue of being the owner and/or person who has farmed and irrigated those lands, being first duly sworn, hereby states that the information provided in this statement is true and accurate.

Signed and dated this _____ day of _____, 201__.

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Affidavit of Historical Use of Water Rights was acknowledged before me by Leland Lebsack, this _____ day of _____, 201__.

Witness my hand and Official Seal.

Notary Public
My commission expires: _____

QUESTIONNAIRE REGARDING USE OF WATER SHARES

The person completing this questionnaire need not necessarily be the Lessee, but must have personal knowledge of the information provided

1. Name of person completing this questionnaire: _____
Mailing Address: _____
Telephone: _____
Facsimile: _____
Email Address: _____
2. The information provided below pertains to ____ shares of the _____
Company, represented by Certificate No. _____ (hereinafter "Shares").
3. Did you use the Shares pursuant to a Lease Agreement? _____
Date of the Lease: _____
Name of Lessee (if different from Question 1): _____
Name of Lessor: _____
4. The information in this questionnaire relates to my use of the Shares during the 20__ irrigation
season (hereinafter "Lease Year").
5. Do you still own the farm or parcel irrigated by these Shares? _____
6. Was your use of the Shares during the Lease Year consistent with all terms and conditions of the
Lease Agreement and with the bylaws, rules, regulations, and policies of the ditch company?

7. What is the legal description of the farm or parcel on which these Shares were
used? _____
8. What is the total size of the farm or parcel? _____ acres.
9. What is the size of the area(s) on the farm or parcel that was irrigated? _____ acres.
10. What is the size of the area(s) on the farm or parcel that was irrigated using water from the
Shares? _____ acres.
11. Please provide the following information regarding how the water from these Shares is delivered.
 - Location and ID Number of the head gate at the main ditch: _____
 - Name and general location of any lateral(s) delivering the water to the land historically
irrigated: _____

- Identification of any carrier or lateral ditch stock required to deliver these rights: _____.
 - Approximate location of pumps, if used: _____.
 - Approximate location and size of storage ponds or reservoirs, including tail water ponds, if used: _____.
12. How was water applied during the Lease Year? Sprinkler _____ Furrow _____ Flood _____
Other/Combination (Describe): _____.
13. What was the irrigation season for the Lease Year? Start Date: _____ Stop Date: _____
14. During the Lease Year, did you divert and irrigate with all water available under the Shares? _____.
If no, please explain the reason why all water was not taken, approximately how much was not taken, and for how long: _____

_____.
15. Other than the Shares leased, was any other water (including other shares that are in the same Company as the Shares that are the subject of this questionnaire) used to irrigate the farm or parcel on which the Shares are/were used during the Lease Year? If so, please provide the following information.
- Number of shares: _____
 - Ditch Company: _____
 - Number of any Irrigation Wells: _____
 - Identification and Permit No. of any Irrigation Wells: _____
 - _____.
 - Capacity of Irrigation Wells: _____
 - Approximate location of Irrigation Wells: _____
 - _____.
 - Any other water used: _____
 - Describe how the water has been used, including the estimated percentage of the total irrigation supply provided by such water: _____
_____.
16. During the Lease Year, what crops were grown on the land irrigated by the Shares?
- | | | |
|------------|-------------|-----------|
| i. Crop: | Percentage: | Location: |
| ii. Crop: | Percentage: | Location: |
| iii. Crop: | Percentage: | Location: |
| iv. Crop: | Percentage: | Location: |
| v. Crop: | Percentage: | Location: |
| vi. Crop: | Percentage: | Location: |

17. Were the lands on which the Shares were used subirrigated? _____

18. If possible, please provide a map, sketch, or aerial photograph showing locations of (*check if included*):

- _____ Farm or Parcel
- _____ Areas irrigated by the Shares during the Lease Year
- _____ Areas irrigated with other water
- _____ Lateral ditches, wells, pumps, pipelines, storage reservoirs, or tail water ponds

I understand that I may be required to sign an affidavit attesting to the accuracy, to the best of my knowledge, of the information provided herein.

Signature: _____

Date: _____

FARM LEASE AGREEMENT

This FARM LEASE AGREEMENT ("Lease Agreement") is entered this 16th day of March 2018, by and between the CITY OF GREELEY, COLORADO, c/o Burt Knight, Director of Water and Sewer, whose address is 1100 10th Street, Third Floor, Greeley, Colorado 80631 ("Greeley"), and LELAND LEBACK, whose address is 21003 County Road 90, Pierce, Colorado 80650 ("Leback").

RECITALS

WHEREAS, Greeley owns agricultural property consisting of approximately forty (40.32) acres of irrigated cropland located at 39509 WCR 31 in Weld County, Colorado, which is legally described on Exhibit A, attached hereto and made a part hereof, (the "Real Estate"); and,

WHEREAS, Greeley owns one-half (½) Share of capital stock in the Water Supply & Storage Company represented by Stock Certificate No. 6769 (the "Water Rights"), which have been historically used to irrigate the Real Estate; and,

WHEREAS, Greeley desires to lease, under the terms of this Lease Agreement, the Water Rights and the Real Estate (collectively, the "Property") to Leback for agricultural and residential purposes; and,

THEREFORE, for and in good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Greeley and Leback agree as follows:

LEASE AGREEMENT

1. **FARM LEASE.** Greeley does hereby lease to Leback the above-described Property for agricultural purposes, subject to the terms and conditions of this Lease Agreement.

2. **TERM OF LEASE.** This lease of the Property shall begin on the effective date of the Lease Agreement set forth above, and end on December 31, 2018 (the "Lease Term"). The Agreement expires at the end of this initial term, but may be renewed for up to four subsequent terms of one year each, upon execution of a written mutual agreement of renewal by the parties. Notwithstanding the foregoing, this Lease Agreement may be terminated for any reason by Leback or the City prior to any irrigation season by delivering an advance written notice to the other party on or before March 1 of that calendar year.

3. **LEASE AMOUNT.** Leback shall pay to Greeley, Three Thousand, Four Hundred and Twenty-seven and 20/100th Dollars (\$3,427.20) ("Lease Amount") for the use and occupancy of the Property, which is equal to Eighty-five Dollars (\$85.00) per acre of approximately forty (40.32) acres irrigated cropland. The Lease Amount shall be due and payable in two equal installments. The first installment of One Thousand, Seven Hundred and Thirteen and 60/100th Dollars (\$1,713.60) shall be due March 31st. The second installment of One Thousand, Seven Hundred and Thirteen and 60/100th Dollars (\$1,713.60) shall be due December 15th.

a. For each year this Lease Agreement is renewed in accordance with Paragraph 2 above, the Lease Amount shall be adjusted in accordance with the increase in the Consumer Price Index ("CPI") for the Denver-Boulder-Greeley Region, using the CPI level on the date this Lease Agreement is mutually executed as the basis for comparison. Regardless of any future decrease in the CPI, the Lease Amount shall never be less than \$85.00 per acre.

4. IMPROVEMENTS; CONDITION OF PROPERTY. This Lease Agreement does not grant Lebsack any right to the use of structures or improvements located on the Real Estate. Prior to signing this Lease Agreement, Lebsack has inspected or caused to be inspected the Property and acknowledges that the Property is being leased "as-is." No additional representation, statement or warranty, express or implied, has been made by or on behalf of Greeley as to the condition of the Property or of any improvement located thereon and used in connection with the Property. In no event shall Greeley be liable for any defect in the Property or for any limitation on the use of the Property as irrigated cropland. In addition, Lebsack acknowledges that the minerals have been severed from the surface rights, and the surface rights may be subject to the development of the mineral rights.

5. WATER RIGHTS.

a. Lebsack may, at no additional expense, use the Water Rights for agricultural irrigation of the Real Estate, subject to the terms and conditions of this Lease Agreement.

b. Lebsack shall deliver to Greeley a completed Historical Use Affidavit and Questionnaire, in the form attached hereto as Exhibit B, on or before December 15th of each year this Lease Agreement is in effect. Lebsack acknowledges that Greeley may file an application to change the use of the Water Rights with the Division 1 Water Court for the State of Colorado during the term of this Agreement. Lebsack shall cooperate with Greeley and its agents or representatives in the review and analysis of the historical use of the Water Rights. Upon request from Greeley, Lebsack shall provide information regarding use of the Water Rights in preparation for any proceeding before the Division 1 Water Court.

c. Greeley shall be responsible for any ditch, reservoir, or augmentation company assessments or other charges and expenses attributable to the Water Rights.

d. Lebsack shall have no right to any rebates or other payments from Greeley for the lease of transmountain return flows associated with the Water Rights.

e. Lebsack agrees to use the Water Rights, and the water delivered pursuant to this Lease Agreement, only for agricultural irrigation of the Real Estate.

f. Lebsack agrees to take and use the water delivered pursuant to the Water Rights to the fullest extent possible, and shall undertake no action which could be construed as abandonment of the Water Rights. Lebsack shall provide advance written notice, on or before February 1, of any year, to Greeley if he no longer intends to irrigate the Real Estate, or any portion thereof, with the Water Rights during the following Lease Term.

g. Lebsack shall not sublease or rent the Water Rights to others or allow others to use the Water Rights or water delivered pursuant to said Water Rights on lands or for uses other than those described in this Section 5.

h. Lebsack shall comply with all of the rules, regulations, and policies of the ditch and reservoir companies that delivers the Water Rights.

i. Greeley makes no warranties or guarantees of, or representations about, the amount of water that will be yielded or delivered pursuant to the Water Rights.

j. Greeley shall not be liable for any failure of delivery of water pursuant to the Water Rights due to drought or other force of nature or failure of any ditch and/or reservoir delivery systems.

6. AUTHORIZED USE OF THE PROPERTY.

a. Lebsack shall occupy and use the Property solely for agricultural purposes.

b. Lebsack shall be responsible for the proper care of the Property consistent with sound agricultural practices.

c. Lebsack shall apply all weed control chemicals and fertilizers in compliance with applicable federal, state, and local regulations.

d. Lebsack shall irrigate the Property with the Water Rights and the water delivered pursuant to this Lease Agreement.

e. Lebsack shall furnish, at Lebsack's sole expense, all labor, machinery, fertilizer, weed spray, and other items needed for farming the Property.

7. LEBSACK'S COVENANTS AND AGREEMENTS.

a. Lebsack shall maintain and make any necessary repairs, at Lebsack's expense, to any lateral ditches, headgates, and other personal property necessary to deliver the Water Rights to the Real Estate and to the pivots, wells, siphons, and pumping lagoons used in connection with the Water Rights on the Real Estate.

b. Lebsack shall keep the Property, including any non-irrigated land, clear of weeds.

c. Lebsack shall not assign this Lease Agreement nor sublet the Property or any part thereof without the prior written consent of Greeley, which consent shall not be unreasonably withheld.

d. Lebsack shall not construct, nor permit construction of any structure, building or other improvement, temporary or otherwise, on the Property without Greeley's prior written consent, which consent shall be in the sole discretion of Greeley.

e. Lebsack shall not erect, paint, or maintain any signs on the Property without securing the prior written consent of Greeley, which consent shall be in the sole discretion of Greeley.

f. Lebsack shall not allow any noise, odors, fumes, or vibrations on the Property other than those caused by normal agricultural practices that would cause disruption of normal activities on adjacent properties.

g. Lebsack shall not use or permit to be used any insecticide, pesticide, rodenticide, herbicide, or other chemical substance on the Property for weed, pest, or rodent control or fertilization which is prohibited by any federal, state or local statute, ordinance, resolution, rule or regulation.

h. Lebsack shall not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or claim on or with respect to the Property.

i. Lebsack agrees, covenants, and warrants to maintain the Property throughout the term of the Lease in as good repair and condition as at the commencement of this Lease Agreement.

k. Lebsack agrees to deliver up and surrender to Greeley possession of the Property at the expiration or termination of this Lease Agreement.

l. Lebsack agrees to pay all utilities, including but not limited to, gas, water, electricity, and trash, that are used in connection with the Property.

8. INDEMNIFICATION.

a. Lebsack assumes the risk of loss or damage to any crops on the Property whether from windstorm, fire, earthquake, snow, water run-off, soil conditions, or any other causes whatsoever.

b. Lebsack releases and agrees to indemnify, defend and hold harmless Greeley, its agents, officers, employees, and volunteers from and against all damages, claims, actions, causes of action, demands, judgments, costs, expenses of every kind and nature, predicated upon injury to or death of any person or loss of or damage to any property, arising, in any manner, from Lebsack's operations or use of the Property under this Lease Agreement.

c. Nothing in this Lease Agreement is intended constitute a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 et seq., as applicable now or hereafter amended.

9. HAZARDOUS WASTE.

a. Lebsack shall not cause or permit any "Hazardous Material" (defined below) to be brought upon, kept, or used in or about the Property by Lebsack, its agents, employees, contractors, or invitees without the prior written consent of Greeley. Greeley shall not unreasonably withhold consent so long as Lebsack demonstrates to Greeley's reasonable satisfaction that such Hazardous Material is necessary or useful to Lebsack's use of the Property for agricultural purposes, so long as any chemicals (including without limitation fertilizer, herbicides, insecticides) are applied in conformance with good farming methods, applicable rules and regulations and the label directions of each chemical and kept, and stored in a manner that complies with all laws regulating such chemicals.

b. If Lebsack breaches the obligations stated herein, or if the presence of Hazardous Material on the Property caused or permitted by Lebsack results in contamination of the Property, or if contamination of the Property by Hazardous Material otherwise occurs for which Lebsack is legally liable to Greeley for damage resulting therefrom, then Lebsack shall indemnify, defend, and hold Greeley harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities, or losses which arise during or after the lease term as a result of such contamination. This indemnification of Greeley by Lebsack includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or groundwater on or under the Property.

c. Without limiting the foregoing, if the presence of any Hazardous Material on the Property caused or permitted by Lebsack results in any contamination of the Property, Lebsack shall promptly take all actions at its sole expense as are necessary to return the Property to the condition existing prior to the introduction of any such Hazardous Material to the Property; provided that Greeley's

approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse effect on the Property.

d. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Colorado, or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined as a "hazardous substance" under appropriate state law provisions; (ii) petroleum; (iii) asbestos; (iv) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321; (v) defined as a "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6903; (vi) defined as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601; or (vii) defined as a "regulated substance" pursuant to Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), 42 U.S.C. § 6991.

10. RESERVATIONS. Greeley reserves its rights under this Lease Agreement to (i) have its officers, employees, and representatives enter and inspect or protect the Property at any time; (ii) use any portion of the Property for public utilities and as ingress and egress for public use and rights of way; (iii) use, repair, install, replace, and maintain public utilities and rights-of-way on, over, or under the Property; and (iv) use any portion of the Property as a site for the application of digested biosolids.

11. TERMINATION FOR CAUSE.

a. Lebsack agrees to observe and perform the terms and conditions of this Lease Agreement. If Lebsack fails to make payment of the Lease Amount, or any part thereof, or if Lebsack fails to observe or perform any term or condition of this Lease Agreement, then Greeley, upon written notice to Lebsack, may in its sole discretion terminate this Lease Agreement and re-enter and repossess the Property, with or without legal proceedings, using such force as may be necessary, and remove any property belonging to Lebsack without prejudice to any claim for rent or for the breach of covenants hereof. Lebsack agrees to indemnify and hold Greeley harmless from and against any costs for the removal and storage of Lebsack's property incurred by Greeley under the provisions of this section.

b. If Greeley determines that Lebsack has created a public safety hazard, then Greeley may immediately take action to secure the safe operation of the Property, including without limitation, terminating this Lease Agreement and/or removing Lebsack and any of Lebsack's equipment or crops from the Property.

c. If Lebsack, after the expiration or termination of this Lease Agreement, shall remain in possession of the Property without a written agreement, the holding over shall constitute a month-to-month tenancy at a monthly rental rate equivalent to one-twelfth of the Lease Amount as adjusted in accordance with Section 3(a) above, payable in advance on the first day of each month. No payments of money by Lebsack after the expiration or termination of this Lease Agreement shall constitute a renewal of this Lease Agreement in the absence of a written mutual agreement.

12. INSURANCE REQUIREMENTS.

a. Lebsack shall purchase and maintain for the full period of this Lease Agreement, including any additional extension periods, at Lebsack's sole expense, insurance policies providing coverage as follows:

i. Farm liability insurance, including coverage for bodily injury, property damage, contractual liability, and broad-form property damage and owner/contractor's protective coverage, with a minimum coverage of not less than \$1,000,000.00 or as approved by the City of Greeley Risk Manager; and

ii. Workers' compensation and employers' liability insurance, if applicable, which shall cover the obligations of Lebsack in accordance with the provisions of the Workers' Compensation Act of Colorado, as amended.

b. Before commencement of the lease term, Lebsack must present all applicable insurance policies, certificates of insurance, and endorsements, along with a signed copy of this Lease Agreement, to the City of Greeley Risk Manager, and receive the Risk Manager's written approval as to the adequacy of such insurance coverage.

c. The insurance policies shall contain an endorsement naming the City of Greeley, Colorado, a municipal corporation, and its council members, officers, agents, employees, and volunteers as additional insured parties with respect to all activities Lebsack may perform under this Lease Agreement. Moreover, such endorsement shall include a notice provision requiring 30 days written notice to Greeley before any cancellation.

d. Only insurance companies with authority to issue policies in the State of Colorado shall provide insurance coverage under this Lease Agreement.

e. For the term of this Lease Agreement, Lebsack shall not cancel, materially change, or fail to renew the insurance coverage, and Lebsack shall notify Greeley of any material reduction or exhaustion of aggregate policy limits. If Lebsack fails to purchase or maintain the insurance coverage stated in this Lease Agreement, Greeley shall have the right to procure such insurance coverage at Lebsack's expense.

f. Nothing in this Section 12 shall limit the extent of Lebsack's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from Lebsack's occupancy, use, or control of the Property or Lebsack's performance or nonperformance under this Lease Agreement.

13. NO VESTED INTEREST IN SHARES OR JOINT VENTURE. This Lease Agreement is made expressly subject to Section 17-4 of the Charter of the City of Greeley. Greeley grants no interest in the Property to Lebsack other than as explicitly set forth in this Lease Agreement. Lebsack shall make no claim to any rights, title, or interest in the Property other than as explicitly set forth in this Lease Agreement. This Lease Agreement does not create a partnership or joint venture of any kind between the Parties, and Lebsack shall bear the entirety of any loss, cost, or expense incurred through its use of the Property.

14. MISCELLANEOUS PROVISIONS.

a. This Lease Agreement shall be construed and enforced in accordance with the laws of the State of Colorado.

b. No waiver or default by Greeley of any of the terms, covenants, warranties, or conditions hereof to be performed, kept, or observed by Lebsack shall be construed as, or operate as, a waiver by Greeley of any of the terms, covenants, warranties, or conditions herein contained, to be performed, kept, or observed by Lebsack.

c. Lebsack agrees that Greeley shall be under no obligation to maintain the Property in a particular condition or for a particular use, and Lebsack waives all claims for damages of any kind or nature, whatsoever, resulting therefrom.

d. Article and section headings shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of this Lease Agreement.

e. The provisions of this Lease Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attribution to such party of the language in question.

f. Lebsack shall perform all obligations under this Lease Agreement in strict compliance with all applicable laws, rules, charters, ordinances and regulations, as now exist or are later enacted or amended, of Greeley, and all county, state and federal entities having jurisdiction over the Property.

g. None of the terms, conditions, or covenants in this Lease Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Any person other than Greeley or Lebsack receiving services or benefits under this Lease Agreement shall be only an incidental beneficiary.

h. Invalidation of any specific provisions of this Lease Agreement shall not affect the validity of any other provision of this Lease Agreement.

i. Lebsack acknowledges that this Lease Agreement may not be recorded.

j. This Lease Agreement shall extend to and be binding upon the heirs, successors, and permitted assigns of the parties. Notwithstanding the foregoing, Lebsack acknowledges and agrees that Greeley may sell the Real Estate and intends to retain the Water Rights. In the event the Real Estate is sold, Greeley may assign or terminate, in full or in part, the Lease Agreement by providing notice to Lebsack of the assignment or terminating in accordance with Section 2.

k. This Lease Agreement is an integration of the entire understanding of the parties with respect to the matters set forth herein. No representations, warranties, or certifications, expressed or implied, shall exist as between the parties, except as specifically set forth in this Lease Agreement. The parties shall only amend this Lease Agreement in writing with the proper official signatures attached thereto.

15. NOTICE. Any notice or payment required by this Lease Agreement shall be provided by U.S. mail or hand delivery to Greeley or to Lebsack at the addresses set forth above, unless the party to receive such notice or payment provides to other party written notice of a change of the address listed above.

IN WITNESS WHEREOF, the parties hereto have executed this Lease Agreement as of the date stated in the preamble.

CITY OF GREELEY, COLORADO,

a Municipal Corporation, acting by
and through its Water and Sewer Board

Attest:

By: _____
Mayor

City Clerk

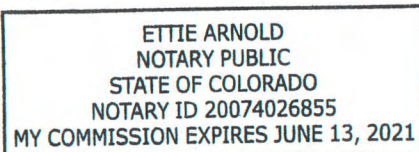
LELAND LEBSACK

By: [Signature]
Leland Lebsack

STATE OF COLORADO)
COUNTY OF WELD) ss.

The foregoing instrument was acknowledged before me this 15 day of March
2018 by Leland Lebsack.

Witness my hand and official seal.



My commission expires: June 13, 2021

Ettie Arnold
Notary Public

EXHIBIT A
to
FARM LEASE AGREEMENT
(LEBSACK)

The Real Estate shall include the real property legally described as follows:

A tract of land located in the South Half of the Northeast Quarter (S1/2NE1/4) of Section 16, Township 7 North, Range 66 West of the 6th P.M., Weld County, Colorado, being more particularly described as follows:

Commencing at the East Quarter Corner (E1/4 Cor) of Section 16, said point being the TRUE POINT OF BEGINNING, and considering the East line of said Section 16 as bearing North 00°09'27" West, with all other bearings contained herein relative thereto; Thence South 89°18'24" West, 2626.22 feet; Thence North 00°25'17" West, 662.15; Thence North 87°15'43" East, 1785.40 feet; Thence South 89°59'31" East, 269.82 feet; Thence South 61°31'43" East, 655.95 feet to the point on the East line of said Section 16; Thence South 00°09'27" East along said East section line 402.90 feet to the TRUE POINT OF BEGINNING.

Said described parcel contains 40.32 acres, more or less, and is subject to any rights-of-way or other easements as recorded by instruments of record or as now existing on said described parcel of land.

EXHIBIT B
to
FARM LEASE AGREEMENT
(LEBSACK)

Historical Use Affidavit and Questionnaire

[see attached 5 pages]

AFFIDAVIT OF HISTORICAL USE OF WATER RIGHTS

WATER RIGHTS:

Ditch or Reservoir Company: _____
Shares or Interest: _____

Name and address of owner and user of water rights:

Owner: _____
User(s): _____

Year water rights were used as described: _____

IRRIGATED LAND:

Legal description and size/acreage of land irrigated by above-mentioned water rights:
_____.

Name and address of owner(s) of above-mentioned irrigated land if different from owner or user of the water rights: _____.

I have not intended to abandon the aforementioned water rights during my period of use. I state that the information contained here and in the attached Questionnaire Regarding Use of Water Shares, which is incorporated herein by reference, is known to me and is correct.

The undersigned _____, having personal knowledge of the irrigation of the above described lands by virtue of being the owner and/or person who has farmed and irrigated those lands, being first duly sworn, hereby states that the information provided in this statement is true and accurate.

Signed and dated this _____ day of _____, 201__.

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Affidavit of Historical Use of Water Rights was acknowledged before me by Leland Lebsack, this _____ day of _____, 201__.

Witness my hand and Official Seal.

Notary Public
My commission expires: _____

QUESTIONNAIRE REGARDING USE OF WATER SHARES

The person completing this questionnaire need not necessarily be the Lessee, but must have personal knowledge of the information provided

1. Name of person completing this questionnaire: _____
Mailing Address: _____
Telephone: _____
Facsimile: _____
Email Address: _____
2. The information provided below pertains to ____ shares of the _____
Company, represented by Certificate No. _____ (hereinafter "Shares").
3. Did you use the Shares pursuant to a Lease Agreement? _____
Date of the Lease: _____
Name of Lessee (if different from Question 1): _____
Name of Lessor: _____
4. The information in this questionnaire relates to my use of the Shares during the 20__ irrigation
season (hereinafter "Lease Year").
5. Do you still own the farm or parcel irrigated by these Shares? _____
6. Was your use of the Shares during the Lease Year consistent with all terms and conditions of the
Lease Agreement and with the bylaws, rules, regulations, and policies of the ditch company?

7. What is the legal description of the farm or parcel on which these Shares were
used? _____
8. What is the total size of the farm or parcel? _____ acres.
9. What is the size of the area(s) on the farm or parcel that was irrigated? _____ acres.
10. What is the size of the area(s) on the farm or parcel that was irrigated using water from the
Shares? _____ acres.
11. Please provide the following information regarding how the water from these Shares is delivered.
 - Location and ID Number of the head gate at the main ditch: _____
 - Name and general location of any lateral(s) delivering the water to the land historically
irrigated: _____

- Identification of any carrier or lateral ditch stock required to deliver these rights: _____.
- Approximate location of pumps, if used: _____.
- Approximate location and size of storage ponds or reservoirs, including tail water ponds, if used: _____.

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

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

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

_____.

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

- Number of shares: _____
- Ditch Company: _____
- Number of any Irrigation Wells: _____
- Identification and Permit No. of any Irrigation Wells: _____
- _____.
- Capacity of Irrigation Wells: _____
- Approximate location of Irrigation Wells: _____
- _____.
- Any other water used: _____
- Describe how the water has been used, including the estimated percentage of the total irrigation supply provided by such water: _____
_____.

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

- | | | | | | |
|------------|-------|-------------|-------|-----------|-------|
| i. Crop: | _____ | Percentage: | _____ | Location: | _____ |
| ii. Crop: | _____ | Percentage: | _____ | Location: | _____ |
| iii. Crop: | _____ | Percentage: | _____ | Location: | _____ |
| iv. Crop: | _____ | Percentage: | _____ | Location: | _____ |
| v. Crop: | _____ | Percentage: | _____ | Location: | _____ |
| vi. Crop: | _____ | Percentage: | _____ | Location: | _____ |

17. Were the lands on which the Shares were used subirrigated? _____

18. If possible, please provide a map, sketch, or aerial photograph showing locations of (*check if included*):

- _____ Farm or Parcel
- _____ Areas irrigated by the Shares during the Lease Year
- _____ Areas irrigated with other water
- _____ Lateral ditches, wells, pumps, pipelines, storage reservoirs, or tail water ponds

I understand that I may be required to sign an affidavit attesting to the accuracy, to the best of my knowledge, of the information provided herein.

Signature: _____

Date: _____

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 6

TITLE: ACTION: APPROVE IRRIGATION WATER
LEASE AGREEMENT WITH JACOBS LAND
INVESTMENT AND WES & ANGELA
JOHNSON

RECOMMENDATION: APPROVE IRRIGATION WATER LEASE
AGREEMENT

ADDITIONAL INFORMATION:

Water Resources staff recommends that the Water and Sewer Board approve the enclosed Irrigation Water Lease Agreement with Jacobs Land Investment and Wes & Angela Johnson. The lessees purchased a parcel of real property commonly known as the Waag Farm from the City in December 2017, and desire to lease back the three (3) WSSC shares that historically irrigated this farm. The shares have already been changed by the City in water court.

This standard lease agreement is for an initial term of 10 years, with the potential for a 5-year renewal upon mutual agreement of the City and the lessees, and may be terminated by the City in advance of any irrigation season if the water is needed for municipal use.

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 7

TITLE: REPORT: WASTE WATER TREATMENT
 PLANT (#5 IN EDUCATIONAL SERIES)

RECOMMENDATION: INFORMATION ONLY

ADDITIONAL INFORMATION:

Staff will provide a PowerPoint presentation.

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 8

TITLE: EXECUTIVE SESSION

RECOMMENDATION: INFORMATION ONLY

ADDITIONAL INFORMATION:

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE X NO ENCLOSURE

ITEM NUMBER: 9

TITLE: ACTION: APPROVE RODENBERGER FARM
DIVESTMENT (DYECREST DAIRY)

RECOMMENDATION: APPROVE RODENBERGER FARM
DIVESTMENT

ADDITIONAL INFORMATION:

The City of Greeley, acting by and through its Water and Sewer Board, purchased property, located in Larimer County, Colorado, NE1/4 of the SE1/4 of Section 12, Township 7 North, Range 68 West of the 6th P.M, known as the Rodenberger Farm, in 2007, along with 2.5 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 2018, the City received an offer to purchase the water tap and 160 acres, more or less, of farm land including several structures. Staff recommends the divestment of the 160 acre farm to the potential buyer. Details of the purchase agreement will be presented to the Water & Sewer Board

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 10

TITLE: LEGAL REPORT

POSSIBLE ACTION: STATEMENTS OF OPPOSITION, IF ANY

RECOMMENDATION: INFORMATION ONLY

ADDITIONAL INFORMATION:

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 11

TITLE: DIRECTOR'S REPORT

RECOMMENDATION: INFORMATIONAL ONLY

ADDITIONAL INFORMATION:

WATER & SEWER BOARD AGENDA MARCH 21, 2018

ENCLOSURE _____

NO ENCLOSURE X

ITEM NUMBER: 12

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: