

CITY OF GREELEY, COLORADO
ORDINANCE NO. _____, 2022

**AN ORDINANCE AUTHORIZING THE SALE OF CITY-OWNED PROPERTY LOCATED IN THE
SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 7 NORTH, RANGE 66 WEST OF THE 6TH P.M.
IN WELD COUNTY, COLORADO, KNOWN AS THE McWILLIAMS FARM**

WHEREAS, in 2016, the City of Greeley, acting by and through its Water and Sewer Board, purchased property known as the McWilliams Farm, more particularly described as Lot D of Recorded Exemption 0707-16-04 RECX15-0084, according to the map recorded October 21, 2015 at Reception No. 4151984, being a part of the SE 1/4 of Section 16, Township 7 North, Range 66 West of the 6th P.M. in Weld County, Colorado, also known as Parcel No. 070716400004 and consisting of approximately 135.04 acres; and

WHEREAS, since acquiring the McWilliams Farm, the City has leased the land, along with associated Water Supply and Storage Company ("WSSC") water rights, to a tenant farmer in order to sustain historical use of the water rights on the McWilliams Farm; and

WHEREAS, the City recently received an offer to purchase the McWilliams Farm and its appurtenances, but not the associated WSSC water rights; and

WHEREAS, the City will continue to lease the WSSC water rights for use on the McWilliams Farm for a limited period of time; and

WHEREAS, on November 17, 2021, the Water and Sewer Board met and approved the offer and recommended City Council authorize the sale; and

WHEREAS, pursuant to Section 17-4(C) of the City Charter, any sale of real property by the Water and Sewer Board requires approval by City Council; and

WHEREAS, the City Council has determined that the sale of the McWilliams Farm and its appurtenances to 3T, LLC ("Buyer") serves the best interests of the City of Greeley.

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

Section 1. The Greeley City Council determines that the McWilliams Farm and its appurtenances, are not being held or used for a governmental purpose, are surplus property and appurtenances, and are unnecessary to retain for any governmental or non-governmental purpose.

Section 2. The Greeley City Council authorizes the sale of the McWilliams Farm and its appurtenances, in accordance with the terms and conditions of the Contract to Buy and Sell Real Estate (Land) ("Contract"), attached hereto and incorporated herein as Appendix A, and authorizes the Mayor to execute the same.

Section 3. The Greeley City Council authorizes the Director of the Water and Sewer Department, or his designee, to make non-substantive amendments to the Contract,

including the extension of deadlines and description of the property; to amend or terminate in-part the farm lease agreement, in accordance with the Contract; to enter into a new irrigation water lease agreement for the WSSC water rights, in accordance with the Contract; and to execute all documents necessary to close on the Contract.

Section 4. Upon the satisfaction of all Contract terms, and any amendments thereto, the Greeley City Council authorizes: the Mayor to execute the deed conveying the McWilliams Farm to the Buyer; the Director of the Water and Sewer Department, or his designee, to execute any documents necessary to convey the McWilliams Farm appurtenances to Buyer; and the Director of the Water and Sewer Department, or his designee, to do each and every thing necessary and proper to close on the Contract.

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

PASSED AND ADOPTED, SIGNED AND APPROVED ON THIS ____ DAY OF____, 2022.

ATTEST

THE CITY OF GREELEY, COLORADO

City Clerk

Mayor

APPENDIX A
ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GREELEY, COLORADO

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.
(CBS4-5-19) (Mandatory 7-19)

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

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

Date: _____

AGREEMENT

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

2. PARTIES AND PROPERTY.

2.1. Buyer. 31, LLC, a Colorado Limited Liability Company (Buyer) will take title to the Property described below as ☐ ~~Joint Tenants~~ ☐ ~~Tenants In Common~~ ☐ ~~Other~~ _____.

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

2.3. Seller. The City of Greeley, Colorado, a home rule municipality (Seller) is the current owner of the Property described below.

2.4. Property. The Property is the following legally described real estate in the County of Weld, Colorado:
Lot D of Recorded Exemption 0707-16-04 RECX15-0084, according to the map recorded October 21, 2015 at Reception No. 4151984, being a part of the SE 1/4 of Section 16, Township 7 North, Range 66 West of the 6th P.M. in Weld County, Colorado; also known as Parcel No. 070716400004 and consisting of approximately 135.04 acres.

~~known as No.~~ _____
~~Street Address~~ ~~City~~ ~~State~~ ~~Zip~~

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

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

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

- Zimmatic™ brand center pivot irrigation system and associated pump and pond infrastructure

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

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

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

See Exhibit A

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

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

None

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

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

None

☐ **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well. Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is ~~11472-1~~.

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

None

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

None

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

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

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

N/A

3. DATES, DEADLINES AND APPLICABILITY.

3.1. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 4.3	Alternative Earnest Money Deadline	7 days after MEC
		Title	
2	§ 8.1, 8.4	Record Title Deadline	14 days after MEC
3	§ 8.2, 8.4	Record Title Objection Deadline	21 Days after MEC
4	§ 8.3	Off-Record Title Deadline	14 days after MEC
5	§ 8.3	Off-Record Title Objection Deadline	21 days after MEC
6	§ 8.5	Title Resolution Deadline	42 days after MEC
7	§ 8.6	Right of First Refusal Deadline	n/a
		Owners' Association	
8	§ 7.2	Association Documents Deadline	n/a
9	§ 7.4	Association Documents Termination Deadline	n/a
		Seller's Disclosures	
10	§ 10.1	Seller's Property Disclosure Deadline	14 days after MEC
11	§ 10.10	Lead-Based Paint Disclosure Deadline (if Residential Addendum attached)	n/a
		Loan and Credit	
12	§ 5.1	New Loan Application Deadline	21 days after MEC
13	§ 5.2	New Loan Termination Deadline	77 days after MEC
14	§ 5.3	Buyer's Credit Information Deadline	n/a
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline	n/a
16	§ 5.4	Existing Loan Deadline	n/a
17	§ 5.4	Existing Loan Termination Deadline	n/a

18	§ 5.4	Loan Transfer Approval Deadline	n/a
19	§ 4.7	Seller or Private Financing Deadline	n/a
		Appraisal	
20	§ 6.2	Appraisal Deadline	28 days after MEC
21	§ 6.2	Appraisal Objection Deadline	63 days after MEC
22	§ 6.2	Appraisal Resolution Deadline	91 days after MEC
		Survey	
23	§ 9.1	New ILC or New Survey Deadline	n/a
24	§ 9.3	New ILC or New Survey Objection Deadline	n/a
25	§ 9.3	New ILC or New Survey Resolution Deadline	n/a
		Inspection and Due Diligence	
26	§ 10.3	Inspection Objection Deadline	91 days after MEC
27	§ 10.3	Inspection Termination Deadline	112 days after MEC
28	§ 10.3	Inspection Resolution Deadline	119 days after MEC
29	§ 10.5	Property Insurance Termination Deadline	42 days after MEC
30	§ 10.6	Due Diligence Documents Delivery Deadline	14 days after MEC
31	§ 10.6	Due Diligence Documents Objection Deadline	21 days after MEC
32	§ 10.6	Due Diligence Documents Resolution Deadline	42 days after MEC
33	§ 10.6	Environmental Inspection Termination Deadline	42 days after MEC
34	§ 10.6	ADA Evaluation Termination Deadline	n/a
35	§ 10.7	Conditional Sale Deadline	n/a
36	§ 10.10	Lead-Based Paint Termination Deadline (if Residential Addendum attached)	n/a
37	§ 11.1,11.2	Estoppel Statements Deadline	n/a
38	§ 11.3	Estoppel Statements Termination Deadline	n/a
		Closing and Possession	
39	§ 12.3	Closing Date	119 days after MEC or as agreed upon in writing
40	§ 17	Possession Date	Closing Date
41	§ 17	Possession Time	12:00 p.m. or as agreed upon in writing
42	§ 28	Acceptance Deadline Date	n/a
43	§ 28	Acceptance Deadline Time	n/a

85 **3.2. Applicability of Terms.** Any box checked in this Contract means the corresponding provision applies. If any deadline
86 blank in § 3.1 (Dates and Deadlines) is left blank or completed with the abbreviation “N/A”, or the word “Deleted,” such deadline
87 is not applicable and the corresponding provision containing the deadline is deleted. If no box is checked in a provision that contains
88 a selection of “None”, such provision means that “None” applies.

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

90 **4. PURCHASE PRICE AND TERMS.**

91 **4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$ 800,000	
2	§ 4.3	Earnest Money		\$ 15,000
3	§ 4.5	New Loan		\$
4	§ 4.6	Assumption Balance		\$
5	§ 4.7	Private Financing		\$
6	§ 4.7	Seller Financing		\$
7				
8				
9	§ 4.4	Cash at Closing		\$ 785,000
10		TOTAL	\$ 800,000	\$ 800,000

92 **4.2. Seller Concession.** ~~At Closing, Seller will credit to Buyer \$_____ (Seller Concession). The Seller~~
93 ~~Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender~~
94 ~~and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller~~

~~Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.~~

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

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

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

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

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

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

4.5. New Loan.

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

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

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

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

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

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

4.7. Seller or Private Financing.

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

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

~~**4.7.1.1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is conditional upon Seller determining whether such financing is satisfactory to Seller, including its payments, interest rate, terms, conditions, cost and~~

compliance with the law. Seller has the Right to Terminate under § 25.1, on or before **Seller or Private Financing Deadline**, if such Seller financing is not satisfactory to Seller, in Seller's sole subjective discretion.

~~4.7.2. Buyer May Terminate. If Buyer is to pay all or any portion of the Purchase Price with Seller or private financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost. Buyer has the Right to Terminate under § 25.1, on or before Seller or Private Financing Deadline, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective discretion.~~

TRANSACTION PROVISIONS

5. FINANCING CONDITIONS AND OBLIGATIONS.

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

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

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

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

6. APPRAISAL PROVISIONS.

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

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

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

6.2.1.1. Notice to Terminate. Notify Seller in writing, pursuant to § 25.1, that this Contract is terminated;

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

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

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

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

7. OWNERS' ASSOCIATION. This Section is applicable if the Property is located within a Common Interest Community and subject to the declaration (Association).

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

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

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

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

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

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

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

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

~~**7.3.6.** Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2~~

(Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or limited common elements of the Association property.

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

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

8.1. Evidence of Record Title.

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

☐ **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.

If neither box in § 8.1.1 or § 8.1.2 is checked, § 8.1.1 applies.

8.1.3. Owner's Extended Coverage (OEC). The Title Commitment ☐ **Will** ☒ **Will Not** contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by ☐ **Buyer** ☐ **Seller** ☐ **One-Half by Buyer and One-Half by Seller** ☐ **Other** N/A.

Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.5 (Right to Object to Title, Resolution).

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

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

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

8.2. Record Title. Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the Title Documents as set forth in § 8.5 (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.5 (Right to Object to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title Documents as satisfactory.

8.3. Off-Record Title. Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without

limitation, governmental improvements approved, but not yet installed) or other title matters (including, without limitation, rights of first refusal and options) not shown by public records, of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2 (Record Title) and § 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3 (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.5 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.

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

A tax certificate from the respective county treasurer listing any special taxing districts that effect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may object, on or before **Record Title Objection Deadline**. If the Tax Certificate shows that the Property is included in a special taxing district and is received by Buyer after the **Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to the Property's inclusion in a special taxing district as unsatisfactory to Buyer.

8.5. Right to Object to Title, Resolution. Buyer's right to object, in Buyer's sole subjective discretion, to any title matters includes those matters set forth in § 8.2 (Record Title), § 8.3 (Off-Record Title), § 8.4 (Special Taxing District) and § 13 (Transfer of Title). If Buyer objects to any title matter, on or before the applicable deadline, Buyer has the following options:

8.5.1. Title Objection, Resolution. If Seller receives Buyer's written notice objecting to any title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2 (Record Title), § 8.3 (Off-Record Title) or § 8.4 (Special Taxing Districts), the Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or

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

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

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

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

RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.

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

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

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

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

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

9. ~~NEW ILC, NEW SURVEY.~~

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

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

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

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

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

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

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

9.3.1. ~~Notice to Terminate.~~ Notify Seller in writing, pursuant to § 25.1, that this Contract is terminated; or

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

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

DISCLOSURE, INSPECTION AND DUE DILIGENCE

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

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

10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition. Seller must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an "As Is" condition, "Where Is" and "With All Faults."

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

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

10.3.2. Terminate. On or before the **Inspection Termination Deadline**, notify Seller in writing, pursuant to § 25.1, that this Contract is terminated due to any unsatisfactory condition. **Inspection Termination Deadline will be on the earlier of Inspection Resolution Deadline or the date specified in § 3.1 for Inspection Termination Deadline.**

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

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

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

10.6. Due Diligence.

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

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

no leases will survive Closing; see Exhibit A for Farm Lease Termination

- ☐ **10.6.1.8.** ~~A schedule of any tenant improvement work Seller is obligated to complete but has not yet completed and capital improvement work either scheduled or in process on the date of this Contract;~~
- ☐ **10.6.1.9.** ~~All insurance policies pertaining to the Property and copies of any claims which have been made for the past _____ years;~~
- ☐ **10.6.1.10.** ~~Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3);~~
- ☐ **10.6.1.11.** ~~Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or~~

~~other toxic, hazardous or contaminated substances and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;~~

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

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

~~☐ **10.6.1.14. Other documents and information:**~~

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

10.6.2.1. Notice to Terminate. Notify Seller in writing, pursuant to § 25.1, that this Contract is terminated; or

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

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

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

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

If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site Assessment, the **Environmental Inspection Termination Deadline** will be extended by ^{28 days, as will Inspection Resolution Resolution}~~_____~~ days (Extended Environmental Inspection Termination Deadline) and if such Extended Environmental Inspection Termination Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such event, ☐ Seller ☒ Buyer must pay the cost for such Phase II Environmental Site Assessment.

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this § 10.6.4, Buyer has the Right to Terminate under § 25.1, on or before **Environmental Inspection Termination Deadline**, or if applicable, the Extended Environmental Inspection Termination Deadline, based on any unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.

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

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

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

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

11. ESTOPPEL STATEMENTS.

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

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

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

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

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

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

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

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

11.3. Estoppel Statements Termination. ~~Buyer has the Right to Terminate under § 25.1, on or before Estoppel Statements Termination Deadline, based on any unsatisfactory Estoppel Statement, in Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before Estoppel Statements Deadline. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.~~

CLOSING PROVISIONS
12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.

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

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

12.3. Closing. Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing will be as designated by § 3.1 or mutual written agreement.

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

13. TRANSFER OF TITLE. Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender of any payment due at Closing, Seller must execute and deliver the following good and sufficient deed to Buyer, at Closing:

☒ special warranty deed ☐ general warranty deed ☐ bargain and sale deed ☐ quit claim deed ☐ personal representative's deed ☐ _____ deed. Seller, provided another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer, at Closing.

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

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

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

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

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

15.3. Status Letter and Record Change Fees. ~~At least fourteen days prior to Closing Date, Seller agrees to promptly request the Association to deliver to Buyer a current Status Letter. Any fees incident to the issuance of Association's Status Letter must be paid by ☐ None ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller. Any Record Change Fee must be paid by ☐ None ☐ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller.~~

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

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

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

☐ Water Stock/Certificates

☐ Water District

☐ Augmentation Membership

☐ Small Domestic Water Company

☐ _____

and must be paid at Closing by ☐ None ☒ Buyer ☐ Seller ☐ One-Half by Buyer and One-Half by Seller.

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

15.8. FIRPTA and Colorado Withholding.

15.8.1. FIRPTA. The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller ☐ IS a foreign person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

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

16. PRORATIONS AND ASSOCIATION ASSESSMENTS. The following will be prorated to the Closing Date, except as otherwise provided:

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

16.2. Rents. Rents based on ☐ Rents Actually Received ☐ Accrued. At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful deductions and notify all tenants in writing of such transfer and of the transferee's name and address. Seller must assign to Buyer all Leases in effect at Closing and Buyer must assume Seller's obligations under such Leases.

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

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

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

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

If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer for payment of \$250.00 per day (or any part of a day notwithstanding § 18.1) from Possession Date and Possession Time until possession is delivered.

659

GENERAL PROVISIONS

660 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**661 **18.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States Mountain Time
662 (Standard or Daylight Savings, as applicable).663 **18.2. Computation of Period of Days, Deadline.** In computing a period of days (e.g., three days after MEC), when the
664 ending date is not specified, the first day is excluded and the last day is included. If any deadline falls on a Saturday, Sunday or
665 federal or Colorado state holiday (Holiday), such deadline ☒ **Will** ☐ **Will Not** be extended to the next day that is not a Saturday,
666 Sunday or Holiday. Should neither box be checked, the deadline will not be extended.667 **19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND**
668 **WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the
669 condition existing as of the date of this Contract, ordinary wear and tear excepted.670 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss
671 prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the
672 damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds,
673 will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 25.1, on or
674 before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect to
675 carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were
676 received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any
677 deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received
678 the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to
679 Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's
680 insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney
681 requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such
682 damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.683 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services),
684 system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date
685 of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion
686 or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or
687 replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by
688 Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before
689 Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 25.1, on or before **Closing Date**, or, at the
690 option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must
691 not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive
692 Closing.693 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may
694 result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation
695 action. Buyer has the Right to Terminate under § 25.1, on or before **Closing Date**, based on such condemnation action, in Buyer's
696 sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and
697 Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value
698 of the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the Purchase Price.699 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the
700 Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.701 **19.5. Home Warranty. [Intentionally Deleted]**702 **19.6. Risk of Loss – Growing Crops.** The risk of loss for damage to growing crops by fire or other casualty will be borne
703 by the party entitled to the growing crops as provided in § 2.8 and such party is entitled to such insurance proceeds or benefits for
704 the growing crops.705 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that
706 the respective broker has advised that this Contract has important legal consequences and has recommended the examination of title
707 and consultation with legal and tax or other counsel before signing this Contract.708 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this
709 Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid,
710 honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting
711 party has the following remedies:712 **21.1. If Buyer is in Default:**

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

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

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

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

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

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

25. TERMINATION.

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

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

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

27. NOTICE, DELIVERY AND CHOICE OF LAW.

27.1. Physical Delivery and Notice. Any document, or notice to Buyer or Seller must be in writing, except as provided in § 27.2 and is effective when physically received by such party, any individual named in this Contract to receive documents or notices

766 for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be
767 received by the party, not Broker or Brokerage Firm).

768 **27.2. Electronic Notice.** As an alternative to physical delivery, any notice, may be delivered in electronic form to Buyer or
769 Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker
770 working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm)
771 at the electronic address of the recipient by facsimile, email or _____.

772 **27.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at the email address
773 of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the
774 documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

775 **27.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with
776 the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property
777 located in Colorado.

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

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

787

ADDITIONAL PROVISIONS AND ATTACHMENTS

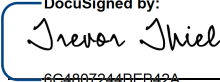
788 **30. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate
789 Commission.)
790 See Exhibit A
791
792
793
794

795 **31. OTHER DOCUMENTS.**
796 **31.1.** The following documents **are a part** of this Contract:
797 Exhibits A - C
798
799
800 **31.2.** The following documents have been provided but are **not** a part of this Contract:
801
802
803

804

SIGNATURES

805 Buyer's Name: 3T LLC Buyer's Name: _____

DocuSigned by:

664897244BEB42A...

 11/11/2021

Buyer's Signature _____ Date _____ Buyer's Signature _____ Date _____

Address: 12644 County Road 62 Address: _____
Greeley, CO 80631
Phone No.: 970-978-0800 Phone No.: _____
Fax No.: _____ Fax No.: _____
Email Address: trevor@orrand.com Email Address: _____

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

Seller's Name: City of Greeley

Seller's Name: _____

[See Attached Signature Page]

Seller's Signature _____ Date _____

Seller's Signature _____ Date _____

Address: 1001 11th Ave., 2nd Floor

Address: _____

Greeley, CO 80631

Phone No.: cole.gustafson@greeleygov.com

Phone No.: _____

Fax No.: copy to: aaron.goldman@greeleygov.com

Fax No.: _____

Email Address: _____

Email Address: _____

807

808

END OF CONTRACT TO BUY AND SELL REAL ESTATE

32. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Buyer)

Broker ☐ Does ☒ Does Not acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

Broker is working with Buyer as a ☒ Buyer's Agent ☐ Transaction-Broker in this transaction. ☐ This is a **Change of Status**.

☐ **Customer.** Broker has no brokerage relationship with Buyer. See § 33 for Broker's brokerage relationship with Seller.

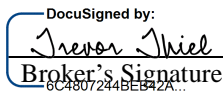
Brokerage Firm's compensation or commission is to be paid by ☒ Listing Brokerage Firm ☐ Buyer ☐ Other _____.

Brokerage Firm's Name: Orr Land Company, LLC

Brokerage Firm's License #: EC.100025822

Broker's Name: Trevor Thiel

Broker's License #: IA.0038006

DocuSigned by:

Broker's Signature
6C4807244BE842A...

11/11/2021

Date

Address: 1813 61st Ave., #200

Greeley, CO 80634

Phone No.: 970-351-0800

Fax No.: 970-351-7851

Email Address: trevor@orrland.com

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker ☐ Does ☒ Does Not acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written

mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder’s receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

Broker is working with Seller as a ☒ **Seller’s Agent** ☐ **Transaction-Broker** in this transaction. ☐ This is a **Change of Status**.
☐ **Customer**. Broker has no brokerage relationship with Seller. See § 32 for Broker’s brokerage relationship with Buyer.

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

Brokerage Firm’s Name: Hayden Outdoors Real Estate
Brokerage Firm’s License #: EC.100004181
Broker’s Name: Seth Hayden
Broker’s License #: EA.100002584

Broker’s Signature Date

Address: 501 Main Street, Windsor, CO 80550

Phone No.: (970) 674-1990

Fax No.: (970) 674-5090

Email Address: admin@haydenoutdoors.com

809

CITY OF GREELEY SIGNATURE PAGE
Contract to Buy and Sell Real Estate
Between 3T, LLC (Buyer) and City of Greeley (Seller)

THE CITY OF GREELEY, COLORADO

By: _____
Mayor

ATTEST:

By: _____
City Clerk

APPROVED AS TO SUBSTANCE:

By: _____
City Manager

APPROVED AS TO LEGAL FORM:

By: _____
City Attorney

APPROVED AS TO AVAILABILITY OF FUNDS:

By: _____
Director of Finance

Dated: _____

Exhibit A to Contract to Buy and Sell Real Estate (Greeley – 3T)

ADDITIONAL PROVISIONS

30.1. Approval. The obligations of the Seller herein, including the obligation to convey the Property to Buyer, are expressly subject to the authorization of this divestment of real property by the City of Greeley Water & Sewer Board and the City of Greeley City Council. If the Board and City Council do not approve this Agreement and authorize the divestment, then this Agreement is of no legal effect, the Earnest Money shall be returned to the Buyer, and neither party shall have any further obligation to the other regarding the subject matter herein.

30.2. Restrictive Covenants & Water Lease. Buyer shall deliver, or cause to be delivered, at or before Closing, duly executed and acknowledged copies of the Restrictive Covenants (No Irrigation and Revegetation) attached hereto as Exhibit B and the Irrigation Water Lease attached hereto as Exhibit C. The Restrictive Covenants (No Irrigation and Revegetation) shall be recorded in the real property records of Weld County immediately after the deed conveying the property to Buyer is recorded..

30.3. Farm Lease Termination. The Amended Farm Lease Agreement, dated April 6, 2021, by and between Leland Lebsack as Lessee and Seller as Lessor, shall be partially terminated at or before Closing by Seller as to the following:

30.3.1. the “McWilliams Farm” parcel of land, as that term is described on Exhibit A to the Amended Farm Lease Agreement, dated April 6, 2021, by and between Seller and Leland Lebsack, and disclosed to Seller by Buyer under § 10.6.1.7; and

30.3.2. the water, water rights, ditches, ditch rights, and reservoir rights, including any and all lateral ditches, easements, rights of way and entitlements appurtenant to, used in connection with, and represented by one-half (0.5) share of stock of that two and one-half (2.5) shares of stock in the Water Supply & Storage Company, said two and one-half (2.5) shares evidenced by Certificate No. 6728.

30.4. Water Lease. Seller agrees to lease to Buyer, and Buyer agrees to make beneficial use of, the water and associated rights excluded under Section 30.6.1 for the continued irrigation of the Property for a period of two (2) annual irrigation seasons, beginning in the year 2022, subject to the Greeley City Charter Section 17-4(c). The annual lease amount to be paid by Buyer to Seller for such lease shall be equal to any ditch and reservoir company assessments or other charges and expenses attributable to the water and associated rights excluded under Paragraph 2.6 and an annual administrative fee equal to ten percent (10%) of the ditch and reservoir company assessments. Both Parties agree to negotiate in good faith to enter into such lease agreement in satisfaction of this provision at or before Closing, in the form of Exhibit C.

30.5. Broker Fee. Seller agrees to pay Transactional-Broker a five percent (5%) commission at Closing.

30.6. Exclusions. The following items are excluded (Exclusions):

30.6.1. All water, water rights, ditches, ditch rights, and reservoir rights, including any and all lateral ditches, easements, rights-of-way and entitlements appurtenant to, used in connection with, and represented by one-half (0.5) share of stock of that two and one-half (2.5) shares of stock in the Water Supply & Storage Company, said two and one-half (2.5) shares evidenced by Certificate No. 6728; and

30.6.2. The Valley Irrigation® brand center pivot, and any personal property, owned by or belonging to Leland Lebasck, Seller's lessee of the Property under that Amended Farm Lease Agreement, dated April 6, 2021, and disclosed to Seller by Buyer under § 10.6.1.7.

30.7 1031 Exchange. At the request of the Buyer, Seller shall cooperate with the Buyer in the achievement of a tax-deferred real estate exchange pursuant to Section 1031 of the Internal Revenue Code and the Treasury Regulations promulgated thereunder. Seller shall not be required to incur any additional liability or expense in connection with the Buyer's tax-deferred exchange transaction nor shall Seller be required to convey title to any real property other than the Property described hereinabove.

30.8 Inspection. The list of objectionable conditions enumerated in § 10.3 shall also include any matter affecting Buyer's intended use of the Property.

Exhibit B to Contract to Buy and Sell Real Estate (Greeley – 3T)

RESTRICTIVE COVENANTS (NO IRRIGATION AND REVEGETATION)

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, and in order to provide the City of Greeley, a Colorado home rule municipal corporation ("Greeley"), with the maximum benefit available from the present and future use of water pursuant to the water rights described in Exhibit 1 attached hereto and incorporated herein ("Water Rights"), 3T, LLC, a Colorado limited liability company ("Declarant"), agrees, warrants and covenants on Declarant's own behalf and on behalf of all successors in interest, that upon notice from Greeley, Declarant shall cease irrigation on the lands owned by Declarant and described in Exhibit 2 attached hereto and incorporated herein ("Land").

Upon receipt of one hundred and eighty (180) days prior written notice from Greeley, thereafter Declarant and Declarant's successors in interest shall not irrigate the Land. These covenants shall not prohibit Declarant or Declarant's successors in interest from irrigating the Land (i) with other water rights which may in the future be transferred to such lands and judicially approved for such use through an appropriate Water Court proceeding, and in accordance with any future water rights applications filed by Greeley or a successor in interest to the Water Rights; (ii) with water from an existing well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation; (iii) with water which is not tributary to the South Platte River or any of its tributaries; (iv) or with treated potable water supplied by a municipal or quasi-municipal government water provider ("Alternate Water Rights").

Unless so irrigated, then within two and one half (2½) years from the date Declarant ceases to irrigate the Land or any portion thereof with Alternate Water Rights, Declarant or Declarant's successors in interest shall also establish, at Declarant's or Declarant's successors in interest's expense, a ground cover of plant life, as such is defined in C.R.S. § 37-92-103(10.5), on the previously irrigated portions of the Land to satisfy any applicable revegetation and noxious weed management provisions as may be required in a final decree obtained by Greeley, or a successor in interest to the Water Rights, from the District Court for Water Division No. 1, State of Colorado, or a successor court, changing certain water rights from agricultural irrigation purposes to other beneficial purposes, pursuant to C.R.S. § 37-92-305(4.5). Previously irrigated portions of the Land means portions of the Land not occupied by roads, buildings, or other structures, which land was cultivated with crops in accordance with these covenants. Declarant, or Declarant's successors in interest, shall provide notice to Greeley when such revegetation of the Land has been established. Declarant agrees the Land subject to these covenants shall not be planted with crops that are capable of extending roots into the underlying groundwater, including, but not limited to, alfalfa.

Should Declarant or Declarant's successors in interest fail to comply with its obligations hereunder, Greeley shall have the right to come upon the Land and take all measures necessary to accomplish the Declarant's obligations hereunder, including but not limited to revegetation and/or noxious weed management on the Land, provided that Greeley shall also have the right to receive full reimbursement of all of its expenses of accomplishing such revegetation or weed management from Declarant or Declarant's successor in interest. Any and all fees and costs incurred in any necessary action to enforce these covenants by Greeley, including reasonable attorney fees, shall be paid by Declarant. Additionally, Greeley shall have the right to come upon the Land to verify Declarant's compliance with its obligations hereunder, with any such inspections being at the sole expense of Greeley. All rights to enter upon the Land granted herein shall terminate upon a final determination by the District Court for

Water Division No. 1, State of Colorado, under the court's retained jurisdiction, that no further actions will be necessary in order to satisfy Declarant's revegetation obligations.

The foregoing covenants shall burden, attach to, and run with the Land and shall be binding upon Declarant and Declarant's successors, assigns and any other person who acquires an ownership or leasehold interest in all or part of the Land; such covenants also shall benefit, attach to, and run with the Water Rights and shall inure to the benefit of Greeley's successors, assigns, and any other person who acquires an ownership interest in the Water Rights. Declarant warrants and represents such covenants shall entitle Greeley to the first and prior right to claim credit for the dry-up or non-irrigation of the Land.

The terms and provisions of these covenants shall not expire and shall be perpetual unless specifically released in writing by Greeley or its successors in interest. The terms and provisions of these covenants may not be terminated, modified, or amended without prior written consent of Greeley or its successors in interest. Any notice may be sent to the Declarant by prepaid U.S. Mail to the Declarant at: 12644 County Road 62, Greeley, CO 80631. The undersigned acknowledges and represents he/she has authority to sign on behalf of and bind Declarant to the terms and conditions of these Restrictive Covenants (No Irrigation and Revegetation).

IN WITNESS WHEREOF, the Declarant has executed this instrument on the _____ day of _____ 20__.

Declarant
3T, LLC

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____ 20_ by _____, as _____ of 3T, LLC.

Witness my hand and official seal.

Notary Public

My commission expires: _____

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

All water, water rights, ditches, ditch rights, and reservoir rights, including any and all lateral ditches, easements, rights of way and entitlements appurtenant to, used in connection with, and represented by one-half (0.5) share of stock of that two and one-half (2.5) shares of stock in the Water Supply & Storage Company, said two and one-half (2.5) shares evidenced by Certificate No. 6728 (“Water Rights”).

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

Lot D of Recorded Exemption 0707-16-04 RECX15-0084, according to the map recorded October 21, 2015 at Reception No. 4151984, being a part of the SE 1/4 of Section 16, Township 7 North, Range 66 West of the 6th P.M. in Weld County, Colorado; also known as Parcel No. 070716400004 and consisting of approximately 135.04 acres.

Exhibit C to Contract to Buy and Sell Real Estate (Greeley – 3T)

IRRIGATION WATER LEASE AGREEMENT

This IRRIGATION WATER LEASE AGREEMENT ("Agreement") is entered into this ____ day of _____ 202_, by and between the CITY OF GREELEY, a Colorado home rule municipal corporation acting by and through its Water and Sewer Board, whose address is 1001 11th Avenue, Second Floor, Greeley, Colorado 80631 ("City"), and 3T, LLC, a Colorado limited liability corporation, whose address is 12644 County Road 62, Greeley, CO 80631 ("Lessee").

Recitals

WHEREAS, the City owns those certain water rights represented by one-half (0.5) share of stock of that two and one-half (2.5) shares of stock in the Water Supply & Storage Company, said two and one-half (2.5) shares evidenced by Certificate No. 6728 ("Water Rights"); and

WHEREAS, the Lessee desires to lease the Water Rights from the City for agricultural irrigation on Lot D of Recorded Exemption 0707-16-04 RECX15-0084, according to the map recorded October 21, 2015 at Reception No. 4151984, being a part of the SE 1/4 of Section 16, Township 7 North, Range 66 West of the 6th P.M. in Weld County, Colorado, also known as Parcel No. 070716400004, a parcel of real property consisting of approximately 135.04 acres ("Property");

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

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

Agreement

1. Water Rights Lease. The City hereby leases to the Lessee, and the Lessee hereby leases from the City, the above-described Water Rights for the purpose of agricultural irrigation on the Property.

2. Term of Lease. The term of this Agreement begins on the date of mutual execution and ends on November 1, 2023 ("Initial Term"). At the end of this Initial Term, this Agreement shall renew automatically for one year ("Renewal Term"), unless City or Lessee transmits written notice of nonrenewal on or before November 1 of the preceding calendar year. The Lessee may terminate this Agreement during the Initial Term, prior to any irrigation season, for any reason by delivering one (1) year's advance written notice to the City. The City may terminate this Agreement during the Initial Term, prior to any irrigation season, by delivering advance written notice to Lessee on or before November 1 of the preceding calendar year, if the City determines in its sole discretion that the Water Rights are needed for any municipal purpose, or if the City is

required to cease irrigation with the Water Rights by the terms and conditions of a water court decree. Additionally, refer to Section 12 for provisions relating to termination for cause.

3. Annual Lease Amount and Administrative Fee. The Lessee shall pay to the City an Annual Lease Amount equal to all assessments, charges, and other expenses due and attributable to the Water Rights paid by the City to the Water Supply and Storage Company. The Annual Lease Amount shall not be reduced to reflect rebates or other credits attributable to leasing transmountain return flows associated with the Water Rights. Lessee shall also pay to the City an Annual Administrative Fee equal to ten percent (10%) of that year's Annual Lease Amount, provided, however, that the Annual Administrative Fee shall not exceed five-hundred dollars (\$500.00). The City will provide an invoice of the Annual Lease Amount and Annual Administrative Fee to the Lessee, and Lessee shall deliver payment of that total amount to the City no later than (i) May 15 of the then current irrigation year, or (ii) within fifteen days of receipt of such invoice from the City. The Lessee shall also remit to the City an additional charge equal to fifteen percent (15%) of the Annual Lease Amount for every thirty (30) days that payment required under this Agreement is late.

4. Use of Water Rights. Lessee shall:

(a) take and use the water delivered pursuant to the Water Rights to the fullest extent possible;

(b) not take any action that could cause in part or in whole a reduction in the use of the Water Rights or could be construed as whole or partial abandonment of the Water Rights;

(c) only use the water delivered pursuant to the Water Rights for agricultural irrigation;

(d) not use the water delivered pursuant to the Water Rights on any land other than the Property;

(e) not use any water, water rights, ditches, ditch rights, wells, well rights, well permits, carriage rights, reservoirs, or reservoir rights to irrigate the Property, other than water yielded pursuant to the Water Rights, absent written consent from the City;

(f) use the Water Rights in accordance with all rules, regulations, bylaws and policies of the Water Supply and Storage Company. Lessee shall comply with Title 20 of the Greeley Municipal Code, and all rules, regulations, and laws of the State of Colorado pertaining to use of the Water Rights; and

(g) provide advance written notice to the City of at least thirty days if it no longer intends to irrigate the entirety of the Property with the Water Rights.

5. Affidavit of Beneficial Use and Water Court Proceedings. Lessee agrees to deliver to the City, on or before May 15 of each calendar year, a completed Historical Use Affidavit and

Questionnaire, in the form attached as Exhibit A. Lessee acknowledges that the City may file an application to change the use of the Water Rights with the Division 1 Water Court for the State Colorado during the term of this Lease Agreement. Lessee agrees to cooperate with the City and its agents or representatives in the review and analysis of the historical use of the Water Rights. Upon request from the City, Lessee shall provide information regarding use of the Water Rights and reasonable access to the Property during and in preparation for any proceeding before the Division 1 Water Court.

6. Restriction on Sublease and Assignment. Lessee shall not rent, sublet, or otherwise convey the right to use the Water Rights. Lessee shall not assign this Agreement, except to a successive owner or operator of the Property for agricultural irrigation of the Property, and only with written consent from the City. Lessee shall request consent from the City prior to any purported assignment of this Agreement by advance written notice of at least thirty (30) days. Such consent may be given or withheld in the sole discretion of the City.

7. No Vested Interest in Shares or Joint Venture. This Agreement is made expressly subject to Section 17-4 of the Charter of the City of Greeley. The City grants no interest in the Water Rights to the Lessee other than as explicitly set forth in this Agreement. Lessee shall make no claim to any rights, title, or interest in the Water Rights other than as explicitly set forth in this Agreement. This Agreement does not create a partnership or joint venture of any kind between the parties, and the Lessee shall bear the entirety of any loss, cost, or expense incurred through their use of the Water Rights on the Property.

8. No Guarantee of Yield. Lessee is entitled to receive the amount of water yielded by the Water Rights, subject to the terms and conditions in this Agreement. The City makes no warranty, guarantee, or representation of any kind regarding the quality or physical yield of water to be delivered pursuant to the Water Rights. Lessee shall not hold the City liable for any failure in delivery of the water pursuant to the Water Rights, including, but not limited to, that caused by force of nature or failure of water supply infrastructure.

9. Maintenance of Infrastructure. Lessee shall maintain the lateral ditches, headgates, and other personal property necessary to deliver water pursuant to the Water Rights at Lessee's own cost and expense. Lessee shall make all repairs and restorations necessary to keep the lateral ditches, headgates, and other personal property in good working condition during the term of this Agreement.

10. Indemnification; Immunity. Lessee agrees to exercise Lessee's rights under this Agreement at Lessee's own risk. Lessee shall indemnify and hold harmless the City from and against any cost, expense, or liability arising out of this Agreement or related activities. Nothing in this Agreement is intended to constitute a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 et seq., as applicable now or hereafter amended.

11. Notice. All notices to be given under this Agreement shall be (1) sent by certified or registered mail, return receipt requested, (2) hand-delivered at the addresses set forth above, or (3) via email to trevor@orrand.com for Lessee and Alex.Tennant@Greeleygov.com, with a copy

to Aaron.Goldman@Greeleygov.com, for City. The Lessee shall provide written notice to the City, and City to Lessee, if the appropriate contact information changes.

12. Default and Termination. If either the City or the Lessee fails to comply with a term or condition herein, such failure constitutes a default of this Agreement. The non-defaulting party may declare the default by providing written notice to the defaulting party in accordance with Paragraph 11 above. Upon receipt of this notice of default, the defaulting party will have fifteen (15) days within which to cure the default. If, in the sole discretion of the non-defaulting party, the default remains uncured after the aforementioned fifteen-day cure period, or after any written extension thereof mutually agreed upon by the parties, the non-defaulting party may declare the Agreement terminated by written notice in accordance with Paragraph 11 above.

(a) Notwithstanding the above, failure by the Lessee to comply with the terms and conditions of Paragraphs 3, 4 or Paragraph 6 of this Agreement constitutes a material breach. In the event that the Lessee commits a material breach, the City may immediately terminate this Agreement by written notice to Lessee.

(b) The failure of either party to declare a default or material breach does not establish a precedent or constitute an implied waiver of any subsequent breach of the terms and conditions in this Agreement.

13. Cessation of Irrigation. Upon expiration or termination of this Agreement, Lessee shall immediately cease agricultural irrigation of the Property with the Water Rights.

14. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies upon any parties other than the Lessee and the City, or their respective permissible successors in interest.

15. Recovery of Costs and Fees. In addition to any remedies otherwise available, a party that is successful in a legal action commenced against the other due to a default or material breach of this Agreement may recover from the defaulting party reasonable costs and attorneys' fees incurred during the course of such legal action.

16. Governing Law and Venue. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. Proper venue for any action arising out of this Agreement is the District Court for Weld County, Colorado, or the Division 1 Water Court for the State of Colorado.

17. Severability. In the event a provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding will not invalidate any other provision herein, and the remainder of the Agreement should be interpreted in accordance with the intent of the parties.

18. Integration. This Agreement constitutes a complete integration of the understanding and agreement between the City and Lessee with respect to the subject matter herein, and supersedes all other lease agreements regarding the Water Rights. No representations,

negotiations, or warranties, express or implied, exist between the City and Lessee except as explicitly set forth in this Agreement. This Agreement may only be modified in a written form duly authorized, approved, and executed by the City and Lessee.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Executed copies of this Agreement may be delivered by electronic means. The parties agree to accept and be bound by signatures hereto delivered by electronic means.

20. Recording. Lessee shall not record this Agreement in the real property records of any jurisdiction. This Agreement is not intended to run with the land as a covenant burdening real property.

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

CITY OF GREELEY

ATTEST:

By: _____
Mayor

By: _____
City Clerk

LESSEE

By: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____ 20__ by _____, whose signature appear above as the Lessee.

Witness my hand and official seal.

Notary Public

My commission expires: _____

**EXHIBIT A TO
IRRIGATION WATER LEASE AGREEMENT**

(See attached Historical Use Affidavit & Questionnaire)

AFFIDAVIT OF HISTORICAL USE OF WATER RIGHTS

WATER RIGHTS:

Ditch or Reservoir Company:
Shares or Interest: _____

Herein after collectively referred to as the “Water Rights.”

Name and address of owner and user of Water Rights:

Owner: City of Greeley
Water and Sewer Department
1100 10th Street, Suite 300
Greeley, Colorado 80631

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: City of Greeley.

During my period of use, I used the water delivered pursuant to the Water Rights to the fullest extent possible, and did not undertake any action which could be construed as abandonment of or an intent to abandon the Water Rights. 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 with the Water Rights, being first duly sworn, hereby states that the information provided in this statement is true and accurate.

[Signature Page Follows]

Signed and dated this _____ day of _____, 20__.

Signature: _____

Printed Name: _____

STATE OF COLORADO)
) ss.
COUNTY OF WELD)

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

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 _____, represented
by Stock Certificate No. _____ (hereinafter "Shares").

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: _____ City of Greeley _____

3. The information in this questionnaire relates to my use of the Shares during the 20__ irrigation season
(hereinafter "Lease Year").

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

5. 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? _____

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

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

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

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

10. Please provide the following information regarding how the water from these Shares is delivered.
 - Location and ID Number of the head gate at the main ditch: _____
_____.
 - Name and general location of any lateral(s) delivering the water to the land historically irrigated:
_____.
 - Identification of any carrier or lateral ditch stock required to deliver these rights:
_____.
 - Approximate location of pumps, if used: _____

- Approximate location and size of storage ponds or reservoirs, including tail water ponds, if used: _____.

11. How was water applied during the Lease Year?

- Sprinkler _____
- Furrow _____
- Flood _____
- Other/Combination (describe): _____.

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

13. During the Lease Year, did you divert and irrigate with all water available under the Shares? _____.

If not, please explain the reason why all water was not taken, approximately how much was not taken, and for how long: _____

14. 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: _____

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

- | | | |
|----------------|-------------------|-----------------|
| 1. Crop: _____ | Percentage: _____ | Location: _____ |
| 2. Crop: _____ | Percentage: _____ | Location: _____ |
| 3. Crop: _____ | Percentage: _____ | Location: _____ |
| 4. Crop: _____ | Percentage: _____ | Location: _____ |

16. Were the lands on which the Shares were used subirrigated? Yes _____ No _____

17. 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: _____