

**CITY OF GREELEY, COLORADO**  
**RESOLUTION NO. 38, 2019**

A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT FOR POTABLE WATER INTERCONNECT WITH NORTH WELD COUNTY WATER DISTRICT AND EAST LARIMER COUNTY WATER DISTRICT.

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

WHEREAS, in accordance with Greeley Municipal Code § 2.07.040, the City of Greeley ("Greeley") has the authority to enter into cooperative or joint activities with other governmental bodies by intergovernmental agreement; and

WHEREAS, North Weld County Water District, East Larimer County Water District (collectively "Districts"), and Greeley previously entered into that certain Potable Water Intergovernmental Agreement on September 27, 2018, which expired on November 15, 2018 ("2018 IGA") and is attached hereto as Exhibit B; and

WHEREAS, Greeley and Districts are neighboring water providers that have a continuing common interest in obtaining high-quality potable water in sufficient quantities to meet the present and future needs of their citizens and service areas during times of emergency and operational need; and

WHEREAS, in addition to their own needs and demands, Greeley and Districts from time to time may have excess capacity to treat raw water for one another; and

WHEREAS, Greeley and Districts wish to cooperate with one another by operating interconnections and providing temporary service between their respective water treatment and distribution systems in order to meet the needs of their respective customers; and

WHEREAS, Greeley and Districts will continue to own their raw water supplies, each relying upon the yield of its own supply to provide the raw water necessary for treatment; and

WHEREAS, Greeley and Districts desire to exchange engineering and operational data in furtherance of the design, construction, operation, repair, and maintenance of a new interconnection; and

WHEREAS, Greeley and Districts desire to exchange engineering and operational data in furtherance of the operation, repair, and maintenance of two extant interconnections; and

WHEREAS, Greeley and Districts are agreeable to entering into a long-term contract ("2019 Interconnect IGA") for the treatment of potable water during times of emergency and operational need; and

WHEREAS, Greeley and Districts have reduced their understandings, and the terms and conditions of the 2019 Interconnect IGA, to writing; and

WHEREAS, it is in the best interest of the citizens of Greeley for the parties to enter into the 2019 Interconnect IGA.

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

**Section 1.** The City Council hereby approves the 2019 Interconnect IGA, attached hereto and incorporated herein as Exhibit A, and authorizes the appropriate City officials to execute the same.

**Section 2.** The City Council hereby delegates authority to City staff and legal counsel to make minor revisions to the 2019 Interconnect IGA before execution, provided the material substance remains unchanged, and authorizes City staff to perform all terms and conditions contemplated by the 2019 Interconnect IGA upon its final execution.

**Section 3.** This resolution shall become effective immediately upon its passage and signature.

PASSED AND ADOPTED, SIGNED AND APPROVED THIS 1st DAY OF October, 2019.

THE CITY OF GREELEY, COLORADO



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

Mayor

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

City Clerk

**EXHIBIT A TO CITY COUNCIL RESOLUTION**

**INTERGOVERNMENTAL AGREEMENT FOR**  
**POTABLE WATER INTERCONNECT**

**BETWEEN THE CITY OF GREELEY, COLORADO**  
**AND NORTH WELD COUNTY WATER DISTRICT**  
**AND EAST LARIMER COUNTY WATER DISTRICT**

This INTERGOVERNMENTAL AGREEMENT FOR POTABLE WATER INTERCONNECT ("Agreement") is entered into as of 14<sup>th</sup> day of October, 2019 ("Effective Date"), by and between **THE CITY OF GREELEY**, Colorado, a home rule municipality ("Greeley") and **NORTH WELD COUNTY WATER DISTRICT, acting by and through the North Weld County Water District Enterprise ("North Weld")** and **EAST LARIMER COUNTY WATER DISTRICT, acting by and through the East Larimer County Water District Water Activity Enterprise ("ELCO")**, water activity enterprises of special districts organized under Title 32, Article 1, Colorado Revised Statutes (jointly, "Districts") (Greeley and the Districts are collectively referred to as "Parties" and individually as "Party").

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

WHEREAS, in accordance with Greeley Municipal Code § 2.07.040, Greeley has the authority to enter into cooperative or joint activities with other governmental bodies by intergovernmental agreement; and

WHEREAS, Greeley and Districts previously entered into that certain Potable Water Intergovernmental Agreement dated September 27, 2018, which expired on November 15, 2018 ("2018 IGA"); and

WHEREAS, Greeley and the Districts are neighboring water providers and believe it to be in the best interest of all Parties and their constituents to provide for an interconnection between their respective potable water treatment and distribution systems to facilitate potential cooperation in treating and delivering water in the event of a disruption of water service adversely impacting any Party as a result of emergencies and/or operational disruptions; and

WHEREAS, Greeley and Districts wish to cooperate with one another in the design, construction, operation, repair, and maintenance of an additional shared interconnection, as set forth more fully below; and

WHEREAS, Greeley and Districts desire to reduce their understandings, and the terms and conditions of this Agreement, in writing as set forth below;

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged, and in further consideration of the mutual covenants contained herein, Greeley and each of the Districts agree as follows:



1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the following meanings:
- A. Authorized Representative: With respect to the Districts, the Managers thereof or other responsible party having authority to authorize the sale or purchase of water and, with respect to Greeley, the Director of Water & Sewer or any employee designated by the Director of Water & Sewer to authorize the sale or purchase of water under this Agreement.
  - B. Bellvue Treatment Plant: The water treatment plant owned by Greeley located in Bellvue, Colorado.
  - C. C-BT Unit: One (1) unit of Colorado-Big Thompson Project water available under an allotment contract with the Northern Colorado Water Conservancy District.
  - D. Confidential Information: All engineering and operational data provided by any Party to any other Party in connection with this Agreement whether conveyed orally, observed visually, or reduced to a tangible or electronic medium, such as written, computerized, graphic, photographic, video and/or audio recording, where said data constitutes or contains details of a Party's water treatment, transmission, and/or distribution infrastructure, including specific engineering, vulnerability, detailed design information, protective measures, emergency response plans or system operational data that would be useful to a person in planning an attack on critical infrastructure but that does not simply provide the general location of such infrastructure. "Confidential Information" shall not include information: (i) already known to the Receiving Party (defined below) without restriction on use or disclosure prior to receipt of such information from the Disclosing Party (defined below); (ii) that is or becomes generally known to the public by means other than breach of this Agreement by or wrongful act of the Receiving Party; (iii) created or developed by the Receiving Party independently of and without reference to the Disclosing Party's Confidential Information; or (iv) received by the Receiving Party from a third party who has no obligation to the Disclosing Party to maintain confidentiality.
  - E. Delivery Point: The location of a physical interconnect between the Greeley Potable Water System and the Districts' Potable Water System at which a Providing Party delivers potable water to the Requesting Party regardless of whether such delivery point is at the Mason Interconnect, the Mulberry Interconnect or the Lemay Interconnect.
  - F. Delivery Request: A request submitted under Section 5 by the Requesting Party to the Providing Party for Water Treatment Services and delivery of potable water to the Delivery Point.
  - G. Disclosing Party: The Party disclosing Confidential Information.

- H. Districts' Potable Water System: Districts' Water Treatment Plant(s), potable water transmission systems, potable water distribution systems, potable water storage systems, and related infrastructure for the treatment, transmission, distribution, and measurement of potable water.
- I. Emergency Disruption: An unplanned shut-down of all or a part of a Requesting Party's Potable Water System due to emergency circumstances, including, but not limited to: (i) emergency upgrades, repairs or maintenance; (ii) incapacitation or interruption in the Requesting Party's ability to provide potable water service to its own customers because of unanticipated damage to the Requesting Party's raw water supply infrastructure, raw water supply source or the Requesting Party's Potable Water System; and (iii) unanticipated threatened or actual imminent danger to human health or the environment because of damage to the Requesting Party's raw water supply infrastructure, raw water supply source or the Requesting Party's Potable Water System.
- J. Engineering Data:
- i. Existing schematics, data, know-how, and other information reasonably necessary for the proper operation, maintenance, and repair of the Mason Interconnect, Mulberry Interconnect and Lemay Interconnect.
  - ii. Existing and future schematics, data, know-how, and other information reasonably necessary for the proper design and construction of the Mason Interconnect.
  - iii. Existing or future schematics, data, know-how, and other information that the Parties voluntarily elect to exchange between themselves related to either the Greeley Potable Water System and/or the Districts' Potable Water System.
- K. Greeley Potable Water System: Greeley's Water Treatment Plant(s), potable water transmission systems, potable water distribution systems, potable water storage systems, and related infrastructure for the treatment, transmission, distribution, and measurement of potable water.
- L. Lemay Interconnect: The existing piping, valves and related infrastructure connecting ELCO's twenty-four (24) inch water line with the twenty-seven (27) inch water line of Greeley located approximately one hundred (100) feet east of the intersection of North Lemay Avenue and Conifer Street, in Fort Collins, Colorado, as generally depicted upon **Exhibit A** attached hereto and incorporated herein by reference.
- M. Mulberry Interconnect: The existing piping, valves and related infrastructure connecting North Weld's twenty-four (24) inch water line with the 27-inch water line of Greeley located near the intersection of Summit View Drive and Mulberry Street, in Fort Collins, Colorado, as generally depicted upon **Exhibit B** attached hereto and incorporated herein by reference.

- N. Mason Interconnect: The piping, valves, meter vault and related infrastructure to be installed connecting Greeley's 60-inch water line and the Districts' 42-inch water line approximately ninety (90) feet west of the intersection of North Mason Street and Pinon Street in Fort Collins, Colorado, as generally depicted upon **Exhibit C** attached hereto and incorporated herein by reference.
- O. Operational Disruption: A planned shut-down of all or part of a Requesting Party's Potable Water System under non-emergency circumstances, including, but not limited to: (i) non-emergency upgrades, repairs or maintenance; (ii) incapacitation or interruption in the Requesting Party's ability to provide potable water service to its own customers because of anticipated damage or impairment to the Requesting Party's raw water supply infrastructure, raw water supply source or the Requesting Party's Potable Water System; and (iii) future danger to human health or the environment because of anticipated damage or impairment to the Requesting Party's raw water supply infrastructure, raw water supply source or the Requesting Party's Potable Water System.
- P. Other Water: A physical supply of water yielded pursuant to any water rights, contractual entitlements to water, mutual ditch company shares, ditch company shares, ditch rights, other direct flow rights, reservoir rights, other storage rights, plans for augmentation, substitute water supply plans, interruptible water supply agreements, alternative transfer mechanisms, or combination of the above, which:
- i. is not a C-BT Unit; and
  - ii. under the terms and conditions of a water court decree, substitute water supply plan, interruptible water supply agreement, alternative transfer mechanism, or other administrative or judicial process, is legally available for: a) treatment at the Providing Party's Water Treatment Plant(s); b) transmission through the Providing Party Potable Water System to the Delivery Point; c) distribution from the Delivery Point throughout the Requesting Party Potable Water System; e) use within the Requesting Party's service area and the Providing Party's service area; and d) is of suitable quality in the judgment of the Providing Party.
- Q. Providing Party: The "Providing Party" as defined in Section 5(A) below.
- R. Providing Party Potable Water System: The Providing Party's Water Treatment Plant(s), potable water transmission systems, potable water distribution systems, and related infrastructure for the treatment, transmission, distribution, and measurement of potable water
- S. Receiving Party: The Party receiving Confidential Information.
- T. Requesting Party: The "Requesting Party" as defined in Section 5(A) below.
- U. Requesting Party Potable Water System: The Requesting Party's Water Treatment Plant(s), potable water transmission systems, potable water distribution systems, and related infrastructure for the treatment, transmission, distribution, and measurement of potable water
- V. Soldier Canyon Filter Plant: The water treatment plant owned by the Soldier Canyon Water Treatment Authority located in Fort Collins, Colorado.



W. Water Treatment Plant: The Bellvue Treatment Plant, Soldier Canyon Filter Plant or other water treatment facilities, as applicable, of the Providing Party providing treated water to the Requesting Party.

X. Water Treatment Services: The Providing Party's act of treating the Requesting Party's raw water, as provided under this Agreement, and delivering the resultant potable water to the Requesting Party through a Delivery Point(s)

2. **INTENT OF AGREEMENT.** The Parties acknowledge that the purpose of this Agreement is to provide for the design, installation, operation, maintenance, repair of and payment for the Mason Interconnect, and the operation, maintenance, repair, and cost sharing for the Lemay, and Mulberry Interconnect to facilitate future potential cooperation of the Parties in the event of an Emergency Disruption and/or Operational Disruption to the water supply of any Party. However, no Party shall have any obligation to any other Party to provide potable water in the event of such Emergency Disruption and/or Operational Disruption unless authorized by an Authorized Representative of the Parties as set forth in Section 5 below. Notwithstanding the execution of this Agreement, the Parties acknowledge that the installation of the Mason Interconnect does not create an obligation among the Parties with respect to the use, treatment or delivery of water by one (1) Party to any other Party absent approval by an Authorized Representative of such Party pursuant to Section 5.

3. **FEES, PAYMENT TERMS, AND CONSTRUCTION AND DESIGN OF INTERCONNECTS.**

A. Unless otherwise mutually agreed upon in writing:

- i. each Party shall be responsible for one-third (1/3) of the total expenses of designing, constructing, operating, repairing, and maintaining the common components of the Mason Interconnect. In addition, Greeley and North Weld shall each be responsible for one-half (1/2) of the total expenses of operating, repairing, and maintaining the common components of the Mulberry Interconnect and Greeley and ELCO shall each be responsible for one-half (1/2) of the total expenses of operating, repairing, and maintaining the common components of the Lemay Interconnect. To the extent that a Party has participated in the operation, repair and maintenance (but not the design or construction) of the three (3) Interconnects, such Party shall receive a credit for in-kind services, staff-time, labor, parts, components, and travel time provided by such Party against any expenses for operation, repair and maintenance of the Interconnects otherwise payable by such Party, with such credit to be established based upon such Party's customary rates for time and materials provided ("Service and Material Credit"). Any Party seeking a Service and Material Credit in lieu of a cash payment of an invoice for the operation, repair and maintenance of the Interconnects shall furnish to the other Parties a statement in reasonable detail outlining the time and materials provided by the Party seeking to receive such Service and Material Credit. In the event the Service and Material Credit of a Party shall exceed such Party's pro rata share of the cost of the operation, repair and maintenance of the Interconnects, the other Parties shall reimburse such Party on a pro rata basis the amount in excess of such Service and Material Credit which exceeded such Party's pro rata share of such expenses;



- ii. Greeley shall be responsible at its sole expense for maintaining, repairing, and operating the infrastructure and components necessary for the delivery and metering of potable water from the Greeley Potable Water System to the Delivery Points;
  - iii. Districts shall be responsible at their sole expense for maintaining, repairing, and operating the infrastructure and components necessary for the delivery and metering of potable water from the Districts' Potable Water System to the Delivery Points;
  - iv. within one (1) year following the Effective Date of this Agreement, the Parties shall develop a written schedule for all three (3) Delivery Points detailing the type of maintenance required (*e.g.* telemetry testing, valve turning, record keeping for maintenance time, materials, labor, and costs, and meter calibration), timeline for conducting maintenance activities, required prior notice for maintenance and repair activities, and responsible Party or Parties for maintenance at each of the three (3) Delivery Points;
  - v. the acquisition of property interests, if any, shall be governed by separate written agreement; and
  - vi. promptly following receipt of invoices for expenses incurred in the design and construction of the Mason Interconnect, Greeley will invoice Districts for construction expenses and Districts will invoice Greeley for design expenses, in an amount equal to their respective pro rata share of such expenses; payment terms shall be net thirty (30) days following receipt of such invoice.
- B. Greeley shall have decision-making authority, management, and control over the contractor(s) selected to construct the Mason Interconnect. Greeley shall make a good faith effort to incorporate feedback, suggestions, and input from Districts concerning construction of the Mason Interconnect and shall consult with the design engineer as appropriate during construction of the Mason Interconnect. Districts shall have decision-making authority, management, and control over the consultant selected to design the Mason Interconnect. Districts shall make a good faith effort to incorporate feedback, suggestions, and input from Greeley concerning design of the Mason Interconnect and shall consult with the construction contractor as appropriate during the design and construction of the Mason Interconnect. In the event the Parties reach an impasse concerning the design or construction of the Mason Interconnect, where said impasse has a monetary value in excess of ten percent (10%) of the total construction and design cost of the Mason Interconnect, within fifteen (15) days of reaching said impasse, each Party shall appoint one (1) representative and the three (3) representatives shall vote as to the preferred design and/or construction solution to the impasse. For the sake of avoiding delays in construction or design completion, the Parties agree to promptly instruct the design consultant and/or construction contractor, as appropriate, to implement the solution receiving a simple majority of the representatives' votes. If any Party desires a change in the design or construction of the Mason Interconnect that is solely for the operational benefit of that Party, and will not materially injure the rights or infrastructure of the other Parties, the Party desiring such a change may elect to pay one-hundred percent (100%) of the costs associated with such a change and proceed forward regardless of any

representative vote. Notwithstanding any provision in this Section 3(B), the Parties' rights to pursue any legal course of action shall not be relinquished, waived, abridged or curtailed.

- C. In the event that Greeley sends written notice to Districts that it has determined that it is unable or unwilling to exercise its decision-making authority, management, and control over the construction of the Mason Interconnect, ELCO is designated by the Parties as an alternate to undertake such action, having the same authority as previously delegated to Greeley. Furthermore, in the event that ELCO determines that it is unable or unwilling to exercise decision-making authority, management, and control over the construction of the Mason Interconnect, North Weld is designated by the Parties as an alternate to undertake such action, having the same authority as initially delegated to Greeley.
- D. The fee for the measured volume of potable water conveyed to a Party through a Delivery Point shall be one hundred five percent (105%) of the actual cost of treating the water at the Providing Party's Water Treatment Plant, based upon the Providing Party's reasonable and good faith determination of the cost per one thousand (1,000) gallons of water treated during the previous six (6) month period. The requirement for payment of one hundred five percent (105%) of the actual cost of water treatment by the Providing Party is equal to one hundred percent (100%) of the good faith determination of the cost of water treatment incurred by the Providing Party plus an additional allowance of five percent (5%) to cover delivery costs incurred by the Providing Party for the delivery of water to the Delivery Point for the Requesting Party.
- E. In the event that Water Treatment Services are provided to a Requesting Party by a Providing Party pursuant to this Agreement for a period in excess of thirty (30) consecutive days, the Providing Party will send an invoice therefor to the Requesting Party at monthly intervals until the Providing Party terminates Water Treatment Services to the Requesting Party. In the event that Water Treatment Services are provided pursuant to this Agreement for a period less than thirty (30) consecutive days, the Providing Party will send an invoice therefor within thirty (30) days after the cessation of Water Treatment Services. The Requesting Party shall pay such invoices within thirty (30) days following its receipt thereof. The Parties agree not to invoice one another for water that delivered through a Delivery Point in connection with maintenance and repair activities.
- F. The bi-directional water meters at any Delivery Point shall be operated and maintained so as to record both cumulative flow and, as needed, maximum hourly and maximum daily flow within the accuracy prescribed by current American Water Works Standards.
- 4. **GRANT OF LICENSE.** To the extent necessary to carry out the respective duties and obligations of the Parties under this Agreement, each Party ("Licensor") grants to the other Parties (each, a "Licensee") and their respective employees, agents, representatives, contractors and subcontractors, a limited, non-exclusive license to enter upon, occupy and use that part of the Licensor's property ("Licensed Area") necessary for the limited purpose of performing the obligations of the Licensees under this Agreement. As a condition to the exercise of the license herein granted, the Licensees and those acting under their authority shall undertake all safety precautions and other requirements in accordance with applicable local, state and federal laws, rules, regulations and directives, including, but not limited to:

- i. The regulation of traffic flow in and out of the Licensed Area used by or on behalf of the Licensee.
- ii. The obligation to comply with all rules and regulations of the municipality, county and state with respect to the use of the Licensed Area being utilized by or on behalf of the Licensee.

Each Licensor shall have the right to utilize the Licensed Area and authorize others to use the Licensed Area on a non-exclusive basis for all purposes which the Licensor determines necessary in connection with its ownership of the Licensed Area. The license granted hereunder shall be personal in nature and shall not be assignable by a Licensee in whole or in part, and any such purported assignment shall be void.

## **5. PROVIDING POTABLE WATER.**

A. In the event that any one (1) or more Party(ies) (individually or jointly, a "Requesting Party") requests delivery from any one (1) or more Party(ies) (individually or jointly, a "Providing Party") and subject to final approval, as provided for in this Section 5, of an Authorized Representative of the Requesting Party and the Providing Party and any required consents or approvals from the Northern Colorado Water Conservancy District and/or providers of Other Water, the Requesting Party shall make available to the Providing Party at the Water Treatment Plant, C-BT Units in accordance with the rules and regulations of the Northern Colorado Water Conservancy District and/or providers of Other Water, which is acceptable to the Providing Party in its sole discretion, for the treatment and delivery by the Providing Party upon the following terms:

- i. In the event of an Emergency Disruption in the water supply of a Requesting Party, the Delivery Request may be made verbally by an Authorized Representative of the Requesting Party and the delivery of potable water by the Providing Party may be authorized verbally by the Authorized Representative of the Providing Party, subject to the following:
  - a) As soon as reasonably practical following the determination of an Emergency Disruption, the Requesting Party shall provide such information as is then available to it, including, to the extent then known and available:
    - 1) The daily volume of potable water requested and any anticipated fluctuations in such volume of water;
    - 2) The anticipated time period of the Emergency Disruption;
    - 3) The anticipated number of C-BT Units, Other Water or a combination of both, which is acceptable to the Providing Party in its sole discretion to be made available to the Providing Party for treatment at the Providing Party's Water Treatment Plant;
    - 4) The designation of the Delivery Point desired for the delivery of potable water.
  - b) At its sole discretion, the Providing Party may provide Water Treatment Services in response to an Emergency Disruption Delivery Request. As soon as



reasonably practical following delivery of water pursuant to an Emergency Disruption, the Parties shall work together to create a written retroactive accounting of the raw water requirements of the measured volume of treated water delivered to the Requesting Party through the Delivery Point(s) and the total payments due to the Providing Party under Section 3(D) above.

- ii. In the event of an Operational Disruption in the water supply of a Requesting Party, an Authorized Representative of the Requesting Party shall submit a preliminary Delivery Request (“Preliminary Delivery Request”) to an Authorized Representative of the Providing Party as soon as reasonably possible prior to the occurrence of the Operational Disruption providing, to the extent then known and available, the following information:
  - a) The requested commencement date and time that the Requesting Party desires to receive water and the anticipated end date and time;
  - b) The circumstances causing the Operational Disruption;
  - c) The daily volume of potable water requested and any anticipated fluctuations in such volume of water;
  - d) The anticipated number of C-BT Units, Other Water, or both which is acceptable to the Providing Party in its sole discretion to be made available to the Providing Party for treatment at the Providing Party’s Water Treatment Plant;
  - e) The designation of the Delivery Point desired for the delivery of potable water.
- iii. Within ten (10) days following receipt of the Preliminary Delivery Request, the Providing Party shall respond with a preliminary Delivery Response (“Preliminary Delivery Response”) as to whether it intends to deliver potable water to the Requesting Party from its Water Treatment Plant in accordance with the Preliminary Delivery Request.
- iv. In the event the Delivery Point designated by the Requesting Party is the Mason Interconnect, the Providing Party and the Requesting Party shall notify a non-participating Party, if any, in order to address any potential impact which such water delivery may have upon the non-participating Party. In no event shall the delivery of water from the Mason Interconnect materially adversely affect the operation of the Potable Water System of the non-participating Party without the prior written consent of the non-participating Party.
- v. The Parties acknowledge that it is to the mutual benefit of both the Providing Party and the Requesting Party to be notified of an Operational Disruption of water service of the Requesting Party at the earliest possible time prior to full and complete knowledge of all of the details associated with the Requesting Party’s need for additional or supplemental water from a Providing Party. Consequently, the Requesting Party may modify its Preliminary Delivery Request and the Providing Party may modify its Preliminary Delivery Response from time to time as additional information becomes



available prior to the date upon which treated water is to be provided during the Operational Disruption. When the Requesting Party has sufficient details that it identifies its Delivery Request as “final” (“Final Delivery Request”), the Providing Party shall provide its final Delivery Response identified as “final” and not subject to further unilateral change (“Final Delivery Response”), whereupon, the Requesting Party and the Providing Party shall be bound by the terms and conditions of the Final Delivery Request and the Final Delivery Response.

- vi. Notwithstanding the provisions of Section 5(A)(v), after the initiation of Water Treatment Services the Parties may extend, supplement, modify or otherwise change any aspect of Water Treatment Services by mutual written agreement in the case of Operational Disruptions and by mutual verbal agreement in the case of Emergency Disruptions. The Parties’ Authorized Representatives shall have the authority necessary to enter into any such agreements.
- B. Unless specifically authorized by the Providing Party, the Requesting Party shall not cause any water from the Requesting Party’s Water System to flow into the Providing Party’s Water System. Upon scheduled termination of Water Treatment Services, the Providing Party or the Requesting Party with the consent of the Providing Party shall shut off the physical interconnect at the Delivery Point.

## **6. RAW WATER REQUIREMENTS.**

- A. In the event the Requesting Party solely designates C-BT Units in the Delivery Request to satisfy its raw water requirements, the following provisions apply:
- i. Subject to any required consents or approvals from, and in accordance with the Rules and Regulations of the Northern Colorado Water Conservancy District, the Requesting Party shall make available to the Providing Party at the Providing Party’s Water Treatment Plant, raw water in the form of C-BT Units, in the amount of one-hundred ten percent (110%) of total volume of potable water to be delivered to the Delivery Point under the terms of the Final Delivery Response. This requirement is equal to one-hundred percent (100%) of the potable water delivered to the Delivery Point, plus an additional allowance of ten percent (10%) to account for shrinkage due to treatment and system delivery losses.
  - ii. The Requesting Party’s act of making C-BT Units available at the Providing Party’s Water Treatment Plant under this Agreement shall not be considered, nor constitute, a Section 131 Contract, a Temporary Use Permit, a permanent transfer of C-BT Units, or a permanent transfer of any other interest under an allotment contract with the Northern Colorado Water Conservancy District.
  - iii. Any fees related to making C-BT Units available at the Providing Party’s Water Treatment Plant under this Agreement shall be the responsibility of the Requesting Party.
- B. In the event the Requesting Party designates Other Water in the Delivery Request to satisfy its raw water requirements in whole or in part, and the Providing Party, in its sole discretion, accepts the designation of Other Water, the following provisions apply:

- i. Subject to any required consents or approvals from water court, State Engineer's Office, or Division Engineer's Office governing the Other Water, the Requesting Party shall make available to the Providing Party at the Providing Party's Water Treatment Plant, raw water in the form of Other Water, in the amount of one-hundred ten percent (110%) of total volume of potable water to be delivered to the Delivery Point under the terms of the Final Delivery Response. This requirement is equal to one-hundred percent (100%) of the potable water delivered to the Delivery Point, plus an additional allowance of ten percent (10%) to account for shrinkage due to treatment and system delivery losses.
  - ii. The Requesting Party's act of making Other Water available at the Providing Party's Water Treatment Plant under this Agreement shall not be considered, nor constitute, a sale or permanent transfer of the water rights, contractual entitlements to water, mutual ditch company shares, ditch company shares, ditch rights, other direct flow rights, reservoir rights, other storage rights, plans for augmentation, substitute water supply plans, interruptible water supply agreements, alternative transfer mechanisms, or combination of the above that underlie the Other Water.
  - iii. Any fees related to making Other Water available at the Providing Party's Water Treatment Plant under this Agreement shall be the responsibility of the Requesting Party.
- C. In the event the Requesting Party designates a combination of Other Water and C-BT Units in the Final Delivery Request to satisfy its raw water requirements, then the provisions of Sections 6(A) and 6(B) shall both apply, except for the following modification: the total volume of raw water to be made available to the Providing Party at the Providing Party's Water Treatment Plant shall cumulatively equal one-hundred ten percent (110%) of total volume of potable water to be delivered to the Delivery Point under the terms of the Final Delivery Response.
7. **WATER QUALITY.** The treated water delivered to the Delivery Point by the Providing Party shall be potable water of a quality which complies with all applicable federal and state laws and regulations regarding water quality.
8. **FORCE MAJEURE.**
  - A. Any delay or failure of either Party to perform its obligations under this Agreement will be excused to the extent that the delay or failure was caused directly by an event beyond such Party's control, without such Party's fault or negligence, and that by its nature and despite the exercise of reasonable due diligence and foresight, was unforeseeable by such Party or if unforeseeable was unavoidable.
  - B. Such excusable events shall not include a Party's financial inability to cover any cost or make any payment required under this Agreement.
  - C. Such excusable events may have natural or man-made causes, and include, without limitation, the following examples: floods; earthquakes; storms; lightening; fire; epidemics; embargoes; riots; labor disturbances; acts of terrorism; riots; failure of the Providing Party Potable Water System notwithstanding the provisions of Section 10(A); breach of a construction contract by a third party; or restraint by a court order.

- D. The Party unable to perform due to an excusable event will use all diligent efforts to end the event and ensure that the effects of any event are minimized. During the excusable event, the non-affected Party may suspend its obligations until such time as the affected Party resumes performance.

## **9. ENGINEERING DATA EXCHANGE.**

- A. Within ninety (90) days after the effective date of this Agreement, the Parties shall exchange with one another those categories of Engineering Data defined under Sections 1(J)(i) and (ii) which are reasonably necessary for the proper design, construction, operation and maintenance of the Mason Interconnect and the operation, maintenance and repair of the Mulberry Interconnect and Lemay Interconnect. In addition, the Parties may exchange such additional Engineering Data as they determine to be mutually beneficial to the Parties.
- B. The Parties agree that any Engineering Data exchanged under this Section 9 constitutes Confidential Information pursuant to Section 1 and shall be subject to the confidentiality provisions of Section 11.

**10. TERM OF AGREEMENT.** The term of this Agreement shall continue indefinitely unless terminated as provided below.

## **11. CONFIDENTIAL INFORMATION.**

- A. The Receiving Party agrees:

- i. not to disclose or otherwise make available Confidential Information of the Disclosing Party to any third party at any time without the prior written consent of the Disclosing Party, provided however that the Receiving Party may disclose the Confidential Information of the Disclosing Party to its officers, employees, consultants, contractors, and legal advisors who have a need to know, who have been apprised of this restriction, and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Section;
- ii. to take all reasonable precautions to protect Confidential Information from unauthorized access and accidental disclosure, including, without limitation, all measures the Receiving Party takes with respect to its own Confidential Information;
- iii. not to use the Disclosing Party's Confidential Information for any purpose except as permitted under this Agreement;
- iv. to use the Disclosing Party's Confidential Information only for the purposes of performing its obligations under this Agreement and to allow contractors and consultants to use the Disclosing Party's Confidential Information only to the extent necessary to assist the Receiving Party in performing its obligations under this Agreement; and
- v. to immediately notify the Disclosing Party in the event it becomes aware of any loss or disclosure of any of the Confidential Information of the Disclosing Party.

- B. If the Receiving Party receives a request under law for the Disclosing Party's Confidential Information, the Receiving Party shall notify the Disclosing Party. Furthermore, the Receiving



- Party shall provide reasonable assistance, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure.
- C. If the Receiving Party becomes legally compelled to disclose any Confidential Information, the Receiving Party will reasonably attempt to provide:
- i. prompt notice of such requirement so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other remedy;
  - ii. reasonable assistance, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure; and
  - iii. if, after providing such notice and assistance as required herein, the Receiving Party remains legally required to disclose any Confidential Information, the Receiving Party will disclose no more than the portion of the Confidential Information the Receiving Party is legally required to disclose.
- D. The Parties are political subdivisions, as that term is defined in the Colorado Open Records Act, C.R.S. § 24-72-201, *et seq.* As such, the Parties are subject to the Colorado Open Records Act. To the extent compliance with the Colorado Open Records Act is in conflict with the obligations of the Parties under this Section 9, a Party's compliance with the Colorado Open Records Act will not be considered a breach of this Agreement. To the extent a Party holds information that the other Party is required to disclose pursuant to the Colorado Open Records Act, the holding Party agrees to cooperate with the other Party to comply with such disclosure requirements.
- E. The Parties acknowledge that a breach of this Section may cause the non-breaching Party irreparable damages, for which an award of damages would not be adequate compensation. Notwithstanding the provisions of Section 14, the Parties agree that in the event of an actual or threatened breach of this Section, the non-breaching Party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching Party may be entitled at law or in equity. Such remedies will not be deemed to be exclusive but will be in addition to all other remedies available at law or in equity.

## **12. LIMIT OF OBLIGATIONS AND NO RIGHTS IN EITHER WATER SYSTEM.**

- A. The Greeley Potable Water System and Greeley's non-potable water conveyance and storage infrastructure are assets of the Greeley Water Enterprise, as established under Section 17-1 of the Greeley City Charter and Section 14.04.050 of the Greeley City Code. An enterprise is defined under Article X, Section 20 of the Colorado Constitution. Accordingly, all of the aforementioned are owned by the citizens of Greeley. Similarly, the Districts Potable Water System, Districts' non-potable water conveyance and storage infrastructure, and the Districts' transmission and treatment systems are owned by the citizens of Districts.
- B. Districts specifically acknowledges and agrees that it acquires no rights nor ownership in the Greeley Potable Water System as a result of the water treatment service under this Agreement. Greeley specifically acknowledges and agrees that it acquires no rights nor ownership in the Districts Potable Water System as a result of the water treatment service under this Agreement. No Party shall, by reason of any provision in this Agreement or use of water hereunder or otherwise, acquire any vested or adverse right, in law or in equity, in the water rights or water



systems of the other Party. Neither the assignment, use, rental, nor license of Other Water or C-BT Units by any Party, nor costs covered or payments made under Section 3, shall be deemed to initiate, create, or vest any rights or ownership by either Greeley or Districts in the other Party's water rights or systems. Further, no Party shall assert or claim any vested rights to continued service, other than as established by the terms of this Agreement.

- C. This Agreement does not obligate any Party to provide Water Treatment Services to any other Party and the decision to provide Water Treatment Services shall be at the sole discretion of the Providing Party.
- D. Notwithstanding any term in this Agreement to the contrary, under no circumstances shall the Providing Party be required to undertake capital improvements to the Providing Party Potable Water System in order to provide potable water to the Requesting Party under this Agreement. However, in the event Greeley desires that meters be installed on the Mulberry Interconnect and the Lemay Interconnect to measure the volume of water transferred from the Districts' Potable Water System to the Greeley Potable Water System, the Districts shall in good faith consider the feasibility of the installation of such meters, provided that the cost for such design and installation shall be borne solely by Greeley inasmuch as the Mulberry Interconnect and the Lemay Interconnect are not bi-directional and are primarily intended for delivery of water to the Greeley Potable Water System and not to the Districts' Potable Water System.

### **13. NOTICE.**

- A. Except for the provisions of Section 5(A)(i)(a) and Section 5(A)(vi) to the extent it applies to Emergency Disruptions, all notices, requests, responses, consents, claims, demands, waivers, and other communications under this Agreement will be in writing and will be deemed to have been given:
  - i. on the date and at the time of delivery if delivered personally to the party to whom notice is given;
  - ii. on the date of delivery or attempted delivery shown on the return receipt if mailed to the party to whom notice is given, or attempted to be given, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed;
  - iii. on the date and at the time shown on the facsimile if telecopied, provided that receipt thereof is acknowledged by the intended recipient thereof;
  - iv. on the date and at the time shown on the electronic mail (email) if emailed, provided that receipt thereof is acknowledged by the intended recipient thereof; or
  - v. on the date shown on the delivery acknowledgment provided by the courier if sent by a nationally-recognized overnight courier service that provides evidence of delivery.
- B. Such notices must be sent to the Parties at the respective addresses, facsimile numbers, and e-mail addresses indicated below (or to updated contact information for a Party as specified in a notice given in accordance with this Section):

- i. **City of Greeley**

1001 11th Avenue, 2nd Floor  
Greeley, CO 80631  
Attention: Water & Sewer Department  
Email: [adam.prior@greeleygov.com](mailto:adam.prior@greeleygov.com)  
Facsimile: 970-350-9805

*With a copy to:*

1100 10th Street, Suite 401  
Greeley, CO 80631  
Attention: Office of the City Attorney  
Email: [Aaron.Goldman@Greeleygov.com](mailto:Aaron.Goldman@Greeleygov.com)  
Facsimile: 970-350-9763

ii. **North Weld County Water District**

32825 CR 39  
P.O. Box 56  
Lucerne, CO 80646  
Attention: Eric Reckentine, Manager  
Email: [ericr@nwcwd.org](mailto:ericr@nwcwd.org)  
Telephone: (970) 356-3020  
Facsimile: (970) 395-0997

*With a copy to:*

Hasler, Fonfara and Goddard LLP  
125 S. Howes Street, 6<sup>th</sup> Floor (Zip Code: 80521)  
P.O. Box 2267  
Fort Collins, CO 80522  
Attention: Joseph H. Fonfara  
Email: [JoeF@HFGLawfirm.com](mailto:JoeF@HFGLawfirm.com)  
Telephone: (970) 493-5070  
Facsimile: (970) 493-9703

- iii. **East Larimer County Water District**  
232 S. Link Lane (Zip Code: 80524)  
P.O. Box 2044  
Fort Collins, CO 80522  
Attention: Mike Scheid, Manager  
Email: mikes@elcowater.org  
Telephone: (970) 493-2044  
Facsimile: (970) 493-1801

*With a copy to:*

Hasler, Fonfara and Goddard LLP  
125 S. Howes Street, 6<sup>th</sup> Floor (Zip Code: 80521)  
P.O. Box 2267  
Fort Collins, CO 80522  
Attention: Joseph H. Fonfara  
Email: JoeF@HFGLawfirm.com  
Telephone: (970) 493-5070  
Facsimile: (970) 493-9703

#### **14. TERMINATION.**

- A. In the event any Party fails to meet its obligations under this Agreement, such failure shall constitute a default of this Agreement and the non-defaulting Party(ies) may give notice of the perceived default. Any Party may cure an asserted default during the ninety (90) days immediately following the notice. Upon a mutually agreed upon cure in writing of an asserted default, this Agreement shall remain in full force and effect. Upon receipt of notice of perceived default, a defaulting Party may invoke the dispute resolution process described in Section 23.
- B. If the default consists of the failure to design and/or construct the Mason Interconnect and after the ninety (90) day cure period described above, or after a mutually agreed upon written extension thereof, the non-defaulting party(ies) reasonably determine(s) that the default has not been cured, the non-defaulting party(ies) may terminate this Agreement. Except as provided in the preceding sentence, if any other default hereunder has not been cured within the ninety (90) day cure period described above, or after a mutually agreed upon written extension thereof, then any Party shall have the right to commence an action against the defaulting Party(ies) for specific performance or damages, or both.
- C. Concerning Confidential Information, in the event this Agreement is terminated, the Disclosing Party shall have the right to require the destruction of Confidential Information in possession or control of the Receiving Party as set forth in this Section 14(C). Such right shall expire three (3) years after the termination of this Agreement. Upon written request by the Disclosing Party, the Receiving Party will, as soon as practicable but in no event later than one-hundred eighty (180) days, destroy, erase, or de-identify all Confidential Information in the Receiving Party's possession or control.

- 15. NO INTEGRATED SYSTEM.** No term or condition of this Agreement or any Exhibits thereto shall be interpreted as creating an “integrated system” within the meaning of the Colorado Primary Drinking Water Regulations, 5 C.C.R. § 1002-11. This Agreement shall not be interpreted as creating an “integrated system” as that term is used in C.R.S. § 37-92-301(4)(b).
- 16. NO PUBLIC UTILITIES COMMISSION CONTROL.** Each Party agrees that it shall not assert nor support any statement, policy, petition, rule making, or legislation that would attempt to subject the Districts or Greeley to the rate-making authority or jurisdiction of the Colorado Public Utilities Commission.
- 17. GOVERNMENTAL IMMUNITY.** No term or condition of this Agreement or any Exhibits thereto shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections and limitations provided by common law or state statute, including the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.*
- 18. NO THIRD PARTY BENEFICIARIES.** The terms and conditions of this Agreement, enforcement of the same, and any claim, suit, action, petition, or proceeding relating to such enforcement, are strictly reserved to the Parties. Nothing in this Agreement or any Exhibits thereto shall be construed or interpreted as giving or allowing any claim, suit, action, petition, or proceeding to any third party. It is the express intention of the Parties that any third party receiving any services or benefits under this Agreement shall be deemed at most an incidental beneficiary only.
- 19. GOVERNING LAW AND VENUE.** This Agreement will be governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule (whether of the State of Colorado or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Colorado. Any legal suit, action, or proceeding arising out of, related to, or resulting from this Agreement will be instituted exclusively in the 19th Judicial District of the State of Colorado located in the County of Weld, City of Greeley, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Any legal suit, action, or proceeding so commenced shall be maintained and remain exclusively in the aforementioned court and any courts having appellate jurisdiction over them.
- 20. ENTIRE AGREEMENT.** This Agreement and any Exhibits thereto constitute the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.
- 21. SEVERABILITY AND WAIVER.** If any term or condition of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or condition of this Agreement or invalidate or render unenforceable such term or condition in any other jurisdiction. Any single failure to exercise or partial exercise of any right, remedy, power, or privilege under this Agreement shall not preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- 22. ASSIGNMENT.** No Party, without the prior written consent of the other Parties, may assign, transfer, or delegate any or all of its rights or obligations under this Agreement. No assignment



will relieve the assigning Party of any of its obligations hereunder. Any attempted assignment, transfer, or other conveyance in violation of the foregoing will be null and void. This Agreement will be binding upon and will inure to the benefit of the Parties and their respective successors and permitted assigns.

**23. ALTERNATIVE DISPUTE RESOLUTION.** Except as otherwise provided in Sections 3(B) and 3(C) above, in the event of a disagreement regarding the interpretation of any term or condition of this Agreement, the Parties agree to attempt resolution of such disagreement through negotiation, first at the staff level and second through the respective board of directors, Water Boards, and/or City Councils. Procedures for such negotiations shall be established by written mutual agreement at the time and may, with the concurrence of the Parties, involve the use of qualified outside mediators. Any resolution reached therefrom must be in writing and within the legal authority granted to each Party by their respective City Charter, organizational documents and applicable State law.

**24. SURVIVAL.** In addition to any right or obligation of the Parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, the following Sections shall also so survive: 1, 11, 12, 13, 14, 15, 17, 18, 19, 20, 22 and 23.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, the Parties have authorized and executed this Intergovernmental Agreement for Potable Water Interconnect as of the Effective Date first written above.

THE CITY OF GREELEY, COLORADO



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

Mayor

City Clerk

WATER AND SEWER BOARD:

AS TO SUBSTANCE:

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

Chairman

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

City Manager

AS TO LEGAL FORM:

AS TO AVAILABILITY OF FUNDS:

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

City Attorney

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

Director of Finance

**North Weld County Water District,  
acting by and through the North Weld  
County Water District Enterprise**

By: Gene Miller, President  
President

**East Larimer County Water District,  
acting by and through the East Larimer  
County Water District Water Activity Enterprise**

By: Loren R. Moxey  
President



**EXHIBIT A**

Depiction of Lemay Interconnect

[Attached on Following Page]



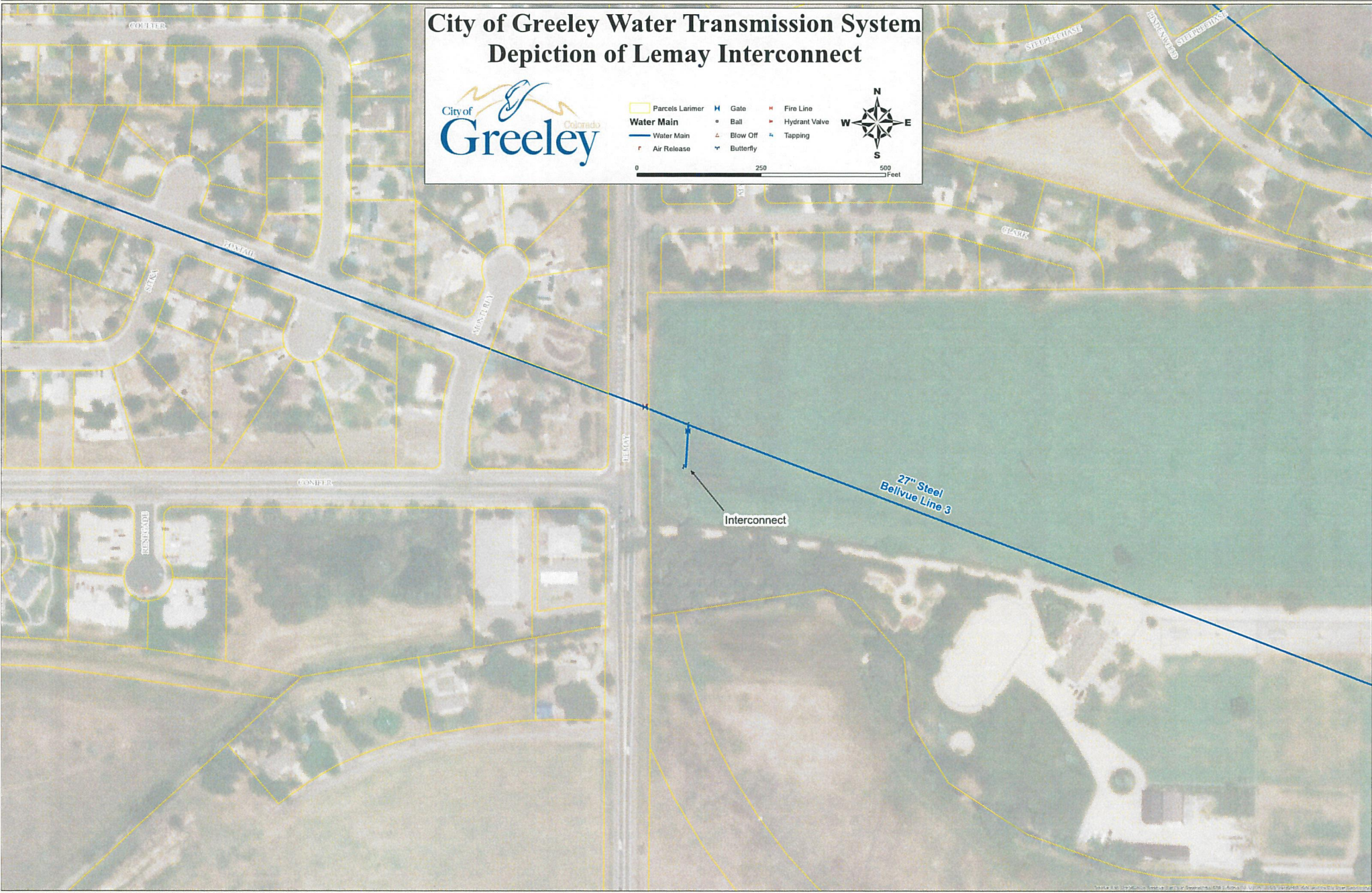
# City of Greeley Water Transmission System Depiction of Lemay Interconnect



- |               |            |            |             |      |      |          |           |           |               |         |
|---------------|------------|------------|-------------|------|------|----------|-----------|-----------|---------------|---------|
| Parcels Liner | Water Main | Water Main | Air Release | Gate | Ball | Blow Off | Butterfly | Fire Line | Hydrant Valve | Tapping |
|---------------|------------|------------|-------------|------|------|----------|-----------|-----------|---------------|---------|



0 250 500 Feet





**EXHIBIT B**

Depiction of Mulberry Interconnect

[Attached on Following Page]



# City of Greeley Water Transmission System Depiction of Mulberry Interconnect



- Parcels Larimer
- Water Main
- Air Release
- Gate
- Ball
- Blow Off
- Butterfly
- Fire Line
- Hydrant Valve
- Tapping



0 250 500 Feet





**EXHIBIT C**

Depiction of Mason Interconnect

[Attached on Following Page]

# City of Greeley Water Transmission System Depiction of Mason Interconnect



- Parcels Liner
- Water Main
- Air Release
- Gate
- Ball
- Blow Off
- Butterfly
- Fire Line
- Hydrant Valve
- Tapping

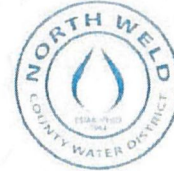


Approximate location  
of future interconnect





**EXHIBIT B TO CITY COUNCIL RESOLUTION**



September 27, 2018

City of Greeley  
Water and Sewer Department  
Attention: Bob Neal  
1001 11<sup>th</sup> Avenue, Second Floor  
Greeley, CO 80631

RE: Agreement for the Treatment, Delivery and Payment for Water Provided to the City of Greeley in Relation to Bellvue Treatment Plant Shutdown October 3, 2018 through November 15, 2018

The City of Greeley approached both North Weld County Water District and East Larimer County Water District to discuss the possibility of purchasing water from the Districts during a period in which the City's Bellvue WTP will be off-line.

Following discussions, analysis and evaluations by both Districts (herein referred to as the "Providers"), it was determined that the Providers are in a position to accommodate the City's request of approximately nine (9) million gallons per day collectively between both Providers while the Bellvue WTP is off-line from October 3, 2018 through November 15, 2018 ("Term").

This document is intended to serve as an agreement between the City of Greeley (herein referred to as the "Purchaser") and the Providers for the treatment and delivery of water during the Term as described herein ("IGA"). The IGA sets the cost of such treated water to be paid by the Purchaser to the Providers at \$2.48 per one thousand gallons provided by either Provider. Promptly following the expiration of the Term, each of the Providers will separately invoice the Purchaser for such treated water delivered to the Purchaser and the Purchaser shall pay the same to the invoicing Provider within thirty (30) days following receipt of such invoice.

The Providers shall act with reasonable diligence to provide the Purchaser with a constant and uninterrupted supply of treated water of the same quality produced for the Providers at the Soldier Canyon Filter Plant, during the Term in the amounts set forth herein, except for interruption or reductions due to: (1) uncontrollable forces; (2) operations or devices installed for water system protection which the Providers deem necessary or advisable; and (3) maintenance, repair, replacement, installation of equipment, or investigation and inspection of the water system, which interruption or reductions are temporary, and in the opinion of the Providers, reasonably necessary. To the extent foreseeable, the Purchaser will be given reasonable advance notice of such interruptions or reductions.

Neither party shall be considered in default under this IGA if prevented from fulfilling any obligations by reason of Uncontrollable Forces. The term "Uncontrollable Forces" shall mean any cause beyond the reasonable control of the obligated party, including, but not limited to, failure or inadequacy of

facilities, demand limitations due to water usage by customers of the Providers, flood, earthquake, storm, lightning, fire, epidemic, riot, civil disturbance, labor disturbance, sabotage, acts of terrorism, breach of construction contract by a third party or restraint by court or public authority, which by due diligence and foresight, such party could not have reasonably been expected to avoid. The term "Uncontrollable Forces" shall not include the failure to make any payment required by either party under the terms of this IGA. A party rendered unable to fulfill its obligation by reason of Uncontrollable Forces shall exercise reasonable due diligence to remove such inability with all reasonable dispatch. In no event shall the Providers be required to undertake capital improvements to their treatment and delivery system in order to provide potable water to the Purchaser pursuant to this IGA.

Subject to any required consents or approvals from the Northern Colorado Water Conservancy District, the Purchaser shall make available to the Providers, in accordance with the Rules and Regulations of the Northern Colorado Water Conservancy District, raw water for the treatment and delivery by the Providers described above, in the amount of one hundred and ten percent (110%) of the total potable water usage by the Purchaser prior to treatment ("Raw Water Requirement"). Approximately eight hundred fifty-two (852) acre feet of water in partial satisfaction of the Raw Water Requirement will be transferred on or before October 3, 2018, with the remaining Raw Water Requirement to be satisfied in full on or before November 1, 2018.

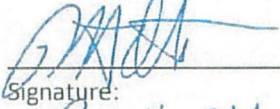
The requirement for the transfer of one hundred ten percent (110%) of the measured potable water usage is equal to one hundred percent (100%) of actual water usage by the Purchaser, plus an additional allowance of ten percent (10%) to cover estimated shrinkage in the volume of water delivered from the Soldier Canyon Filter Plant to the below-described delivery points. The Raw Water Requirement shall be provided by the Purchaser from its available Colorado-Big Thompson Project water supplies ("C-BT Supplies"). Any fees related to the transfer of the C-BT Supplies under this IGA shall be the responsibility of the Purchaser.

The delivery point for the treated water to be provided by North Weld County Water District from its twenty-four (24) inch water line to the Purchaser shall be at the existing interconnect located near the intersection of Summit View Drive and Mulberry Street in Fort Collins. The volume of water delivered by North Weld County Water District will be determined by reading the Soldier Canyon Filter Plant meter on its twenty-four (24) inch water line and subtracting water delivered from such twenty-four (24) inch water line to various users prior to the point of delivery described above. The delivery point for the treated water to be provided by East Larimer County Water District from its twenty-four (24) inch water line to the Purchaser shall be located approximately one hundred (100) feet east of the intersection of North Lemay Avenue and Conifer Street in Fort Collins. The volume of water delivered by East Larimer County Water District will be determined by reading the Soldier Canyon Filter Plant meter on its twenty-four (24) inch water line and subtracting water delivered from such twenty-four (24) inch water line to the Northern Colorado Water Association and another single three-four (3/4) inch domestic water service, both of which are the only parties connected to such twenty-four (24) inch water line prior to the point of delivery described above. All water meter readings for the Providers shall be made upon first delivery of treated water by each of the Providers to the Purchaser and shall again be read at the point in time at which water service to the Purchaser is terminated.



The following signatures validate this IGA for the Treatment, Delivery and Payment for Water by and between the Purchaser and the Providers.

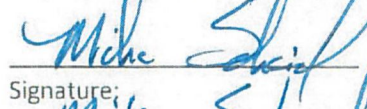
**CITY OF GREELEY**

  
Signature: \_\_\_\_\_

*Roy H - Otto*  
Name: Roy Otto  
\_\_\_\_\_

*City mgr*  
Title: City Manager  
\_\_\_\_\_

**EAST LARIMER COUNTY WATER DISTRICT**

  
Signature: \_\_\_\_\_

*Mike Scherf*  
Name: \_\_\_\_\_

*General Manager*  
Title: \_\_\_\_\_

**NORTH WELD COUNTY WATER DISTRICT**

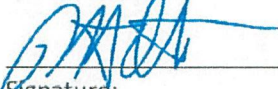
\_\_\_\_\_  
Signature: \_\_\_\_\_

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

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

The following signatures validate this IGA for the Treatment, Delivery and Payment for Water by and between the Purchaser and the Providers.

**CITY OF GREELEY**

  
Signature: \_\_\_\_\_

*Roy H - Otto*  
Name: Roy Otto

*City mgr*  
Title: City Manager


**EAST LARIMER COUNTY WATER DISTRICT**

Signature: \_\_\_\_\_

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

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

**NORTH WELD COUNTY WATER DISTRICT**

  
Signature: \_\_\_\_\_

*Eric Rakatni*  
Name: \_\_\_\_\_

*General Manager*  
Title: \_\_\_\_\_