

**BEEBE DRAW FARMS AUTHORITY**

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**A copy of the agenda/meeting packet is available at the Beebe Draw Farms website at [www.colorado.gov/beebedrawfarms](http://www.colorado.gov/beebedrawfarms)**

**NOTICE OF REGULAR MEETING AND AGENDA**

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term Expires:</u>
Paul “Joe” Knopinski	President	June 2023
Christine Hethcock	Vice-President	June 2025
William Caldwell		June 2023
Sharon Dillon		June 2023
Lisa A. Johnson	Secretary	

DATE: July 13, 2022  
TIME: 6:00 P.M.  
PLACE: Hybrid Meeting:  
Pelican Lake Ranch Community Info and Sales Center  
16502 Beebe Draw Farms Parkway  
Platteville, CO 80641

Or Microsoft Teams via link or telephonic:

[https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_Nzk5M2JhNzUtMTc0ZS00MDk1LWl3YzktNTc5MzVjODg3NGZm%40thread.v2/0?context=%7b%22Tid%22%3a%224aaa468e-93ba-4ee3-ab9f-6a247aa3ade0%22%2c%22Oid%22%3a%22d42bab28-fbd8-4e65-a395-965cf9ef152f%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_Nzk5M2JhNzUtMTc0ZS00MDk1LWl3YzktNTc5MzVjODg3NGZm%40thread.v2/0?context=%7b%22Tid%22%3a%224aaa468e-93ba-4ee3-ab9f-6a247aa3ade0%22%2c%22Oid%22%3a%22d42bab28-fbd8-4e65-a395-965cf9ef152f%22%7d)

**Dial In:** 720-547-5281, Conference ID: 494 933 213#

1. ADMINISTRATIVE MATTERS
  - A. Present Disclosures and Potential Conflicts of Interest.
  - B. Approve Agenda and confirm posting of meeting notices.
  - C. Acknowledge the appointment of William (Bill) Caldwell and Sharon Dillon (Beebe Draw Farms MD No. 1) and Christine Hethcock (Beebe Draw Farms MD No. 2) to the Authority Board
  - D. Consider Appointment of Officers
  - E. FIRST READING:

1.

F. SECOND READING:

1. Consider approval of updated Employee Handbook (enclosed – 001).

G. EMERGENCY READING:

1. Consider sending Board Members to 2022 SDA Conference.

2. CONSENT AGENDA

These items are considered to be routine and will be approved and/or ratified by one motion. There will be no separate discussion of these items unless a Board member requests; in which event, the item will be removed from the Consent Agenda and considered in the Regular Agenda.

1. Review and approve Minutes of the May 11, 2022 Regular Meeting (enclosed - 002).
2. Ratify approval of payment of claims through the period ending June 30, 2022, as follows (enclosed - 003).  
Total Claims: \$47,167.00
3. Consider acceptance of July 2022 Cash Position Schedule (sent separately to BOD).
4. Ratify Structural Engineering Services Contract with WISS, JANNEY, ELSTNER ASSOCIATES, INC. (enclosed – 004).

3. PUBLIC COMMENT

A.

4. FINANCIAL MATTERS

A. Consider approval of Wipfli 2021 Audit engagement letter (enclosed – 005).

B. Acceptance of 2021 Audit Extension (enclosed – 006).

C. FIRST READING:

1. Discuss interest in serving on Budget Committee to work with staff to prepare 2023 Budget.

D. SECOND READING:

1.

E. EMERGENCY READING

1.

5. OPERATIONS & MAINTENANCE

- A. Review and Consider approval of Big Horn buildings LLC proposal regarding repairs to Gate House (enclosed – 007).
- B. Discuss additional use of maintenance facility office area by volunteers or Authority Board Members to hold individual meetings with owners for purposes of open communication with taxpayers.
- C. Discuss adding a sign to the doors at the Sales and Info Center listing names and contact information for the Authority, POA and Developer.
- D. Status of pool operations (enclosed – 008).
- E. Ratify the hiring of part-time seasonal field maintenance staff.

F. FIRST READING

1.

G. SECOND READING:

- 1. Consider approval of proposal from Association Reserve to conduct Reserve Study (enclosed -009).

H. EMERGENCY READING:

6. CAPITAL AMENITIES

A. FIRST READING:

1.

B. SECOND READING:

- 1. Review and consider approval of a proposal from Drexel Barrell & Co. for Civil Engineering and Surveying Services for proposed sidewalk improvements along Beebe Draw Farms Parkway (enclosed – 010).

C. EMERGENCY READING:

1.

7. INFRASTRUCTURE

A. Filing No. 2:

- 1.

B. FIRST READING:

1. Discuss increase in the water tap fees to increase the full tap from \$57,000 to \$60,000 and the budget tap from \$27,000 to \$30,000 effective September 1, 2022 (enclosed – 011).

C. SECOND READING:

1. Consider approval of Engineering Services Agreement with Wernsman Engineering and Land Development, LLC (enclosed – 012)

D. EMERGENCY READING:

- 1.

8. LEGAL MATTERS

A. FIRST READING:

- 1.

B. SECOND READING:

1. Consider approval of Improvement Acquisition, Advance, and Reimbursement Agreement with REI, LLC (enclosed - 013).

C. EMERGENCY READING:

- 1.

9. OTHER BUSINESS

A.

10. ADJOURNMENT:

**THE NEXT REGULAR MEETING IS SCHEDULED FOR SEPTEMBER 21, 2022.**

**Beebe Draw Farms Authority  
Employee Handbook**

~~May 1, 2018~~ January 1, 2022

### **IMPORTANT**

THIS HANDBOOK SETS FORTH THE POLICIES, PROCEDURES AND BENEFITS FOR THE BEEBE DRAW FARMS AUTHORITY ("AUTHORITY"). THE AUTHORITY BOARD OF DIRECTORS HAS THE RIGHT TO CHANGE THIS HANDBOOK AT ANY TIME WITHOUT NOTICE.

THE POLICIES, PROCEDURES AND BENEFITS CONTAINED IN THIS HANDBOOK ARE CURRENT AS OF ~~MAY 1, 2018~~JANUARY 1, 2022 AND SUPERSEDE ALL PRIOR AUTHORITY POLICIES, GUIDELINES PROCEDURES AND BENEFITS DEALING WITH SIMILAR SUBJECT MATTER.

### **NOTICE**

**EACH AUTHORITY EMPLOYEE IS AN "AT WILL" EMPLOYEE.**

THIS HANDBOOK APPLIES TO ALL EMPLOYEES. THIS HANDBOOK DOES NOT CONSTITUTE AN EXPRESS OR IMPLIED CONTRACT OF EMPLOYMENT. NOTWITHSTANDING ANY STATEMENT TO THE CONTRARY IN THIS HANDBOOK, ANY REPRESENTATIONS CONTAINED IN ANY AUTHORITY DOCUMENT (WHETHER IN PAPER OR ELECTRONIC FORM), OR ANY STATEMENT MADE BY ANY AUTHORITY BOARD MEMBER, EMPLOYEE, AGENT OR REPRESENTATIVE, ANY EMPLOYEE MAY BE TERMINATED AT ANY TIME FOR ANY OR NO REASON IN THE AUTHORITY'S SOLE DISCRETION, SUBJECT ONLY TO THE REQUIREMENTS OF APPLICABLE LAW.

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## SECTION 1

### DEFINITIONS AND GENERAL STATEMENTS

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#### A. Definitions.

1. **Applicable Law.** A Federal, State or local constitution, charter, law, rule, ordinance, code or regulation that applies directly or indirectly to the Authority and/or its directors, officers, employees, agents or representatives.
2. **Authority.** The legal entity known as Beebe Draw Farms Authority, which consists of an authority create pursuant to state law between Beebe Draw Farms Metropolitan Districts #1 and #2, which are political subdivisions of the State of Colorado.
3. **Authority Premises.** All buildings, offices, recreation facilities or areas, real property, parks, parking lots, places, Authority Vehicles, and equipment that the Authority owns, leases, manages or controls.
4. **Authority Vehicles.** All vehicles or other motorized machinery capable of movement that the Authority owns, leases or controls.
5. **Board.** The Authority's Board of Directors, which is made up of four elected officials from Metropolitan District #1 and #2, and which serves as the Authority's governing body.
6. **Communications Systems.** Authority's computer, telephone, internet and messaging systems, including but not limited to, personal desktop and laptop computers, electronic media, servers, telephones, pagers, facsimiles, cell phones, radios, hand-held electronic devices, electronic storage devices, and the local area network.
7. **Designee.** An employee or other person to whom the Board or the Authority Manager has delegated or assigned a specific duty, responsibility or activity.
8. **Authority Manager.** The Manager, hired by, serving at the pleasure of, and acting under the direction of, the Board.
9. **Electronic Transmissions.** All forms of electronic transmissions, including communications, that are created, stored, received or sent on the Authority's communications systems (whether imbedded in software or otherwise), including but not limited to, e-mail, text messages, pager messages, instant messages, voicemails, access to internet websites, and any other internet or electronic transmissions.

10. **Employee(s).** An individual hired by the Authority on a full-time, part-time, seasonal or temporary basis. The term “employee” does not include directors, independent contractors, or consultants.

11. **Exempt Employee(s).** An employee who is not subject to the FLSA and who is not required to be paid a minimum wage and overtime in accordance with the FLSA or state law.

12. **Family Member.** An employee’s immediate family member including any person related by blood, marriage, civil union, or adoption; a child to whom the employee stands in loco parentis or a person who stood in loco parentis to the employee with the employee was a minor; or a person for whom the employee is responsible for providing or arranging health- or safety-related care.

~~11.~~

~~12-13.~~ **Full-Time Employee.** An employee normally scheduled to work at least 40 hours per workweek.

~~13-14.~~ **FLSA.** The federal Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, and the federal regulations interpreting and implementing the FLSA, 29 C.F.R., Part 500, *et seq.*

15. **Illegal Drug(s).** Any substance that is illegal in the United States under any Applicable Law, or any substance defined as a controlled substance in C.R.S. §12-22-303, *et seq.* and the Controlled Substances Act, 21 U.S.C. §801, *et seq.*, and the federal regulations interpreting and implementing the Controlled Substances Act, which is being possessed, sold or used illegally. For purposes of this Handbook, illegal drugs include marijuana.

16. **Immediate Family.** A member's spouse; a member's and spouse's natural, step, foster, or adopted child; a member's natural, step, foster or adopted mother, father, sister or brother; a member's grandparent, grandchild, mother-in-law, father-in-law; and, any relative or other dependent living in the same household as the member.

~~14.~~

~~15-17.~~ **May.** Optional; not required.

~~16-18.~~ **Must.** Mandatory; required.

~~17-19.~~ **Non-Exempt Employee(s).** An employee who is subject to the FLSA and who is required to be paid a minimum wage and overtime in accordance with the FLSA and state law.

~~18-20.~~ **Posts.** Messages sent through or placed on Social Media websites by users, whether in the form of emails, “status updates”, “wall” messages, tweets, diary entries, instant messages, web log (or “blog”) entries, photographs, videos, *etc.*

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21. **Public Health Emergency.** An act of bioterrorism, a pandemic influenza, or an epidemic caused by a novel and highly fatal infectious agent for which an emergency is declared by a federal, state, or local public health agency; a disaster emergency is declared by the governor; or a highly infectious illness or agent with epidemic or pandemic potential for which a disaster emergency is declared by the governor.

~~19-22.~~ **Rule.** A written or oral Authority rule, policy, guideline practice, or procedure, whether or not physically incorporated into this Handbook.

~~20-23.~~ **Social Media.** Websites hosted by individuals or entities on which individuals and entities communicate by posting information, sending emails and/or otherwise sharing data including, but not limited to, all forms of on-line community activities, such as on-line social networks, message boards, conversation pages, photo sharing websites, and chat rooms, Wikis such as Wikipedia and any other site where text can be posted, Facebook, My Space, Friendster, personal blogs (i.e., BlogSpot, CafePress, etc.), Photobucket, Flickr, YouTube, Twitter, Yahoo, Google (including Google Docs, Gmail and other applications). This definition also applies to new forms of communication that may arise the future.

~~21-24.~~ **You(r).** The Authority's employees.

~~22-25.~~ **Workweek.** A period of 7 consecutive days established by the Board for the purpose of calculating and paying overtime to non-exempt employees in accordance with the FLSA. The Authority's workweek begins on Saturday at midnight and ends on the following Friday at 11:59 p.m.

## **B. Your Responsibility to Comply with All Rules and Use Good Judgment.**

You are responsible for knowing and complying with this Handbook and demonstrating good judgment at all times. If you have a question about a rule, you must ask your supervisor for clarification before taking any action that could violate the rule.

If a rule applies, it must be followed. If there is no rule, you must ask your supervisor how to proceed, if time permits. If time does not permit asking your supervisor, you must use good judgment (*i.e.*, "do what is right and do it the right way."). A rule must not be applied to a situation in a manner that causes another Authority rule or Applicable Law to be ignored or violated.

## **C. Emergency Suspension of a Rule.**

The Board, the Authority Manager, or a Designee may suspend or modify any rule to meet the demands of an emergency.

## **D. Amendments.**

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The Board may amend this Handbook anytime in its sole discretion. Regardless whether an amendment is physically incorporated into this Handbook, it is effective immediately upon adoption, unless the Board indicates otherwise.

**E. No Contractual Rights - At Will Employment.**

This Handbook does not constitute an express or implied employment contract with any employee. Notwithstanding any statement to the contrary in this Handbook, any representations contained in any Authority document (whether in paper or electronic form), or any statements made by any Authority Board member, employee, representative or agent, any employee may be terminated at any time, with or without cause, subject only to the requirements of Applicable Law.

**F. The Board's Reservation of Power and Authority.**

Nothing in this Handbook shall constitute an irrevocable delegation of any express or implied power or authority of the Board. The Board expressly reserves to itself all express and implied powers or authority vested in it by law. The Board may at any time take any action required or permitted by this Handbook, including but not limited to hiring, terminating, and imposing corrective or disciplinary action against any employee.

**G. Code of Ethics.**

Ethics is defined as "standards of conduct and moral judgment in dealing with duties and obligations to the community." The following standards are in addition to, and not in derogation of, any standards of conduct or code of ethics imposed by Applicable Law. You must:

1. Demonstrate the highest standards of personal integrity, truthfulness, honesty and fortitude so as to warrant public confidence and trust, and serve in such a way as to not realize undue personal gain from the performance of Authority duties.
2. Exercise whatever discretionary authority you have to promote the public good. Act always to serve the public interest and show responsibility and restraint in the generation and use of power.
3. Manage and protect the Authority's property and assets.
4. Avoid any personal interest or activity that is in conflict with your performance of Authority duties.
5. Serve the public with respect, courtesy, honesty and responsiveness, recognizing that service to the public is beyond service to oneself.
6. Strive for excellence and competence, encouraging the professional development of co-workers.
7. Respect and protect the privileged information to which you have access in the course of performing Authority duties.

8. Accept the responsibility to keep abreast of emerging issues and administer the public's business with professional competence, fairness, impartiality, efficiency and effectiveness.

9. Demonstrate equality to all members of the public in dealing with the Authority business and issues.

#### **H. Safety Policy.**

The Authority strives to establish and maintain safe working conditions for its employees. You must exercise good judgment in performing work assignments in a safe manner at all times. If you have a question about the safety of or hazards to employees or the public, you must contact your supervisor immediately. You must report an unsafe practice or condition to your supervisor immediately. If you are injured on the job, no matter how minor, you must immediately report the injury in writing to your direct supervisor and notify the manager on duty.

You are responsible for learning and complying with all applicable safety laws, regulations, rules, practices, policies, directives, or procedures. You must work in a safe manner, use available safety devices and inform your supervisor(s) of any potential hazards. All operators, drivers, and passengers of Authority motorized equipment, Authority Vehicles and personal vehicles used for Authority business must use safety belts as equipped for the particular vehicle. All maintenance personnel must comply with the Authority's safety program and wear required safety gear, including but not limited to safety vests, while on-duty or performing any activity on behalf of the Authority.

#### **I. Severability.**

If any part of this Handbook is held by judicial review to be invalid, every other part of this Handbook not specifically held to be invalid shall continue in full force and effect.

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## SECTION 2

### EMPLOYMENT POLICIES

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#### A. Equal Employment Opportunities.

The Authority provides equal employment opportunities to all employees without regard to race (including hair type, hair texture, and protective hair styles), color, religion, creed, national origin, ancestry, gender, sex, gender identity, pregnancy, marital status, lawful work status, military status, veteran status, age, physical or mental disability, sexual preference or orientation, transgender status, genetic information, lawful conduct outside of work, or membership or non-membership in a labor organization, or other status in any other group protected by Applicable Law.

Every effort shall be made to ensure that all employment/volunteerism decisions, programs and personnel actions are administered in conformity with the principle of equal employment/service opportunity. You are responsible for supporting these objectives and implementing this policy. You must assist in promoting a ~~work place~~workplace environment free of illegal harassment or discrimination. No employee shall be coerced, intimidated, harassed or retaliated against for reporting a violation of these policies.

#### B. Harassment and Discrimination Prohibited - Generally.

The Authority expressly prohibits any form of harassment or discrimination of an employee based on race (including hair type, hair texture, and protective hairstyles), color, religion, creed, national origin, ancestry, gender, sex, gender identity, sexual preference or orientation, pregnancy, marital status, lawful work status, military status, veteran status, age, physical or mental disability, sexual preference or orientation, transgender status, genetic information, lawful conduct outside of work, membership or non-membership in a labor organization ~~or membership~~ or status in any other group protected by Applicable Law. You must not engage in unlawful harassment or discrimination while on-duty or engaged in any Authority-related activity, including Authority-related activities occurring off the Authority Premises. Illegal harassment or discrimination that interferes with an employee's ability to perform his/her duties is prohibited. The Authority also prohibits you from harassing or discriminating against any other employee or person while on duty, or while in any manner representing the Authority in any capacity.

#### C. Sexual Harassment Prohibited.

The Authority prohibits sexual harassment. No one at the Authority, including directors, officers, supervisors, employees, customers, vendors or any other person, may make sexual advances or requests for sexual favors, or engage in any other verbal/physical conduct of a sexual or gender-based nature, or based upon an individual's sexual orientation or transgender status where:



1. Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment; or

2. It is obvious or implied that tolerating or submitting to the conduct is a condition of employment, or will be used for the basis of any employment decision, including but not limited to, hiring, firing, performance appraisals, salary, benefits, position, job transfers, promotions, or any other decision affecting any term or condition of employment with the Authority (all such conduct is defined in this policy as "sexual harassment").

An employee shall not be subjected to sexual requests or insulting behavior or language based on gender or sexual orientation. An employee shall not be led to believe any employment opportunity or benefit will in any way depend on his/her cooperation with sexual demands or that he/she must tolerate a sexually offensive environment.

You must conduct yourself in a professional and business-like manner at all times and must refrain from inappropriate sexual conduct that could lead to a claim of sexual harassment. Such conduct includes, but is not limited to:

1. sexually implicit or explicit communications whether in written form (such as cartoons, posters, calendars, magazines, publications, notes, letters, email, words or designs on clothing) or oral form (such as comments, jokes, foul or obscene language of a sexual nature, gossiping or questions about another's sex life, or repeated unwanted requests for dates); and,

2. physical gestures and other non-verbal behavior (such as unwelcome touching, grabbing, fondling, kissing, massaging, brushing up against another's body).

Even "innocent" conduct may constitute sexual harassment. Regardless of your intent, conduct that a reasonable person would find offensive may constitute sexual harassment and is prohibited.

#### **D. No Apparent Authority.**

Regardless of title or position, no Authority employee, including but not limited to managers and supervisors, and no Authority director has the authority (express, actual, apparent or implied) to harass or discriminate against an employee or any other person. This policy applies while on the job or during any Authority-related activity.

#### **E. Procedure for Reporting Illegal Harassment or Discrimination.**

##### **1. Mandatory Reporting.**

You must immediately report any unlawful harassment or discrimination to which you are subjected, which you observe, or of which you are aware. You must report it directly to the Authority Manager or his/her Designee. If the report involves the Authority Manager, you must

report the harassment or discrimination to the Board President. If the report involves the Board President, you must report the harassment or discrimination to another Board member. If the report concerns sexual harassment, you may request that a person of the same gender be provided to receive your report. An employee shall not be subjected to retaliatory action for reporting conduct the employee believes in good faith constitutes illegal harassment or discrimination.

**2. Confidentiality.**

Information concerning a complaint of illegal harassment or discrimination will be treated as confidentially as possible under the specific circumstances.

**3. Investigation.**

Once a report of harassment or discrimination is made, the Authority Manager or a Designee will promptly investigate it. If the report involves the Authority Manager, the investigation will be conducted by a Board member committee, an outside human resources consultant, or in such other manner as the Board deems appropriate in its sole discretion. If the report involves a Board member, the investigation will be conducted by an outside human resources consultant or in such other manner as the Board deems appropriate in its sole discretion. The complaining party, the accused, and any witnesses may be interviewed separately to establish the facts of the situation.

**4. Resolution.**

After the facts have been determined, the complaining party and the accused will be advised of the results of the investigation. If the investigation substantiates the complaint, appropriate action will be taken.

**5. No Retaliation.**

An employee shall not be harassed, intimidated or subjected to retaliation for reporting illegal harassment or discrimination, or for cooperating with or participating in any investigation of illegal harassment or discrimination. You must report retaliation in the same manner as a complaint of harassment or discrimination.

**F. No Sexual Activity on Authority Premises.**

Sexual activity on Authority Premises or while performing any Authority duty or activity is prohibited, regardless whether the sexual activity is consensual.

**G. Pregnancy and Related Medical Conditions.**

The Authority treats pregnant employees the same as all other employees. Disabilities caused or contributed to by pregnancy, childbirth or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical

conditions, including consideration of potential reasonable accommodations.

As with any other employee, a pregnant employee will be permitted to work as long as she can perform the essential functions of the job. If a pregnant employee's physician determines she is unable to perform the essential functions of the job, the Authority will treat the employee in the same manner as it treats other temporarily disabled employees, including consideration of any potential reasonable accommodations.

The Authority will provide reasonable unpaid break time or allow an employee to use paid break time, mealtime or both, each day to allow the employee to express breast milk for a nursing child for up to two years after the child's birth. The Authority will make reasonable efforts to provide a room or other location in close proximity to the work area, other than a toilet stall, where an employee may express breast milk in privacy.

Upon request of the pregnant employee following the procedures outlined in Section 2(H)(2) below, the Authority will make all reasonable accommodations for health conditions related to pregnancy or physical recovery from childbirth unless such accommodations would impose an undue burden on the Fire Authority.

## **H. Non-Discrimination Against and Accommodation of Individuals with Disabilities.**

### **1. Generally.**

In accordance with Applicable Law, the Authority will provide reasonable accommodation to a qualified individual with a disability. If you believe you have been discriminated against or that the Authority has failed to provide reasonable accommodation, you must file a complaint in accordance with Section 2(E), above.

### **2. Procedure to Request Accommodation.**

If you believe you are a qualified individual with a disability, you may make a written request for reasonable accommodation to the Authority Manager. The Authority Manager or a Designee will meet with you to discuss and identify the precise limitation(s) resulting from the disability and the potential accommodation the Authority might make to help overcome those limitation(s). The Authority Manager or the Designee (and, if necessary, other Authority representatives identified as having a need to know) will determine the feasibility of the requested accommodation, considering various factors, including, but not limited to, the nature and cost of the accommodation, the availability of tax credits and deductions, outside funding, the Authority's overall financial resources and organization, and the accommodation's impact on Authority operations, including its impact on other employees to perform their duties and the Authority's ability to conduct its business and fulfill its purpose.

### **I. Retaliation Prohibited.**

An employee shall not be retaliated against as a result of reporting or cooperating in the investigation of an alleged violation of any Authority rule or Applicable Law, including but not limited to the [FLSA](#), [Title VII of the Civil Rights Act](#), [the Americans With Disabilities Act \(ADA\)](#), [Age Discrimination in Employment Act \(ADEA\)](#), [the Pregnancy Anti-Discrimination Act](#), [the Colorado Anti-Discrimination Act](#), [the Colorado Healthy Families and Workplaces Act \(HFWA\)](#), [and the Colorado Public Health Emergency Whistleblower Act \(PHEW\)](#). ~~FLSA, the Family and Medical Leave Act (FMLA), and the Colorado Anti-Discrimination Act (CADA)~~. If you believe you have been retaliated against, you must file a complaint of retaliation in accordance with the procedures set forth in Section 2(E), above.

### **J. Personnel and Confidential Records.**

A personnel file and a separate confidential file are maintained for each employee. Personnel files and confidential files are kept in a locked, secure place to which only the Authority Manager and other authorized personnel have access for job-related purposes. Unauthorized personnel are prohibited from reviewing the personnel files and confidential files. You may review your personnel file or confidential file in the presence of the Authority Manager or a Designee at a time established by the Authority Manager or the Designee. No material may be removed from a personnel file or the confidential file; provided, however, that authorized personnel may organize and transfer records between the personnel file and the confidential file in the performance of their duties. This rule shall not prohibit the disclosure of information in the employee's personnel file or confidential file when legally required to do so. You may request a copy of your personnel file in writing. The Authority may charge you for the copying costs in accordance with Applicable Law.

You are responsible for immediately notifying the Authority's administrative offices of any change in address, telephone number, work status, marital status, or military status, change of the name or telephone number of the person to be notified in case of emergency, any change in driver's license status, and any change in insurance records. You also are responsible for providing the Authority with records concerning any licenses or certificates required for the performance of your job, and any documents showing that education or training required for the position has been completed.

### **K. Resignations and Job Separations.**

#### **1. Generally.**

You may terminate your employment at any time without prior notice to the Authority. In order to avoid disruption of services, the Authority would appreciate non-exempt employees giving at least two weeks' notice, and exempt employees giving at least four weeks' notice, if possible.

#### **2. Return of Authority Property - Failure to Return Reduces Final Paycheck.**

You must return all Authority property on or before the last day of work. By a separate written agreement, (see [Appendix B](#)) each employee has agreed that the value of Authority property not returned before his/her last day of work will be deducted from his/her last check. The Authority may take all appropriate action to recover the property (or the value of the property), and all associated costs.

### 3. **Final Pay.**

Final pay will be processed in accordance with the Authority's normal payroll procedures.

## **L. Hiring and Promotion.**

The Authority hires and promotes individuals based upon their skills, experience, qualifications, attitude and aptitude for the position to be filled, regardless whether they are Authority employees or outside candidates. All qualified employees are potential candidates for hire or promotion to a new or vacant position below the position of Authority Manager. If you are hired or promoted to a position, but are unable to satisfactorily perform the duties of the position, you are not guaranteed an alternative position or continued employment with the Authority.

State law prohibits an Authority Director from also being an Authority employee. Accordingly, you must resign your employment upon being elected to an Authority Director position. In addition, a Director is not eligible to apply for employment with the Authority.

The Board has sole discretion in determining how to fill a vacancy in the Authority Manager position, including whether to promote from within or solicit applicants from within and outside the Authority, and all rules with respect to the promotion or hiring process, in accordance with Applicable Law.

## **M. Reference Inquiries.**

The Authority does not furnish open letters of recommendation or provide letters of reference addressed to "Whom it May Concern." In response to inquiries from prospective employers, the Authority will give only dates of employment and position(s) held. The Authority will not answer any specific questions, nor will it give references, with respect to former employees. If you receive a call inquiring about a former employee, refer it to the Authority Manager.

## **N. Workplace Anti-Violence Policy.**

The Authority's goal is to maintain a workplace free from intimidation, threats and violence. This includes, but is not limited to physically, psychologically or emotionally intimidating or threatening behavior, physical or verbal mistreatment or injury, vandalism, sabotage, use of weapons, open carrying weapons onto the Authority Premises or during any Authority duty or activity, or any other act that in the Authority's opinion is inappropriate in the workplace.

The use of Authority property, including but not limited to the Authority's communications systems, in a physically, psychologically or emotionally threatening, intimidating or violent manner is prohibited. All employees are prohibited from bringing a weapon onto Authority Premises or possessing a weapon while performing any Authority duty or activity, except for the following individuals:

2. 1. Law enforcement officials; and,

2. An individual authorized under Colorado law to carry a concealed weapon in a public place. Under current Colorado law, the Authority cannot prohibit an employee possessing a valid permit from carrying a concealed weapon in the public portions of the Authority Premises; however, as your employer, the Authority can and does prohibit you from carrying or storing a concealed weapon in any non-public portion of the Authority Premises. Further, you are hereby notified that carrying, storage or use of a concealed weapon in the performance of any Authority duty or activity is expressly prohibited and not within the scope of your employment. As such, if you carry, store or use a concealed weapon while performing a Authority duty or activity, you do so without authority and will be individually responsible for such actions. If you intend to store or carry a concealed weapon in a public portion of the Authority Premises, you must provide the Authority Manager or a Designee with a copy of a valid state permit before taking such action.

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For purposes of this policy, a "weapon" shall include firearms of any type, whether loaded or unloaded, or any other object or substance designed, or which the possessor intends to use, to inflict psychological or emotional harm, bodily injury or death upon another individual. The term "weapon" includes knives, except knives with a blade less than 3 inches in length that employees routinely carry to assist them in performing their duties, unless a knife is brought onto the Authority Premises with the intent to cause psychological or emotional harm, bodily injury or death.

If you feel you have been subjected to workplace violence, have witnessed workplace violence, or you know an individual who has engaged in workplace violence, you must immediately report it in accordance with the reporting procedure set forth in Section 2(E). If there is an immediate threat to your health/safety or the health/safety any other individual, or to Authority property, you must immediately call 911. The Authority will investigate all reports of workplace violence and take such action as it deems appropriate. Any employee who engages in workplace violence may be subjected to discipline, up to and including immediate termination. The Authority also may report any incident of workplace violence to the appropriate law enforcement agency.

Retaliation against an employee for making or participating in the investigation of a complaint of workplace violence is prohibited.

## O. Whistleblower Policy.

The Authority prohibits illegal, fraudulent or dishonest conduct. You must report possible illegal, fraudulent or dishonest conduct pursuant to the procedures set forth in Section 2(E)(4). You must provide sufficient information regarding the alleged illegal, fraudulent or dishonest conduct for the Authority to investigate the matter. The Authority will keep the matter as confidential as reasonably practicable under the circumstances. Retaliation against a member for making or participating in the investigation of a complaint of illegal, fraudulent or dishonest conduct is prohibited

## **O. Communications Systems.**

### **1. General.**

Data and information, including electronic transmissions, created, stored, received or sent on the Authority's communication systems are Authority property, and are subject to review and inspection at any time. Personal access codes must be kept on file with the Authority Manager or a Designee at all times so the Authority can access any messages left on or transmitted over the communications systems at any time.

Communications systems items, such as laptops, can only be removed from the Authority Premises with prior approval from the Authority Manager or a Designee.

### **2. Software.**

The Authority has numerous licenses to utilize computer software. The license agreements contain restrictions concerning the software use, duplication and federal copyright protection. Each employee using the Authority's communications systems assumes the following responsibilities:

- a. Only software authorized or purchased by the Authority shall be used on an Authority computer.
- b. Do not duplicate or reproduce Authority or vendor software and software manuals.
- c. Authority software must not to be altered in any manner, including but not limited to, decompiling, disassembling, cross-compiling, reverse engineering or drafting derivative works.
- d. Computer software or documentation must not be removed from the Authority Premises without prior approval from the Authority Manager or a Designee.
- e. Upon termination of employment, all computer software and manuals must be returned to the Authority.

Tampering with computer hardware or violating any of the preceding provisions is prohibited and may result in disciplinary action up to and including termination.

**3. Access Codes.**

The Authority utilizes systems by which employees receive/send messages through e-mail and voice mail. Personal access codes must be kept on file with the Authority Manager or a Designee at all times so the Authority can access any messages left on or transmitted over the communications systems at any time. You are on notice that such messages are not confidential, and the Authority Manager or a Designee may access them at any time.

**4. Personal Use of Authority's Communication Systems.**

In general, the Authority's communications systems are to be used only for Authority business. The Authority recognizes that the internet, voice mail and e-mail are commonly recognized methods of communication, and that personal use of the Authority's communication systems may be necessary on occasion; however, all personal communications must be kept to a minimum. Abuse of this privilege will be handled by appropriate disciplinary action up to and including termination.

**5. Prohibited Use.**

You must not use the Authority's communications systems for any inappropriate or illegal activity, including but not limited to, accessing the internet through the Authority's computer system for the purpose of accessing sexually oriented, pornographic, racial or similarly inappropriate websites, or sending, receiving, or otherwise disseminating sexually oriented or racial materials or information.

**6. No Expectation of Privacy.**

You have no reasonable expectation of privacy in any Authority property, including the Authority's communications systems and all data and information, including electronic transmissions, created, stored, sent or received on the Authority's communications systems. All data and information, including electronic transmissions, created, stored, sent or received on the Authority's communications systems (whether imbedded in software or otherwise) are subject to review and inspection at any time. The Authority has the right to, and may, monitor at any time your use of the Authority's communications systems and your electronic transmissions. Pursuant to C.R.S. §24-72-203, you are advised that all electronic transmissions may be deemed a public record and subject to disclosure under the Colorado Public (Open) Records Act.

**P. Ability to Perform Duties After Illness, Injury or Leave of Absence.**

The Authority Manager or a Designee, at his/her discretion, may require an employee who has been on leave as a result of physical or mental illness, injury or otherwise, or who has been absent four or more days within any 30 consecutive day period due to illness, to submit a doctor's statement confirming the illness and/or releasing the employee to return to work. The Authority Manager or a Designee also may require the employee to complete a fitness for duty



examination, at the Authority's expense, to determine the employee's ability to perform the essential functions of his/her position.

**Q. Eligibility to Apply for Transfer or Promotion.**

Employees shall not be eligible to apply for transfer or promotion until completion of a minimum period of employment in his/her current position with the Authority, which period of employment is set each year at the discretion of the Authority and its insurance provider.

**Commented [MBF2]:** Lisa, this is unique to Beebe Draw and I'm unclear why the insurance provider has discretion in transfers or promotion? Do you know? It also conflicts with Section U, below. If you aren't aware of the need for this insurance discretion, then I recommend we delete this section.

**Commented [HJ3R2]:** Per conversation w/ Public Manager, we can delete this section and proceed with Section U.

**R. Training and Education.**

The Authority supports education and training programs which improve the skills, qualifications, and performance of Authority employees. The Authority will pay the fees and costs of education and training programs that are specifically required by the Authority. In addition, the Authority may, in its discretion, approve payment of all or a portion of the fees and costs of education or training programs requested by employees. The Authority's approval of payment for one segment, portion, or course that is a component of an education or training program does not obligate the Authority to pay for any additional segment, portion, or course.

It is ordinarily each employee's responsibility to maintain state-mandated certificates or credentials necessary to the employee's job.

Educational leave is available, at the Authority's discretion, to assist employees in developing professional and technical skills related to employment with the Authority. Such leave may be granted to attend professional or technical conferences, training seminars, schools, or programs. Educational leave must be approved in advance by the Authority Manager. Requests for educational leave must be made in writing and must clearly state the dates and purpose of the leave requested.

**S. Vacancies.**

The Authority considers a position vacant when there is no employee assigned to the position who has the foreseeable ability or apparent intention to perform the duties of the position. The Authority reserves the right to declare a position vacant under other circumstances, for example, the apparent abandonment of a position by an employee, and also reserves the right not to declare a position vacant, in its discretion.

Employees of the Authority are encouraged to apply for vacant positions for which they are qualified. The Authority awards vacant positions to the applicants who are best-suited to meet the needs of the Authority.

**T. Promotions.**

A promotion is considered the advancement of an employee to a position that carries more responsibility and a higher rate of pay. All regular employees of the Authority are eligible to be considered for promotions for which they apply and are qualified.

The effective date of an employee's promotion establishes a new starting date for any annual salary increases for which the employee may be eligible.

#### **U. Transfers.**

An employee may be transferred through promotion, successful application for a vacant position, or at the direction of the Authority.

An employee who is temporarily transferred to a different position for 60 days or less, shall incur no reduction in pay during that temporary transfer. Employees temporarily transferred to higher paying positions will be paid at the higher rate of pay after 60 days. The Authority may approve payment at the higher rate prior to 60 days, in its discretion.

#### **V. Nepotism.**

The Authority ordinarily will not employ close relatives under circumstances where:

1. One would directly or indirectly exercise supervisory, appointment, or dismissal authority over the other;
2. One would directly or indirectly have authority over disciplinary action as to the other;
3. One would audit, verify, receive, or be entrusted with money received or handled by the other in the course of employment; or
4. One would have access to the employer's confidential information, including payroll and personnel records.

For purposes of this guideline, a close relative is anyone of equal or greater relationship than a first cousin, which includes anyone descended from the employee's grandparents. In addition, a close relative includes an employee's spouse and anyone descended from that spouse's parents.

When employees of the Authority become related and their working relationship is prohibited by this policy, one employee will be required to transfer to another position, provided a position is available, or to resign. If neither affected employee voluntarily transfers or resigns, the Authority shall terminate or transfer one of the employees, in its discretion.

#### **W. Temporary Employment.**

Employees who are hired for positions known to be of limited duration are considered temporary employees. A position is considered to be of limited duration if it is reasonably expected at the time the position is filled that the position will terminate in the foreseeable future, even though the precise termination date may not be known.

Temporary employees are not eligible for Authority benefits available to full-time or part-time employees, [except for paid sick leave as discussed below](#).

Non-exempt temporary employees are entitled to overtime compensation under the FLSA for hours actually worked in excess of 40 hours per workweek.

**X. Part-Time Employment.**

Any employee who is regularly scheduled to work less than 40 hours per week is considered a part-time employee.

**Y. Employee Appraisals.**

The Authority strives to provide employees with performance reviews on an annual basis. The appraisal process is intended to provide employees with information concerning their employment progress and to serve as a means of improving employee performance. The appraisal process is not meant to serve as a substitute for ongoing discussions between supervisors and employees.

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## SECTION 3

# COMPENSATION AND WORK SCHEDULES

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### A. Adjustments to Compensation.

The Authority Board has sole discretion with respect to the timing, method and criteria for reviewing your compensation, and to what extent, if any, your compensation will be increased or decreased. Typically, the Board evaluates employee compensation as part of its annual budgeting process.

### B. Exempt and Non-Exempt FLSA Classifications.

Your FLSA classification as an exempt or non-exempt employee is stated at the top of your job description. If you change positions during your employment as a result of promotion, transfer, or otherwise, the FLSA classification will be stated at the top of the job description for your new position. Any questions regarding your employment classification and exemption status must be directed to the Authority Manager.

### C. Work Schedules.

You will work the schedules and hours established by your supervisor or the Authority Manager. The Authority may change work schedules from time to time in its sole discretion to meet its business needs. Normal business hours for the Authority shall be 8:00 a.m. to 5:00 p.m. Monday through Friday. Non-exempt employees are expected to work during these normal business hours. Although the Authority has no legal obligation to do so, if its business needs permit, you will be provided two 10-minute paid breaks and a 60-minute lunch period each day in which you work 6 hours or more. The 60-minute lunch period is unpaid for non-exempt employees, unless the employee is required to remain "on duty" on the premises during the lunch period. All breaks and lunch periods are scheduled by the employee's supervisor. Typically, lunch periods are scheduled between 11:00 a.m. and 1:00 p.m.

### D. Recording Work Hours.

#### 1. General Policy.

Non-exempt employees must record time worked on a daily basis on the Authority's time cards. You are responsible for submitting your timecard to your direct supervisor on a weekly basis (due on Monday for the previous Monday through Sunday work hours) for approval and submittal to payroll.

## 2. **Discrepancies in Time Records.**

If you separately track your time worked through personal electronic, manual, or other means, and you believe there is a discrepancy between your personal records and your official employee time sheet, you must immediately report this information to the Authority Manager. Reports of discrepancies will be promptly investigated. If it is determined that your time sheet incorrectly reflects your time worked, your pay will be promptly adjusted accordingly.

## 3. **Falsification of Time Records Prohibited.**

Actual hours worked must be recorded accurately by each non-exempt employee, and reported to your supervisor. Supervisors must verify all hours reported. You must not complete the time sheet of any other employee. Falsification of any Authority document or record, including time sheets, is prohibited, and may result in corrective or disciplinary action, up to and including termination.

## E. **Normal Pay Procedures.**

### 1. **Pay Day.**

You will be paid on alternate Fridays in the week following the end of the pay period. Pay periods are two weeks long. If the regular pay day falls on a holiday, you will be paid on the previous day that the Authority office is open for business.

### 2. **Payroll Deductions.**

The Authority is required by law to make certain deductions from your pay, including deductions for Federal, State, and Medicare, and PERA contributions. Other deductions can only be made at your specific request and agreement. Payroll deductions also may be made from your paycheck pursuant to a separate written agreement with the Authority for the replacement cost of lost, destroyed or unreturned Authority property, court-ordered garnishments, or as otherwise provided in this Handbook.

### 3. **Exempt Employee Deductions.**

An exempt employee's pay may be subject to deductions for absences from work of one or more full days for personal reasons other than sickness or disability; for absences of one or more full days due to sickness or disability, if the deduction is made in accordance with the Authority's policies, as applicable; to offset amounts you receive as jury or witness fees, or for military pay; or for suspensions without pay of one or more full days for violations of a major safety rule, the Authority's anti-discrimination/anti-harassment policies, and/or the Authority's workplace anti-violence policy. You will only be paid a prorated amount of your salary for the initial or last week of employment, if you do not work the entire week.

### 4. **Payroll Deductions.**

The Authority prohibits improper deductions from the salary of an exempt employee or the

wages of a non-exempt employee. If you believe an improper deduction has been made to your salary or wages, you must immediately report this information to the Authority Manager. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.

#### 5. **Direct Deposit.**

Employees shall authorize in writing the direct deposit of their paycheck with a designated financial institution. Upon authorization of direct deposit by any employee, that employee's paycheck shall be deposited with the designated financial institution.

### F. **Overtime.**

#### 1. **Working Unscheduled Hours.**

You are expected to work scheduled and unscheduled hours as necessary to meet the Authority's services needs and to maintain the Authority's efficient and effective administration and operation.

The fact that a non-exempt employee is asked or required to work additional hours does not mean such hours are automatically overtime. Whether actual hours worked are overtime is determined by the detailed regulations interpreting and implementing the FLSA. All non-exempt employees are prohibited from working unscheduled hours, unless: a) the Authority Manager or Designee orders or asks you to work the unscheduled hours; or, b) you ask and receive prior approval from the Authority Manager or Designee to work the unscheduled hours.

#### 2. **Non-Exempt Employees.**

In general, a non-exempt employee will be paid overtime at 1½ times his/her regular hourly rate of pay for all hours actually worked in excess of 40 hours in a workweek. Mandatory employee attendance at lectures, meetings, and training is counted as time actually worked for purposes of calculating whether overtime wages are due. Lunch periods, if provided, and any leave of absence are not counted as time actually worked for purposes of calculating overtime. Overtime will be computed on actual minutes worked, rounded to the smallest increment capable of being recorded by the Authority's time-keeping system. Overtime will normally be paid in the pay period in which it is earned. All overtime must be pre-approved by a supervisor. Employees who work unauthorized overtime may be subject to discipline.

#### 3. **Exempt Employees.**

Exempt employees are not required to fill out time sheets and do not receive overtime compensation. Exempt employees are responsible for working the days and hours necessary to satisfactorily perform their duties and responsibilities. While the Authority supports flexible work schedules and locations, all employees are expected to work primarily at the Authority's

premises during normal business hours in order to be readily available to constituents, customers, supervisors, and other employees.

#### **G. Training Time.**

Except as outlined below, non-exempt employees are compensated at their normal rate of pay for actual time spent in a mandatory meeting, conference or training. Whether the Authority chooses to pay for the cost of the meeting, conference or training is irrelevant. A meeting, conference or training is mandatory unless the following four criteria are satisfied:

- a) Attendance is outside the employee's regular working hours; **and,**
- b) Attendance is in fact voluntary. Training is involuntary (*i.e.*, mandatory) when either:
  - i) it is required by the Authority; or, ii) the employee understands or is led to believe his/her present working conditions or the continuance of his/her employment would be adversely affected by nonattendance; **and,**
- c) The meeting, conference or training is not directly related to the employee's job. **Note:** Training to prepare an employee for promotion through upgrading his/her skills/certifications, and which is not intended to make the employee more efficient at his/her present job, is not considered directly related to the employee's job even though the training incidentally improves ability to doing his/her current job; **and,**
- d) The employee does not perform any productive work for the Authority while attending the meeting, conference or training.

#### **H. Sick Leave.**

All employees, whether classified as full-time, part-time or temporary,-accrue sick leave at a rate of 1 hour of sick leave for every 30 hours worked, up to a maximum of 48 hours (6 days) of sick leave per year. Accrual begins upon the commencement of employment and sick leave may be used as it accrues. Employees may carry over up to 48 hours of accrued sick leave to the following calendar year (though no more than 48 hours of paid sick leave may be taken in any calendar year). All accrued but unused sick leave is forfeited upon termination of employment.

Sick leave may be used for any of the following purposes:

- i. A mental or physical illness, injury, or health condition prevents an employee from working;
- ii. A family member an employee needs to care for has a mental or physical illness, injury, or health condition;
- iii. An employee or a family member an employee needs to care for needs to obtain a medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition;
- iv. An employee or a family member an employee needs to care for needs to obtain preventative medical care;

- v. An employee or an employee's family member has been the victim of domestic abuse, sexual assault, or harassment and the employee must be absent from work to seek medical attention, obtain services from a victim services organization, obtain mental health or other counseling, seek relocation, or seek legal services; or
- vi. A public official has ordered the closure of an employee's place of business or the school or place of care an employee's child due to a public health emergency.

When used, sick leave is paid at the employee's then-current regular rate. All employees must notify their direct supervisor of the need for sick leave as soon as practicable when the need for sick leave is foreseeable. When an employee uses sick leave for four or more consecutive workdays, the Company Authority may require reasonable documentation establishing that the sick leave was used for a permitted purpose.

#### **I. Supplemental Sick Leave During a Public Health Emergency.**

On the date a public health emergency is declared, each employee's sick leave will be automatically supplemented as necessary to ensure that each employee has 2 weeks of sick leave available. Full time employees will receive up to 80 hours of sick leave. Employees who work less than 40 hours a week will receive up to the greater of the average number of hours the employee works over 2 weeks or the amount of time the employee is scheduled to work over a 2-week period. An employee's accrued and unused sick leave counts toward the 2 weeks of supplemental sick leave.

Supplemental sick leave may be used from the date a public health emergency is declared until 4 weeks after the official termination or suspension of the public health emergency for the following purposes:

- i. An employee needs to self-isolate and care for oneself because the employee is diagnosed with, experiencing symptoms of, or seeking preventative care for a communicable illness that is the cause of the public health emergency;
- ii. An employee is seeking or obtaining a medical diagnosis, care, or treatment if experiencing symptoms of a communicable illness that is the cause of the public health emergency;
- iii. An employee needs to care for a family member who is self-isolating because the family member is diagnosed with, experiencing symptoms of, or seeking preventative care for a communicable illness that is the cause of the public health emergency;
- iv. An employee needs to care for a family member who needs medical diagnosis, care, or treatment if experiencing symptoms of a communicable illness that is the cause of the public health emergency;
- v. With regard to a communicable illness that is the cause of the public health emergency, a local, state, or federal public official or health authority having jurisdiction

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over the location of an employee's place of employment or the employer determines that the employee's presence on the job or in the community would jeopardize the health of others because of the employee's exposure to the communicable illness or because the employee is exhibiting symptoms of the communicable illness, regardless of whether the employee has been diagnosed with the communicable illness;

vi. With regard to a communicable illness that is the cause of the public health emergency, an employee needs to care for a family member after a local, state, or federal public official or health authority having jurisdiction over the location of the family member's place of employment or the employer determines that the family member's presence on the job or in the community would jeopardize the health of others because of the family member's exposure to the communicable illness or because the family member is exhibiting symptoms of the communicable illness, regardless of whether the family member has been diagnosed with the communicable illness;

vii. An employee needs to care for a child or other family member when the individual's child care provider is unavailable due to a public health emergency, or if the child's or family member's school or place of care has been closed by a local, state, or federal public official or at the discretion of the school or place of care due to a public health emergency, including if a school or place of care is physically closed but providing instruction remotely; or

viii. An employee is unable to work because the employee has a health condition that may increase susceptibility to or risk of a communicable illness that is the cause of the public health emergency.

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## SECTION 4

### EMPLOYEE CONDUCT

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#### A. **Illegal Drugs/Alcohol Free Workplace and Testing Policy.**

##### 1. **Prohibited Illegal Drug/Alcohol Use and Restricted Prescription Drug Use.**

a. While performing any Authority duty or activity, while on the Authority Premises, or while engaged in Authority business or activities off the Authority Premises, you are prohibited from:

i. Buying, selling, soliciting to buy or sell, transporting, dispensing, manufacturing, promoting, possessing, using or being under the influence of illegal drugs;

ii. Buying, selling, soliciting to buy or sell, transporting, dispensing, manufacturing, promoting, possessing, or using illegal drug paraphernalia;

iii. Buying, selling, possessing, using or being under the influence of any amount or type of alcohol (including medications or over-the-counter remedies containing alcohol), except in connection with a Authority authorized event, such as a holiday party.

b. The foregoing illegal drugs/alcohol related conduct also is prohibited during non-working hours to the extent that, in the Authority's opinion, it impairs your ability to perform the essential functions of your job.

c. A prescription drug must only be brought on the Authority Premises by the person for whom it is prescribed. Prescription drugs must be used only in the manner, combination and quantity prescribed. You are prohibited from using or being under the influence of a legal drug whose use can adversely affect your ability to perform the essential functions of your job. If, for medical reasons, you are required to take prescription or over-the-counter drugs that could affect your ability to perform your duties, you must notify your supervisor immediately.

d. Marijuana, whether used for medical or recreational purposes, is a controlled substance and illegal under federal law. Further, no physician has the legal authority to prescribe it for any purpose. Use of marijuana will be treated the same as use of an illegal drug under this policy.

## 2. **Reasonable Suspicion Testing.**

You must submit to an ~~illegal drugs~~illegal drug and/or alcohol test when the Authority has reasonable suspicion to believe you have used illegal drugs or alcohol in violation of the Authority's illegal drug and alcohol policy. Reasonable suspicion exists when your appearance, behavior, speech, odors (of breath) or other physical symptoms indicate illegal drug or alcohol use.

All diagnostic drug screenings and alcohol tests based on reasonable suspicion must have the prior approval of the Authority Manager or a Designee. If you are notified of reasonable suspicion to be tested, you must report immediately to the Authority's designated illegal drugs/alcohol testing and screening service provider. An Authority representative will accompany you to the collection site.

## 3. **Upon Hire**

Applicants for hire for all positions may undergo drug and alcohol testing after a conditional offer of hire or promotion by the Authority.

## 4. **Post Accident**

Any employee involved in any accident, or whose performance may have contributed to causing an accident involving a Authority Vehicle, or a personal vehicle being used to conduct Authority business, may undergo drug and alcohol testing as soon as possible following the accident.

## 5. **Random/Periodic Drug Testing**

Any full-time or part-time employee working in a safety-sensitive position or that drives a Authority vehicle or personal vehicle being used to conduct Authority business, may be subjected to random or unannounced periodic drug testing. This policy does not apply to seasonal employees.

## 6. ~~Positive Drug or Alcohol Test.~~

### Positive Illegal Drug/Alcohol Test; Refusal to Submit to Test.

a. An applicant who, without an acceptable reason, fails to report for, or who refuses to submit to, an illegal drug/alcohol test shall not be hired or appointed.

b. A member who without an acceptable reason fails to report for, or who refuses to submit to, an illegal drug test/alcohol shall be terminated.

dc. A member who tests positive on an alcohol test may be subject to corrective or disciplinary action, up to and including termination.

A positive, confirmed drug or alcohol test may result in immediate termination even for a first offense. If you fail or refuse to submit to a test, you will be immediately terminated.

#### 7. **Illegal Drugs or Alcohol Related Convictions - Duty to Notify Authority**

As a condition of continued employment, you must notify the Authority within 24 hours if you are convicted, or plead guilty or no contest, to a drug or alcohol related charge. If you fail to so notify the Authority, you may be immediately terminated.

### **B. Authority's Right to Conduct Reasonable Searches.**

#### **1. Authority Premises and Authority Property.**

You are required, without further notice and upon the Authority's request, to submit to a search of any Authority Vehicle or Authority Premises, such as a desk, locker or other container provided by the Authority. All spaces on the Authority Premises or under the Authority's control remain subject to search even though you use such spaces or consider the space to be private. The Authority's communication systems and all information and data, including electronic transmissions, on the Authority's communications systems, remain Authority property at all times. You have no right to privacy to any information and data, including electronic transmissions, received, sent, generated, or stored on the Authority's communications systems.

Your refusal to submit to a search may result in corrective or disciplinary action, up to and including termination, or may be considered by the Authority as a voluntary resignation. The Authority may contact appropriate law enforcement authorities if it has reasonable suspicion to believe you may have illegal drugs or other illegal items on the Authority Premises.

### **C. Employees Charged with Illegal Conduct.**

Because of the employees' close and daily contact with members of the public, any employee who is charged with criminal conduct must report the charges to the Authority Manager immediately, regardless of whether the conduct giving rise to the charges occurred while you were on the job or engaged in Authority business, or occurred off the job on personal time.

The Authority will not automatically take employment action against an employee based on the fact that the employee has been charged with criminal conduct. Rather, the Authority will consider the nature and seriousness of the offense, the relationship of the offense to the employee's job duties, the amount of time that has elapsed since the offense, and any other factors relevant to an internal investigation the Authority may conduct into the charges to determine whether any employment action is necessary.

#### **D. Duty to Read Posted Items.**

You are responsible for keeping apprised of information posted on, or sent through, the Authority's bulletin boards, employee mailboxes, and e-mail network.

#### **E. Voice Mail.**

You are responsible for reviewing your voice mail messages in a timely fashion. If you know you are going to be out of the office for a day or more, you must leave a voice message stating when the period during which you will out, and alternative person to contact while you are out.

#### **F. Solicitations.**

Solicitations and distribution of literature for any purpose are prohibited on the Authority Premises or while on duty, unless approved in advance by the Authority Manager or a Designee. No employee shall be compelled to contribute money to any political party, club, union or association.

#### **G. Vehicles.**

If you operate an Authority Vehicle or your personal vehicle to conduct Authority business, you must obey the following rules:

##### **1. Used Only for Authority Business.**

Authority Vehicles must only be used for Authority business, unless pre-approved by the Authority Manager.

##### **2. Valid Driver's License.**

A valid Colorado driver's license, unrestricted except for corrected vision or other restriction(s) that can reasonably be accommodated, is a condition of employment and continued employment with the Authority. Notwithstanding the foregoing, as provided by state law, employees who are new residents of the state of Colorado and who possess a valid driver's license from the employee's previous state of residence may obtain a valid Colorado driver's license within 30 days after becoming a resident of the state of Colorado.

On or before January 31<sup>st</sup> of each year, you must submit a copy of your valid Colorado driver's license to the Authority, and a copy of your driving record from the Colorado Department of Motor Vehicles.

##### **3. Insurance.**

You must be listed on the Authority's insurance before driving a Authority Vehicle. You must maintain insurance on any personal vehicle that may be used to conduct Authority business.

#### 4. **Accidents.**

All accidents involving an Authority Vehicle, or a personal vehicle used to conduct Authority business, no matter how minor, must be reported immediately to the Authority Manager or a Designee. If you are involved in an accident with a Authority Vehicle, or a personal vehicle used to conduct Authority business, or if your conduct may have contributed to the accident, you must submit to an illegal drugs/alcohol test as outlined in Section 4(A)(4) above. If you fail or refuse to submit to a test, you may be subject to discipline, up to and including termination.

#### 5. **Obeying All Traffic Laws – Violations.**

All traffic laws must be strictly observed at all times, including wearing seatbelts at all times, never driving a vehicle at a rate of speed greater than can be maintained with safety, and no texting while driving. All citations for moving violations and any driver's license revocation, confiscation or suspension must be reported immediately, regardless whether the citation occurred while you were on the job or engaged in Authority business, or it occurred off the job on personal time. Failure to comply with this reporting requirement, or being convicted or pleading no contest to a citation, may result in discipline up to and including termination.

#### 6. **No Unauthorized Passengers.**

Only authorized employees shall ride in a Authority Vehicle, or a personal vehicle used to conduct Authority business, unless approved in advance by the Authority Manager or a Designee.

### **H. Hair and Dress Code.**

#### 1. **Hair.**

You must keep your hair clean and well-groomed at all times.

#### 2. **Dress.**

Within reason, non-uniformed employees are allowed to use their own discretion with respect to their work attire; however, all work attire must be neat, clean, in good taste, and appropriate to the employee's job duties.

#### 3. **Jewelry.**

Jewelry must not be worn that would interfere with the operation of Authority tools or equipment, or that would jeopardize your safety or the safety of other Authority personnel.

### **I. Smoking and Tobacco Use.**

In order to provide customers and employees with a tobacco-free environment, smoking and tobacco use is prohibited in all Authority buildings and within 15 feet of the main entrance into

an Authority building. Employees may smoke and use tobacco in outdoor areas beyond 15 feet of the main entrance into an Authority building, except that employees may not smoke or use tobacco in any outdoor area in the presence of a Authority customer or visitor, or in any outdoor area frequented by Authority customers or visitors and where an Authority customer or visitor may reasonably be expected to appear without notice.

Authority employees shall use common courtesy and cleanliness when smoking or using tobacco, including proper disposal of cigarette butts and spit cups/containers.

## **J. Property.**

### **1. Authority Property.**

#### **a. Care and Use of Authority Property.**

You are responsible for the reasonable care of all Authority property. Authority property is to be used only for official Authority business, in an appropriate manner, and in accordance with all applicable rules and operating procedures. You must not remove Authority property or the property of any other employee without proper authorization. Any employee stealing Authority property or another employee's property, or who abuses, misuses, damages, or destroys Authority property, shall be subject to discipline, up to and including immediate termination.

You must use Authority equipment, facilities and tools only to perform your duties. You must return equipment or tools furnished to you. Authority equipment, facilities and tools must not be used or loaned for any personal purpose.

#### **b. Lost or Damaged Property.**

Loss of or damage to Authority property must be reported immediately to your supervisor. A written report must be made to the Authority Manager by the supervisor within 24 hours. Failure to comply with these reporting requirements may result in corrective or disciplinary action, up to and including termination.

#### **c. Return of Authority Property.**

All Authority property, including keys, uniform items and Authority identification materials, must be returned to the Authority on or before the last day of work. Lost or stolen Authority property must be immediately reported to the Authority. Authority property not reported lost or stolen and which you do not return on or before your last day of work, will be considered stolen and reported to appropriate law enforcement agencies.

### **2. Personal Property.**

You are responsible for your personal property while at work. The Authority is not responsible for any loss or damage to vehicles or any other personal property of its employees.

### **K. Confidentiality and Conflicts of Interest.**

You must not disclose to any individual or entity outside the Authority any confidential information or use confidential information for personal benefit. Confidential information includes, without limitation: competitive bid data, personnel information, and information that would be against public interest or the interest of the Authority, its employees, or the citizens it serves. Confidential information does not include public records within the meaning of the Colorado Public (Open) Records Act.

Any employee engaged in outside business, employment, or other activities must not allow such activities to conflict with his/her Authority employment. You are required to meet the same job performance and scheduling expectations regardless of your outside activities. Your outside activities must not conflict with your duties to the Authority, and you must not use confidential information learned through your Authority employment in order to promote competitive outside activities. You must immediately disclose an outside conflict in writing to your supervisor. The Authority Manager, in his/her discretion, shall determine what effect, if any, the conflict of interest will have on your relationship with the Authority. Upon the Authority Manager's order, you must immediately cease the outside activity(ies).

### **L. Personal Gain Prohibited.**

You must not request or accept pay or other reward for services rendered as a Authority employee. You must not accept any gifts or gratuity of \$~~2553~~3.00 or more unless the gift or gratuity is reported to the Authority Manager, who shall determine whether you may retain the gift or gratuity, or whether it should be turned over to the Authority. You must not engage in any activity with any other state or local government official or employee that would violate Amendment 41 to the Colorado Constitution.

The Authority has the right to take appropriate action, including termination, in response to your off-duty conduct that: (1) relates to a *bona fide* occupational requirement or is rationally related to your employment/service activities and responsibilities; or (2) is necessary to avoid a conflict of interest or the appearance of a conflict of interest; or (3) is damaging to the Authority.

### **M. Attendance and Punctuality.**

You must report for duty at the scheduled start time. If you will be absent, you must notify your supervisor at least one hour before your scheduled start time, unless the circumstances do not permit advance notice to the supervisor, in which case you must notify your supervisor as soon as you can. You must state the reason for and probable duration of the absence. Absent satisfactory justification, if you fail to report for duty at the scheduled start time without first notifying your supervisor you will be subject to corrective action or discipline, up to and including termination.



A non-exempt employee who is persistently tardy shall have such time treated as unpaid leave. Further, repeated tardiness or excessive absences may result in corrective or disciplinary action, up to and including termination.

**N. Use of Cell Phones and Other Audio/Video Devices.**

**1. Personal Use of Cell Phones And Other Audio/Video Imaging/Recording Devices for Personal Purposes Prohibited During Work Hours.**

Except in emergencies, you are prohibited from using cell phones to make or receive personal calls during work hours or while engaged in any Authority activity. Use of cell phones for personal purposes is limited to approved breaks and meal periods. You are prohibited from using audio/video imaging and/or recording devices for personal purposes during work hours or while engaged in any Authority activity, including but not limited to camera phones, digital cameras, camcorders, tape/digital recorders or any other form of device capable of recording sound or generating an image. You are prohibited at any time from possessing or using any audio/video imaging and/or recording device of any kind in any locker room, restroom, changing room or any other area on the Authority Premises where an employee, patron or other person would have a reasonable privacy expectation.

**2. Use of Cell Phones to Conduct Authority Business.**

When using a cell phone to conduct Authority business or engage in any activity on behalf of the Authority, you must:

a. Not use the cell phone to send or receive calls, text messaging or other similar forms of manual data entry or transmission while driving any Authority Vehicle, or while driving a personal vehicle in the conduct of Authority business or an activity on behalf of the Authority. If it is necessary for you to use the cell phone while driving the vehicle, you must safely stop, obeying all traffic laws, and use the cell phone. After use of the cell phone is completed, you may resume driving the vehicle. Notwithstanding the foregoing, authorized Authority personnel may use the 2-way radio function on a Authority-issued cell phone while driving as long as the use is limited to a brief exchange of information under circumstances that will not in any manner adversely affect the employee's operation of the vehicle.

b. Be considerate of other people while using the cell phone, including but not limited to:

i. avoid using the cell phone in the presence of other people whenever possible;

ii. keep the call as short as possible;

iii. do not discuss confidential information during the call that could be overheard by another person;

- iv. do not speak in a loud voice or otherwise disturb other people; and,
- v. use appropriate language.

3. **Use of Audio/Video Imaging and/or Recording Devices to Conduct Authority Business.**

If you are using audio/video imaging and/or recording devices to conduct Authority business or engage in any activity on behalf of the Authority, you must limit such use to the Authority authorized duty or activity, and shall comply with all rules, instructions and orders of your supervisor regarding the use of such devices.

**O. Blogging, Social Networking, Letters to the Editor and Other Forms of Public Expressions of Opinion.**

Whether you choose to create or participate in a blog, wiki, social media website, online photo sharing website, or other form of online publishing or discussion, send a letter to the editor, or engage in any other form of public expression of personal opinion (collectively, "public expressions of opinion") is your own decision; however, you must be careful not to violate any Authority rule, your duty of loyalty to the Authority or any other Applicable Law. In addition, you are prohibited from:

1. Conducting activities related to public expressions of opinion during work hours or at any time using the Authority's communications systems;
2. Representing any opinion or statement as the policy or view of the Authority, or its Directors, officers and employees;
3. Making disparaging or defamatory comments about the Authority, or its Directors, officers, employees, vendors, customers, or services; or,
4. Criticizing the Authority, or its directors, officers or employees instead of using the dispute resolution procedures contained in this Handbook.

Nothing in this section is intended to restrict or limit in any manner whatsoever your constitutional or common law right to comment upon matters of public concern, to the extent protected by, and consistent with, Applicable Law.

**P. Social Media Policy.**

Before reading this policy, please read the definitions of "Posts" and "Social Media" contained in the Definitions section of this Handbook. Please ask the Authority Manager if you have any questions regarding these definitions.

The Authority understands you may maintain or contribute to Social Media and/or engage in

Posts outside of your paid position with the Authority and may periodically engage in Posts containing information about your Authority position or Authority activities on Social Media. If you engage in such activities, you are required to exercise good judgment, and comply with this Handbook.

The Authority has the right to monitor and review Social Media Posts made by you while on-duty and, from time to time, those made while off-duty by you as it deems as necessary and appropriate for the efficient and effective administration and operation of the Authority. To that end, you have no expectation of privacy while using Authority-owned or Authority-leased equipment, even when you are merely using the equipment to access your personal email account or other Social Media. Pursuant to C.R.S. § 24-72-203, you are advised that Posts, e-mails and text messages to/from you may be deemed public records and subject to disclosure under the Colorado Public (Open) Records Act.

**YOUR USE OF AUTHORITY LEASED OR OWNED EQUIPMENT CONSTITUTES YOUR CONSENT FOR THE AUTHORITY TO MONITOR AND INTERCEPT YOUR COMMUNICATIONS WHILE IN TRANSIT, AFTER RECEIPT OR WHILE STORED ON AUTHORITY LEASED OR OWNED EQUIPMENT UNDER TITLE I AND II OF THE ELECTRONIC COMMUNICATIONS PRIVACY ACT OF 1986.**

You may not disclose confidential information of the Authority or its employees, or confidential information of third parties who have provided the information to the Authority, including personnel information.

In maintaining or contributing to Social Media or engaging in Posts, you must not use the Authority's name in their identity (*e.g.*, username, "handle" or screen name). You also must not speak as a representative of the Authority, unless expressly authorized by the Authority.

Mutual respect and teamwork are essential to effective and efficient Authority administration and operation. You must be courteous, respectful, and thoughtful about how the Authority and other employees may be affected by Posts. Incomplete, inaccurate, inappropriate, threatening, harassing or poorly worded Posts may be harmful to other employees and volunteers, damage employee relationships, undermine the Authority's efforts to encourage teamwork, violate the Handbook, and harm the Authority, which may result in corrective or disciplinary action up to and including termination.

You bear full responsibility for information contained in your Posts and your Social Media. You must make certain that your Posts are accurate and must correct any inaccurate statements you make. You must not reference other Authority employees or Authority customers without obtaining their express permission to do so. Most Social Media sites require that users, when they sign up, agree to abide by a Terms of Service document. You are responsible for reading, knowing and complying with the Terms of Service of the Social Media sites you use.

Stated simply, your decision to use a different medium does not excuse recklessness in public communication or limit the Authority's ability to regulate your Social Media and Posts as it

could any other communication. The Authority supports your rights to engage in discourse about matters of public concern, to discuss the terms and conditions of your employment and supports your First Amendment rights. However, the Authority prohibits actions that violate this policy, any other Authority policy relating to social networking, Posts and Social Media, or any other form of public expression.

**Public Health Emergency Whistleblower Policy.**

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1. General Policy.

The Authority intends to help provide a safe and healthy work environment for its employees and encourages employees to bring any concerns to the Authority’s attention. The Authority will not discriminate, take adverse action, or retaliate against members for engaging in any of the following activities:

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- a. Raising (in good faith) any reasonable concern about workplace violations of government health or safety rules, or about an otherwise significant workplace threat to health or safety, related to a public health emergency;
- b. Opposing any practice the employee reasonably believes is unlawful; or
- c. Making a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing as to any matter the member reasonably believes to be unlawful.

Employees are not protected for communications (A) that are knowingly false or are made with reckless disregard for the truth or falsity of the information, or (B) that share individual health information that is otherwise prohibited from disclosure by state or federal law.

2. Employees’ Rights to Use Their Own Personal Protective Equipment (“PPE”).

Employees are allowed to voluntarily wear their own PPE, such as a mask, faceguard, or gloves, if the PPE:

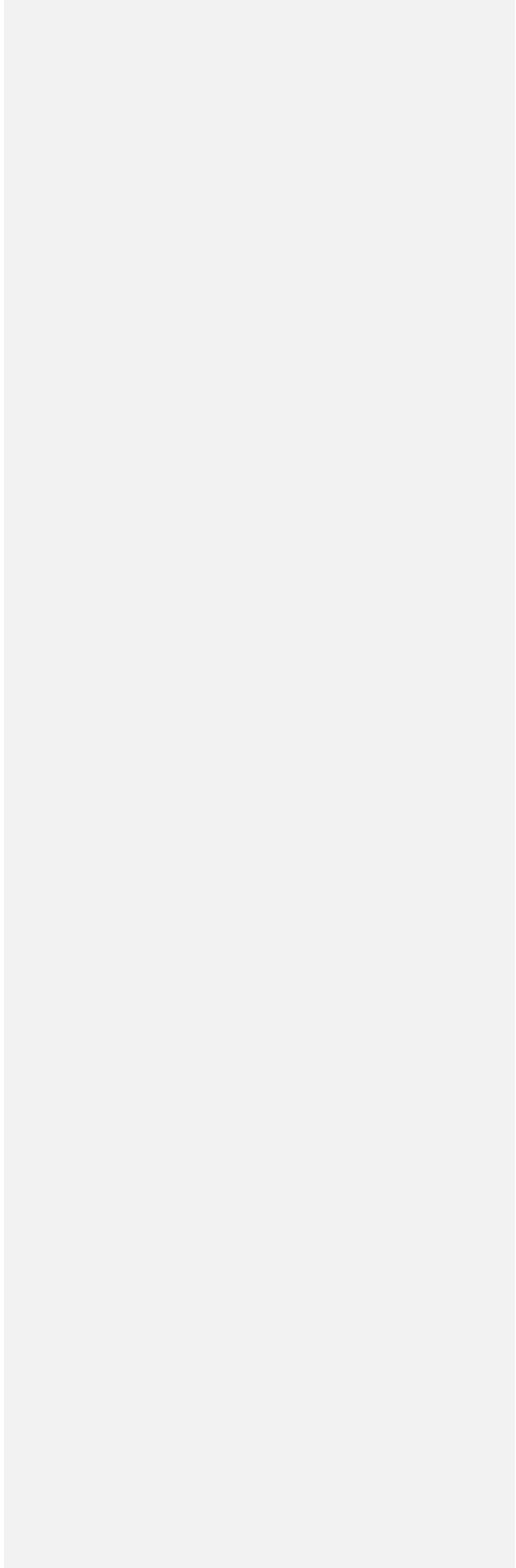
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- a. provides more protection than equipment provided at the workplace;
- b. is recommended by a government health agency (federal, state, or local); and
- c. does not render the member incapable of fulfilling their duties.

3. Procedure for Filing an Internal Complaint.

An employee who is subjected to, or observes any discrimination, adverse action, or retaliation related to a public health emergency or interference with the voluntary use of PPE which the employee considers to be unlawful, should report such conduct in accordance with Section 2(E) of this Handbook.

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## SECTION 5

### CORRECTIVE ACTIONS

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#### A. Corrective Actions Are Not Discipline.

Corrective actions are not discipline. A corrective action is intended to notify you of conduct that is not in conformance with the Authority's rules or otherwise is inappropriate or deficient, so you can promptly take appropriate action to ensure the conduct does not occur again.

#### B. Corrective Actions Are Not Progressive.

The Authority does not have a progressive or step-corrective action or discipline policy. The Authority will impose the corrective action it deems appropriate under the specific facts and circumstances. In imposing a corrective action, the Authority may consider any prior corrective or disciplinary action imposed against you. While a corrective action is not a disciplinary action, it can form the basis for a disciplinary action. In accordance with the Authority's policy against progressive discipline, the Authority has no obligation to take corrective action before taking disciplinary action, up to and including termination.

#### C. Oral and Written Corrective Actions.

##### 1. Oral Corrective Actions.

An oral corrective action may be imposed at any time by any supervisor. An oral corrective action shall be documented by the supervisor issuing the oral corrective action by a written note or memo placed in your personnel file.

##### 2. Written Corrective Actions.

A written corrective action may be imposed at any time by any supervisor. You will be given a copy of the written corrective action. You must meet and discuss the written corrective action with your supervisor and acknowledge in writing that you discussed the written corrective action with your supervisor. The written corrective action and your acknowledgement shall be placed in your personnel file.

##### 3. Corrective Action Requirements.

A supervisor may impose any reasonable duty or condition upon you that is reasonably designed to correct the deficient or inappropriate conduct, including, but not limited to, prohibiting you from engaging in the misconduct again, probation and/or an action plan. Corrective actions may not be appealed to the Authority Manager or Board.

**D. Corrective Actions by the Authority Manager.**

The Authority Manager may issue a corrective action to any employee at any time, using the procedures for oral and written corrective actions in Section 5(C) above.

**E. Board Corrective Actions.**

The Board has complete discretion to issue a corrective action to any employee at any time, using such procedures as it deems appropriate.

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## SECTION 6

### DISCIPLINE AND TERMINATION

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#### A. Discipline.

##### 1. Generally.

##### a. At Will Employment; No Progressive Discipline.

The Authority does not have a progressive or step-discipline policy. All employees are “at will”, and may leave the Authority at any time. The Authority also may terminate an employee at any time, for any or no reason, subject only to the requirements of Applicable Law.

##### b. Reporting Violations.

You must report a violation of this Handbook or any other Authority rule or Applicable Law, or other alleged employee misconduct to your supervisor or the Authority Manager.

##### c. When Discipline May Be Imposed.

Discipline may be imposed for violating this Handbook or any other Authority rule, any Applicable Law, or for unsatisfactory or deficient performance of duties. The following is a non-exclusive list of the types of misconduct that may result in discipline:

1. Violation of this Handbook or any other Authority rule.
2. Unsatisfactory performance of one or more of your duties and responsibilities.
3. Direct or indirect insubordination, disrespect for or disobedience to a request, direction or order of a supervisor or the Authority Manager.
4. Unauthorized release of information regarding the Authority, its employees, volunteers or customers.
5. Unauthorized use or removal of Authority property, other employees or volunteers, or customers.
6. Carelessness, negligence, or misuse of Authority property, whether or not resulting in injury to employees, volunteers, or other property.



7. Violation of the Authority's anti-discrimination/harassment or workplace anti-violence policies.
8. Willful destruction of Authority property or the property of others.
9. Falsification of, or material omission from, an employment or appointment application or any other Authority record.
10. Violation of the Authority's illegal drug and alcohol policy.
11. Unexcused absence or tardiness.
12. Leaving Authority Premises without prior permission of your supervisor. For example, if you become ill while on duty, you must notify your supervisor before leaving.
13. Violation of the Authority's smoking and tobacco use policy.
14. Disorderly conduct, including, but not limited to, gambling, verbal abuse, fighting, engaging in any activity that interferes with job performance, or any other employee or volunteer's performance on the job, repeated use of abusive, obscene, indecent or profane language.
15. Lack of courtesy to Authority guests or customers, or other employees or volunteers.
16. Violation of the Authority's Dress Code.
17. Falsification, destruction, or unauthorized use of Authority records, reports, or other data or information belonging to the Authority.
18. Failure to report violations of safety policies and procedures.
19. Failure to use safety gear, clothing, or equipment properly.
20. Violation of the Authority's conflicts of interest and personal gain policies.
21. Unauthorized use of Authority funds and/or credit cards.
22. Failure to use good judgment.

The foregoing is not a comprehensive list of the reasons for which you may be subject to disciplinary action, including but not limited to termination. Again, violation of any provision of this Handbook or any other Authority rule, any Applicable Law, or any verbal or oral instruction of a supervisor, may result in disciplinary action.

## 2. Discipline Procedure.

### a. Notice of Recommended Discipline and Meeting.

Your supervisor will determine the discipline to be recommended based upon the specific facts and circumstances of the case, considering your prior work performance, including, but not limited to any prior corrective actions or discipline. If, based upon all of the facts and circumstances, the supervisor believes discipline is warranted, the supervisor may recommend one or more of the following forms of discipline to the Authority Manager:

- i. Probation;
- ii. Action Plan;
- iii. Suspension;
- iv. Suspension without pay;
- v. Leave Reduction;
- vi. Demotion; or
- vii. Termination.

**Exempt Employee Limitations:** In order to comply with the FLSA "salary basis" requirements, the following limitations apply to disciplinary actions against FLSA exempt employees:

i. An FLSA exempt employee can be suspended without pay for more than one workweek (no partial workweeks) for any act or omission forming a basis for discipline under this Handbook, any other Authority rule, or Applicable Law;

ii. An FLSA exempt employee can be suspended without pay for one day or more (no partial days) for violations of the Authority's anti-discrimination/anti-harassment policies or workplace anti-violence policy.

The supervisor will provide you with a written *Notice of Recommended Discipline* that contains: i) a brief, reasonably specific, written statement of your wrongful conduct; ii) the provision(s) of this Handbook or other Authority rule or Applicable Law violated, or your deficient or unsatisfactory performance of duties; and, iii) to the extent practicable, the time, date, and place where the alleged acts took place, and the names of witnesses.

The *Notice of Recommended Discipline* will state a date and time at which you are required to meet with the supervisor, which meeting will occur within 5 business days of your receipt of the *Notice of Recommended Discipline*. If the supervisor cannot hold the meeting within the 5-day period due to unavailability, the meeting will occur with you as soon as practicable. Before this meeting, you may submit a written response to the *Notice of Recommended Discipline*, in accordance with Section 6(A)(2)(b), below.

The *Notice of Recommended Discipline* may be given to you in person, or mailed to the residential address you have provided to the Authority in accordance with this Handbook.

**b. Your Written Response.**

You may, but are not required to, submit a written response. If you wish to submit a written response, you must submit it to the supervisor at least 12 hours before you meet with the supervisor to discuss the *Notice of Recommended Discipline*.

**c. Supervisor's Recommendations to the Authority Manager.**

After meeting with you and considering your written response, if any, the supervisor may submit written recommendations of discipline to the Authority Manager or may withdraw the disciplinary action.

**d. Authority Manager's Decision on Recommendations Final.**

The Authority Manager will issue a written decision on the supervisor's recommendations within 10 business days of receiving the recommendations, or as soon thereafter as practical. The Authority Manager's decision is the final decision of the Authority for all purposes. Under no circumstances shall you attempt to appeal a disciplinary action directly to the Board. Any attempt to appeal a disciplinary action to the Board may result in your immediate termination.

**e. Disciplinary Action by the Authority Manager.**

The Authority Manager may, at any time, commence disciplinary action against any employee. The Authority Manager will provide the employee with a *Notice of Possible Discipline* that contains the information set forth in Section 6(A)(2)(a), above. You shall meet with the Authority Manager to discuss the discipline being considered. You may provide a written response as provided in Section 6(A)(2)(b), above. The Authority Manager will issue his/her decision within 10 business days of his/her meeting with you, or as soon thereafter as practicable. The Authority Manager's decision shall be the final decision of the Authority for all purposes. Under no circumstances shall you attempt to appeal the Authority Manager's decision to the Board. An attempt to appeal the Authority Manager's decision to the Board may result in your immediate termination.

**B. Termination Due to Job Elimination.**

The Board or the Authority Manager may terminate you as a result of the elimination of your position. The Board or the Authority Manager will provide you with a written *Notice of Intent to Eliminate Position*. The Notice will state the reason for eliminating the position and will state a date and time for you to meet with the Board or Authority Manager to discuss elimination of the position. You may provide a written response at least 12 hours before the meeting to discuss elimination of the position. As soon as practicable after the meeting, the Board or Authority Manager, as appropriate, will issue a final decision on elimination of the position.

**C. Termination for Reasons Other Than Discipline or Job Elimination.**

The Board or Authority Manager, on its/his/her own initiative or on a supervisor's recommendation, may terminate you for other than discipline or job elimination, where the Board or Authority Manager finds your continued employment is not in the best interests of the Authority, its employees and/or the citizens it serves, including your goals and needs are inconsistent with the Authority's goals and needs, you are not integrating into the Authority's work force, operations or administrations, you do not support the Authority Board's governance or the Authority Manager's management style or philosophy, or you have behavioral problems that, while perhaps not rising to a level requiring discipline, are not in the best interests of the Authority, its employees and/or the citizens it serves. In such circumstances the supervisor (if supervisor recommendations are involved) and the Authority Manager will follow the procedures set forth in Sections 6(A), above. The Board will, to the extent practicable, in compliance with the Colorado Sunshine Law, and its ability to schedule regular or special meetings, follow the procedures contained in Section 6(A), above.

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## SECTION 7

### BENEFITS

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**NOTICE:** Except for benefits required by Applicable Law, the Board has the right to modify, add to or eliminate any benefit contained in this Handbook, including this Section 7, at any time subject to compliance with any requirements of Applicable Law.

The following benefits are available to all eligible employees, as indicated. Temporary employees are not eligible for benefits.

#### A. Leaves of Absence.

##### 1. Bereavement Leave

Full-time employees are eligible for up to 3 days bereavement leave at full pay and may request additional unpaid leave. Part-time employees are eligible for up to 1 day of paid leave to deal with a death of an immediate family member. Immediate family member is defined as the employee's spouse, partner in a civil union, parents, children, siblings, grandparents, grandchildren, and the parents, siblings or children of the employee's spouse or partner in a civil union.

##### 2. Jury Duty and Witness Leave.

###### a. Jury Duty.

If you are called for jury duty, you will be granted leave with pay, less the amount of jury fees you receive. To qualify for jury duty leave, you must submit a copy of the Summons to Serve to your supervisor as soon as you receive it. In addition, proof of jury duty must be submitted to your supervisor after jury duty is completed. You must return to work immediately when dismissed from jury duty or when the jury is not in session during your usual work hours. The Authority will make no attempt to have your jury service postponed except if necessary to meet the Authority's business needs. Such leave is available to full and part time employees.

###### b. Witness Leave.

If you are subpoenaed to produce documents, provide deposition testimony or appear in court or arbitration on a Authority-related matter, you will be granted the leave necessary to comply with the subpoena. Actual time worked in preparing for, and providing witness testimony, or producing required documents, while on witness leave on a Authority-related matter will be treated as time actually worked for purposes of calculating FLSA overtime for non-exempt

employees. A non-exempt employee must receive prior approval from the Authority Manager or a Designee before performing such work, and must record all such work on a Authority time card, which shall be reviewed and approved by the Authority Manager or a Designee. Such leave is provided to full and part time employees.

If you are subpoenaed to produce documents, provide deposition testimony or appear in court or arbitration on a non-Authority matter, you will be granted the leave necessary to comply with the subpoena. You will be granted leave without pay; provided, however, that an exempt employee will be paid his/her normal salary in any workweek in which he/she performs any work for the Authority. You must furnish a copy of the subpoena to your supervisor. You must return to work immediately upon being released from a witness subpoena. Such leave is provided to full and part time employees.

### 3. **Voting Leave.**

The Authority believes voting is an important responsibility we all assume as citizens. Under most circumstances, it is possible for you to vote either before or after work or by mail. If it is necessary, however, for you to arrive late or leave work early in order to vote in an election, you should make arrangements with your supervisor not later than the regularly scheduled workday prior to the Election Day on which you want to vote. The Authority will grant time off to vote in accordance with Applicable Law not to exceed two hours or longer as agreed to.

### 4. **Administrative Leave.**

The Board, the Authority Manager, or a Designee may place you on administrative leave for misconduct, investigative purposes, or for any other reason it/he/she deems appropriate. Administrative leave shall be with pay, unless circumstances dictate otherwise. While on administrative leave, you must not participate in any non-social Authority duties or activities, unless otherwise directed by the Board, the Authority Manager, or a Designee.

### 5. **Military Leaves of Absence.**

Leaves of absence for military duty and training will be granted to all employees in accordance with Applicable Law. If you are called to active military duty or to reserve or National Guard training, or if you volunteer for the same, the Authority would appreciate your submitting copies of the military orders to your supervisor as soon as practicable. Your eligibility for reinstatement after military duty or training is determined in accordance with Applicable Law. Your military leave of absence will be with pay for the first 15 days (8 hours per day) in a calendar year. Pursuant to a separate written agreement, the amount of your pay will be offset by the amount of military pay you receive for the same days for which paid leave was provided. The Authority will make payment as follows: the difference between your regular earnings and the military earnings you receive while on duty (military earnings consist of gross pay at the base rate before payroll deductions).

## 6. Medical and Family Leaves of Absence.

As a public entity, the Authority is a covered employer under the Family Medical Leave Act of 1993 ("FMLA") and must comply with various requirements outlined in the FMLA; however, the Authority need only provide FMLA leave (*i.e.*, 12 weeks of unpaid leave) to "eligible employees", which the FMLA defines as those employees who have: a) completed at least one full year of service with the Authority, b) have worked a minimum of 1,250 hours in the 12-month period preceding the leave to be eligible for such leave; and c) are employed at a worksite with 50 or more employees (not including volunteers) within 75-miles of that worksite. Because the Authority does not employ 50 employees, no employees are eligible for FMLA leave at this time.

Nevertheless, as an additional benefit to its full-time employees, the Authority has voluntarily elected to provide them with medical and family leave under certain circumstances. The fact that some aspects of the Authority's medical and family leave policy may resemble the FMLA does not in any manner make any employee eligible for benefits under the FMLA.

An unpaid medical or family leave of absence of not more than 60 calendar days in a rolling 12-month period may be granted to a full-time employee for his/her serious illness or injury, for a serious health condition arising from the employee's pregnancy, or to bond with a newly born or adopted child or a child newly placed with the employee as part of a licensed foster care program. For a medical or family leave to be granted, the following conditions must be met:

- You must have completed one (1) year of employment with the Authority before the start date of the medical or family leave requested.
- You must notify the Authority as soon as possible of the need for medical or family leave.
- Your direct supervisor must approve the requested leave.
- You must use all accrued leave at the beginning of the leave, with the balance of the leave being unpaid.
- If you are requesting medical leave, you must submit to your supervisor a written statement from the attending physician outlining the reason for the leave and the estimated time needed, and you must submit to your direct supervisor a doctor's return to duty release before you return to work.
- If you are requesting family leave, you must submit to your supervisor a statement outlining the reason for the leave and the date of your expected return. The Authority reserves the right to request confirming documentation of the reason for the leave, such as a birth or adoption certificate or foster care placement record.

There is no guarantee that you will be reinstated to your former position, or to any other position, at the end of your medical or family leave.

Accrued leave will not accrue and funeral pay and jury duty pay will not be granted during the leave. If you fail to return to work at the expiration of the medical or family leave, you will be terminated.

## **B. Workers' Compensation Insurance.**

The Authority provides Workers' Compensation Insurance to all employees. If you are injured, infected or become ill while performing work for, or activities on behalf of, the Authority, you must report, in writing, the injury or illness to your supervisor within 24 hours. Failure to follow this procedure may jeopardize your right to workers' compensation benefits. Questions regarding workers' compensation insurance claims should be directed to the Authority Manager.

The Authority has prepared the statutorily required list of treating physicians who are the Authority's designated providers and will provide this list to an employee who is injured at work, and to any other employee upon request. The Authority will provide the list within 7 business days of when the Authority has notice of the injury. If an emergency prevents the Authority from providing this list to an injured employee within that time, the list will be provided as soon as the emergency ceases.

## **C. Volunteer Leave.**

Employees called into service by a qualified volunteer organization certified by the State of Colorado are entitled to a leave of absence without loss of benefits or status while the employee is volunteering for such organization. Such paid leave shall not exceed a total of fifteen (15) days in any calendar year and shall be allowed only if the required volunteer service is satisfactorily performed, which shall be presumed unless the contrary is established. Leave pursuant to this guideline shall only be allowed if the employee returns to his/her position the next scheduled work day after being relieved from emergency volunteer service, except for cases in which the employee is unable to return to work due to injury or circumstances beyond the employee's control and the employee notifies the Authority as soon as practicable, but prior to the next scheduled work day.

## **D. Unpaid Leave.**

Under circumstances where an employee is not eligible for paid leave, he or she may be granted unpaid leave on such terms and conditions as may be permitted by the Authority in its discretion. Unpaid leave shall not be granted for more than six (6) months, but may be renewed by the Authority upon its expiration.

Employees on unpaid leave are eligible to receive group insurance benefits upon their timely payment of appropriate premiums.

Failure of an employee to return upon expiration of unpaid leave may result in termination of employment.

## **E. Expenses.**

The Authority reimburses employees for expenses reasonably incurred in the course of Authority business, provided such expenses have been authorized in advance or are determined by the Authority, in its discretion, to have been necessarily incurred under circumstances where



advance approval was not reasonably possible. Employees seeking reimbursement for expenses will be required to document those expenses.

The Authority shall reimburse employees for use of their personal vehicles on Authority business at the rate established by the Internal Revenue Service upon approval by the Authority Manager or their designate.

**F. Benefit Provisions Subject to Applicable Law.**

All of the benefit provisions contained in this Handbook are subject to all Applicable Law, including but not limited to the Family and Medical Leave Act ("FMLA"), and the Fair Labor and Standards Act ("FLSA"), and the state counterparts to such laws, so that to the extent any provision herein is deemed to be inconsistent with the FMLA, FLSA, or any other Applicable Law, the Applicable Law shall control.

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## SECTION 8

### DISPUTE RESOLUTION

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#### A. Scope.

This Section 8 does not apply to: 1) any aspect of any corrective or disciplinary action; 2) employee performance evaluations, reviews or appraisals; 3) decisions regarding compensation, hiring or promotion; or 4) any action you believe constitutes illegal discrimination, harassment, work place violence or retaliation. Such matters should be addressed in accordance with the procedures, if available, contained in other portions of this Handbook.

#### B. Informal Problem Resolution.

You must first discuss your concerns with your supervisor(s) before the problem becomes too difficult to handle informally, and to take your concerns through the management chain. When informal means of dispute resolution are not successful, you may use the procedures contained in Section 8(C), below.

#### C. Dispute Resolution Procedures.

You may submit a written dispute to the Authority Manager or the Board in accordance with the following procedures:

1. You must submit your written dispute within ten (10) business days after the issue arises that is the subject matter of the dispute.
2. The written dispute must, at a minimum, state the following:
  - a. The date of the disputed action or interpretation, and the date of submittal of the written dispute;
  - b. Your name of and the best way to reach you to discuss the dispute (i.e. cell phone number, e-mail, home phone number);
  - c. A description of the dispute; how, when and where it arose; the parties involved; and its present status, including a description of the steps you took to resolve the dispute on an informal basis, if any;
  - d. All documents or other materials supporting your position; and,

e. The relief sought or a proposal for resolution of the dispute.

3. You must submit the written dispute in a sealed envelope. If the dispute is being submitted to the Authority Manager, the sealed envelope should be marked "Confidential Dispute Resolution for the Authority Manager." If the dispute is being submitted to the Board, the sealed envelope should be marked "Confidential Dispute Resolution for the Board of Directors." The sealed envelope must be delivered to the Front Desk located in the Authority's Administrative Offices.

4. If the dispute is submitted to the Authority Manager, the Authority Manager may make such investigation as he/she deems appropriate under the circumstances, including speaking with you and other employees, supervisors or third parties who may have information relevant to the dispute. Within 15 business days of receipt of the written dispute, or as soon thereafter as is practical, the Authority Manager will issue a written decision. The Authority Manager's decision is the final decision on the dispute, and you must not attempt to appeal it to the Board. The Authority Manager may reject any written dispute that does not contain all of the required information, with an explanation of why it is incomplete.

5. If the dispute is submitted to the Board, the Board (or a Board subcommittee, representative or designee appointed by the Board in its sole discretion) may make such investigation as it deems appropriate under the circumstances, including speaking with you and other employees, supervisors or third parties who may have information relevant to the dispute. The Board may reject any written dispute that does not contain all of the required information, with an explanation of why it is incomplete. Within 15 business days of receipt of the written dispute, or as soon thereafter as is practical, the Board, or its designee, will issue a written decision. The Board's decision is the final decision on the dispute, and you must not attempt to appeal it to the Board.

~~5. If the dispute is submitted to the Board, the Board will establish a Dispute Committee, which will be comprised of two Board members. The Dispute Committee will advise the Authority Manager of its receipt of a dispute and the general nature of the dispute. The Dispute Committee may reject any written dispute that does not contain all of the required information, with an explanation of why it is incomplete. The Dispute Committee will conduct such investigation as it believes appropriate under the circumstances, including speaking with you and other employees, supervisors or third parties who may have information relevant to the dispute. Within 15 business days of a receipt of the written dispute, or as soon thereafter as is practical, the Dispute Committee will issue a written decision~~

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## SECTION 9

### EMPLOYEE ACKNOWLEDGMENT

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In addition to reading and understanding this Employee Handbook, you are required to acknowledge in writing that you have read and understand this Employee Handbook by signing the form attached as Appendix A and submitting it to the Authority Manager.

## Appendix A

### **EMPLOYEE ACKNOWLEDGEMENT**

I, the undersigned, hereby acknowledge and state that I have been provided with a copy of, and have read and understand, the ~~May 1, 2018~~January 1, 2022 Employee Handbook of the Beebe Draw Farms Authority ("Authority"), and that this Employee Handbook and any subsequent amendments supersede all prior policies, procedures and benefits of the Authority dealing with similar subject matter.

I understand the Authority's Board of Directors has the right to change the policies, procedures and benefits of the Authority at any time without notice, subject only to the requirements of applicable federal or state law.

I further understand the Employee Handbook applies to all Authority employees. I understand that the Employee Handbook does not constitute an express or implied contract of employment or any part thereof. Notwithstanding any statement to the contrary in this Employee Handbook, any representations contained in any employment application or any other Authority documents, or any statements made by any Authority director, officer, employee, representative or agent, I understand Authority employees are employed on an "at will basis". As a result, I understand that I may terminate my employment with the Authority without notice at any time for any or no reason. Similarly, the Authority may terminate my employment at any time for any or no reason, and with or without prior notice, subject only to the requirements of applicable federal or state law.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Appendix B

**AGREEMENT FOR AUTHORIZED PAYROLL DEDUCTIONS**

\_\_\_\_\_ ("Employee") expressly agrees that the Beebe Draw Farms Authority ("Authority") may reduce the Employee's wages or compensation for loans, advances, goods or services, and equipment or property the Authority provides the Employee during the course of his/her employment by the Authority.

Without relieving the Employee from his/her obligation to return Authority money or property to the Authority upon separation from employment, Employee acknowledges that the Authority may set off against Employee's final paycheck the amount or value of the property he/she failed to return. Nothing in this agreement authorizes a deduction below minimum wage.

**This Agreement is not intended to be an employment contract and does not alter the Employee's at-will employment status.**

Beebe Draw Farms Authority

\_\_\_\_\_  
Employee

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**MINUTES OF A REGULAR MEETING OF  
THE BOARD OF DIRECTORS OF THE  
BEEBE DRAW FARMS AUTHORITY  
HELD  
MAY 11, 2022**

A regular meeting of the Board of Directors (referred to hereafter as the “Board”) of the Beebe Draw Farms Authority (referred to hereafter as the “Authority”) was convened on Wednesday, the 11<sup>h</sup> day of May 2022, at 6:00 P.M. This meeting was held via Microsoft TEAMS and at the Pelican Lake Ranch Community Info and Sales Center, 16502 Beebe Draw Farms Parkway, Platteville, CO 80641. The meeting was open to the public.

ATTENDANCE

**Directors In Attendance Were:**

Paul “Joe” Knopinski  
Christine Hethcock  
William Caldwell (Alternate)  
Eric Wernsman

The Directors in attendance confirmed their qualifications to serve.

**Also In Attendance Were:**

Lisa Johnson, Shauna D’Amato & Terri Boroviak; CliftonLarsonAllen LLP  
Alan Pogue; Icenogle Seaver Pogue, P.C.

Mike Welch, Tina Wernsman, Crystal Clark, Ed & Mary Jo Farrell, Kent & Brenda Lewis, Melanie Briggs, Kambria TeWinkle, Sharon Dillon, Carol Satersmoen, John & Kim Coleman, Kelly Trujillo, Teresa Hagan, Kevin Bixler, Sally Webb, Kelly Deitman, Amber Hatfield, Jodi Raymond, Jonie Nordhausen, Seth Nordhausen, Cindy Billinger, Gerry Tschirpke, Val & Carl Gehm, Patty Caldwell, Linda Cox, Glen Opfer, Ken Rose, Cindy Key, Jeanette Rummel and Sharon Dillon; other members of the public

ADMINISTRATIVE  
MATTERS

**Disclosures of Potential Conflicts of Interest:** The Board discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Board and to the Secretary of State.

Ms. Johnson noted that a quorum was present and requested members of the Board disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with the statute. It was noted that Directors Wernsman, Hethcock, and Knopinski’s Disclosure Statements have been filed.

**Agenda, Confirmation of Notice Posting:** Ms. Johnson distributed for the

Board's review and approval a proposed agenda for the Authority's regular meeting.

Following discussion, upon motion duly made by President Knopinski, seconded by Director Wernsman and, upon vote, unanimously carried, the agenda was approved as presented. Ms. Johnson noted meeting notices were posted as required.

**Status of May Elections for Beebe Draw Farms Metropolitan District No. 1("BBDRSWMD1") and No. 2("BBDRAWMD2"):** Ms. Johnson provided the election results presented to her by the DEO prior to the meeting related to the election in BBDRAWMD1. She reported that the Canvass Board will meet on May 12<sup>th</sup> at 9:00 a.m. to certify the election results. The newly elected Board members will need to take their Oaths of Office, and the DEO will file with the Court and Division of Local Government within 30 days of the election date. She suggested that BBDRAWMD1 and BBDRAWMD2 hold a meeting in June to appoint new representatives to the Authority Board.

Director Hethcock thanked Directors Welch and Sundeen for their service on the Boards and the service to the community. Residents in attendance showed their gratitude as well.

Given the unofficial outcome of the BBDFMD1 election, Mike Welch was no longer qualified to serve on the Beebe Draw Farms Authority Board. Director Bill Caldwell volunteered to serve as an alternate for this meeting in accordance with the Establishment Agreement.

**Discussion on structure of Authority and relation to BBDRAWMD1 and BBDRAWMD2:** Director Hethcock summarized the role of the Districts in the early phases of the development process, and how and why the Authority was established. She also summarized the responsibilities of the District representatives on the Authority Board.

Director Hethcock then summarized the collection of property taxes and how they are utilized in the Districts' and Authority's respective budgets.

Attorney Pogue offered additional information regarding the obligation to repay any new debt for homeowners in Filing 2.

**FIRST READING:**

- 1. Review updated Employee Handbook:** The Board reviewed the Employee Handbook and asked Ms. Johnson to provide the red-lined version prior to the next meeting.

**SECOND READING:**



1. None.

**EMERGENCY READING:** None.

**CONSENT AGENDA**

The Board considered the following items and actions:

- Minutes of the March 14, 2022 Regular and March 9, 2022 Special Meeting.
- Ratify payment of claims through the period ending March 31, 2022 as totaling \$65,605.18
- Acceptance of Cash Position for period ending April 30, 2022
- Ratify Engagement of Coan, Payton & Payne, LLC for Legal Services
- Ratify approval of service agreement with CEM Sales & Service Inc for pool maintenance services
- Ratify purchase and monthly fees related to Starlink Internet Service at the Maintenance Facility.

Following discussion, upon motion duly made by President Knopinski, seconded by Director Wernsman and, upon vote, unanimously carried, the Board approved and/or ratified approval of the Consent Agenda with the deletion of the ratification of engagement of Coan, Payton & Payne, LLC and minor revisions to the March 9, 2022 Special Meeting Minutes.

**Public Comment:**

Director Caldwell inquired about the street light outages and how to report them. Ms. Johnson commented that the residents can contact Xcel Energy with the pole number and report the outage and/or they can email her and provide pole number, and she will notify Xcel Energy.

Ms. Brenda Lewis inquired about the mailbox issue, and if there are enough mailboxes for all the residents in Filing 1. Director Hethcock confirmed there are a sufficient number of mailboxes to serve Filing 1.

Mr. Kent Lewis inquired about the status of the Maintenance Facility lead position. He also commended Mary Jo Farrell on repairing the flag at the Sales and Info Center. He asked about the video security policy and commented that it was recently violated, and what action has been taken.

**FINANCIAL MATTERS**

**FIRST READING:**

1. **Discuss Proposal from Association Reserves to Prepare a Reserve Analysis:** Ms. Johnson presented and reviewed the proposal from

Association Reserves with the Board.

**SECOND READING:**

1. **Consider approval of 2022 Amenity Fee Resolution:** The Board reviewed and discussed the proposed fees. They discussed revisions to the fishing license fees to amend the fee to \$15 per family for Authority users. Following discussion, upon a motion duly made by Director Wernsman, seconded by Director Caldwell and, upon vote, unanimously carried, with Directors Wernsman and Caldwell voting yes and President Knopinski and Director Hethcock supporting, the Board approved the 2022 Amenity Fee Resolution as amended.

**EMERGENCY READING:** None.

**OPERATIONS AND  
MAINTENANCE**

**Discuss 2022 Pool staff and services:** Ms. Johnson reported that Crystal Clark has accepted the offer of the Pool Manager position for 2022. Ms. Clark provided an update on the pool maintenance services from earlier in the day. She then provided an update on the status of pool assistant staffing to date. She asked the Board to consider purchasing new umbrellas for the season and gave an estimate of seven (7) umbrellas at a total commercial grade cost of \$3,600.

Following discussion, upon a motion duly made by Director Wernsman, seconded by Director Caldwell and, upon vote, unanimously carried, with Director Hethcock and President Knopinski supporting, the Board approved the purchase of seven umbrellas for the season at a not to exceed amount of \$3,600.

**Discuss Facility and Maintenance staffing:** Ms. Johnson reported that Director Wernsman and she have conducted interview for the Facilities and Maintenance Lead position and an offer will be made this week.

**Discuss need for updates to insurance property schedule:** Ms. Johnson notified the Board that during the review of the property schedule related to the recent damage at the gatehouse, it was determined that the values for the amenities are low. She will work with Director Hethcock to address the values. In addition, she has asked the Authority's insurance provider to schedule an audit of the amenities to assist in valuing the replacement costs.

**Review and consider approval of Property Owner's Association summer events schedule related to Authority amenities usage:** Ms. Clark presented the POA's request to utilize amenities for upcoming POA functions.

Upon a motion duly made by Director Caldwell, seconded by Director Wernsman and, upon vote, unanimously carried, with Director Hethcock and President Knopinski supporting, the Board approved the Property Owner's Association summer events schedule related to Authority amenities usage.

**Repairs to Gate House and walking bridge at Lake Christina:** Director Caldwell will solicit proposals from structural engineers to inspect the Gate House and determine a cost to repair. Ms. Johnson has opened an insurance claim.

Director Hethcock reported that the bridge at Lake Christina was damaged, and she is trying to determine who the responsible party is. The cost for repairs has not been provided to date.

**Proposal to install speed tables:** Director Wernsman presented the proposal to install speed tables on the Beebe Draw Farms Parkway. Director Caldwell will research other options for price comparisons.

**FIRST READING:**

1. **Discuss request from Property Owner's Association to share the cost of purchasing a roadside radar machine for an amount not to exceed \$3,500:** President Knopinski had several questions about the monitoring of the radar plus other concerns. Sharon Dillon noted that residents pay additional fees to the Weld County Sheriff's Office for law enforcement, and she feels that the Sheriff's Office should be monitoring and providing support for this radar. Tina Wernsman reported that the equipment they researched has video monitoring capabilities that can be used to inform residents of their speed. Mary Jo Farrell asked if this type of equipment can be rented for a period of time to determine if it is effective. The POA will conduct additional research and bring the information to the Board at a future meeting.
2. **Discuss proposal related to swimming pool resurfacing:** Director Wernsman presented a proposal to the Board and indicated the intention was merely to provide information for budgeting in 2023.

**SECOND READING:**

1. **Discuss information received from Mr. Farrell related to fiber optics/internet service from Telos Online:** Mr. Farrell introduced representatives from Telos Online. The Telos Online representatives presented the information that was included in the Board packet to the Board including the installation cost and monthly fees. They will work to schedule a meeting with POA and residents to explain the services they offer and determine if there is enough interest to move forward with their services.

**EMERGENCY READING:** None.

AMENITIES

1. None.

**SECOND READING:**

1. **Updates of research regarding the installation of a trail along Beebe Draw Farms Parkway:** Director Caldwell stated he has met with four contractors on site to solicit proposals, has received one proposal so far, and is awaiting the other three. He noted he has also met with engineering firms to solicit proposals for those services. He will be working with Director Wernsman to review proposals and will bring forward the information to the Board at a future meeting.

**EMERGENCY READING:** None.

INFRASTRUCTURE MATTERS

**Filing No. 2:** None.

**FIRST READING:**

1. **Review proposals for engineering services (publication occurred on 4/27/22):** Ms. Johnson reported that the publication for engineering services deadline to submit was 5-11-22 by 5:00 p.m. She stated that one proposal was received by the deadline. The Board noted they will consider the engagement at their July Board meeting.

**SECOND READING:** None.

**EMERGENCY READING:**

1. **Discuss and consider approval of the purchase of 30 shares of C-BT water in the amount of \$61,000 per share:** Director Hethcock presented the offer that was presented to her to purchase 30 shares of C-BT water at \$61,000 per share. Several questions from the residents in attendance were raised.

Following discussion, upon a motion duly made by Director Hethcock, seconded by President Knopinski and, upon vote, unanimously carried, with Directors Wernsman and Caldwell supporting, the Board approved the purchase of 30 shares of C-BT water in the amount of \$61,000 per share.

LEGAL MATTERS

**Consider approval of Improvement Acquisition, Advance, and Reimbursement Agreement with REI, LLC:** Attorney Pogue presented the agreement to the Board. Residents posed questions about the information presented. Following review and discussion, the Board determined to consider approval of the agreement under 2<sup>nd</sup> Reading at their July Board meeting.

**FIRST READING:** None

**SECOND READING:** None.

**EMERGENCY READING:** None.

**OTHER BUSINESS**

None.

**ADJOURNMENT**

There being no further business to come before the Board at this time, upon a motion duly made by Director Wernsman, seconded by Director Caldwell, the Board adjourned the meeting at 9:59 p.m.

Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting

**Beebe Draw Farms Authority**  
**Claims for 7/13/22 Board Meeting**

Process Date	Invoice #	Due Date	Vendor Name	Amount (USD)
5/4/2022	970-785-6070 186B APR22	4/30/2022	CenturyLink	\$ 130.32
5/17/2022	777511119	4/27/2022	Xcel Energy	93.29
5/17/2022	777533544	4/27/2022	Xcel Energy	108.10
5/19/2022	777872673	4/29/2022	Xcel Energy	197.42
5/19/2022	69344864	5/19/2022	ULINE	1,365.00
5/24/2022	17252600	5/1/2022	United Power	22.65
5/27/2022	778005608	5/2/2022	Xcel Energy	324.42
6/9/2022	S 333560	5/9/2022	Warehouse Supply	50.85
6/9/2022	25577	4/30/2022	Diversified Underground, Inc	70.00
6/9/2022	INV-USA-2676527-62030-27	5/24/2022	Space Exploration Technologies C	110.00
6/9/2022	3281458	3/31/2022	CliftonLarsonAllen	276.00
6/9/2022	012622 Exp Reimb	1/21/2022	Eric Wernsman	288.38
6/9/2022	04 30 2022	4/30/2022	Norton & Smith, P.C	488.50
6/9/2022	32960	4/30/2022	Simmons & Wheeler, P.C.	826.22
6/9/2022	31839	3/11/2022	Air X-Treme LLC	837.62
6/9/2022	130197	1/1/2022	First Class Security Systems LLC	1,060.58
6/9/2022	138369	4/30/2022	Ireland Stapleton	1,068.50
6/9/2022	7658	5/4/2022	Acklam, Inc	1,347.00
6/9/2022	1002505350	3/24/2022	Employers Council	1,500.00
6/9/2022	32710	5/16/2022	Simmons & Wheeler, P.C.	1,965.49
6/9/2022	21570	4/30/2022	Icenogle Seaver Pogue, PC	5,746.00
6/9/2022	3281458	3/31/2022	CliftonLarsonAllen	7,921.09
6/9/2022	21721	5/31/2022	Icenogle Seaver Pogue, PC	8,623.50
6/9/2022	338906	3/21/2022	TCase Construction	12,527.00
6/22/2022	25755	5/31/2022	Diversified Underground, Inc	5.00
6/22/2022	012622 Exp Reimb.2	1/26/2022	Eric Wernsman	214.07
			<b>Total</b>	<b>\$ 47,167.00</b>

**BEEBE DRAW FARMS AUTHORITY  
STRUCTURAL ENGINEERING SERVICES CONTRACT**

This **STRUCTURAL ENGINEERING SERVICES CONTRACT** (“Contract”) is entered into effective as of May 25, 2022, by and between BEEBE DRAW FARMS AUTHORITY, an authority and separate legal entity duly created pursuant to Section 29-1-203, C.R.S. (the “Authority”), and WISS, JANNEY, ELSTNER ASSOCIATES, INC., an Illinois corporation (the “Contractor”).

**RECITALS**

**WHEREAS**, the Authority is permitted to enter into, make and perform contracts of every kind and to conduct its business and affairs; and

**WHEREAS**, the Authority has determined that it requires the performance of structural engineering services related to vehicle impact damage to the Entrance Building into the Pelican Lake Ranch community located at the intersection of Beebe Draw Farms Parkway with West Colorado Road 39 in Platteville, Colorado (the “Property”) and desires to engage the Contractor to render these services; and

**WHEREAS**, the parties desire to enter into this Contract to establish the terms and conditions by which the Contractor shall provide the services to the Authority.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

**TERMS AND CONDITIONS**

**1. SCOPE OF SERVICES.**

The Contractor shall provide the structural engineering services for the Property, including any and all necessary documentation, materials and equipment, as described in **Exhibit A** attached hereto and incorporated herein by this reference (the “Services”). The Contractor shall be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Services as required by this Contract. If such a schedule is included, the Services shall be performed in accordance with the schedule set out in **Exhibit A**.

**2. COMPENSATION.**

2.1. Compensation for Services. The Authority shall compensate the Contractor for all labor, equipment and material necessary to provide the Services according to the rate schedule attached hereto and incorporated herein in **Exhibit B**, subject to Authority annual appropriations and in accordance with and subject to all of the conditions in this Contract. In no event shall compensation for the Services exceed Four Thousand Dollars (\$4,000) (the “Compensation”). The Compensation is inclusive of all reimbursable expenses and shall not be exceeded without the written authorization of the Authority.

2.2. Additional Services. If the Authority provides Contractor with a written request for services, as identified in **Exhibit A** (“Additional Services”), any Additional Services will be provided on a time and materials basis at the billing rates listed in **Exhibit B a** (the “Additional Services”). Upon

receipt of such a request, the Authority and the Contractor shall negotiate the scope of the relevant Additional Services, which shall be subject to the mutual written agreement of the Authority and the Contractor. If the Contractor performs any Additional Services prior to or without receiving such a request from the Authority, the Contractor shall not be entitled to any compensation for such Additional Services.

2.3. Payments. The Contractor shall submit monthly invoices to the Authority for Services satisfactorily performed during each month of the term of this Contract. The Authority's approval of invoices shall be a condition of payment. All invoices shall be addressed to the Authority as follows: Beebe Draw Farms Authority, c/o CliftonLarsonAllen LLP, 8390 E Crescent Parkway, Suite 300, Greenwood Village, CO 80111, Attn: Lisa A. Johnson, Manager.

2.3.1. Requirements for Payment.

a. Invoices. The Contractor's invoices shall be in a format acceptable to the Authority, shall be supported by cost information in such detail as may be required by the Authority and shall be sufficient to substantiate all items for a proper audit and post audit thereof.

b. Invoice Documentation. With each invoice, the Contractor shall submit a progress report providing the following: (1) a detailed description of the Services performed; (2) the name of the person who performed the Services; (3) the date and time when the Services were performed; (4) the results achieved; (5) receipts which document direct costs reflected in the invoice; (6) the status of deliverables; and (7) a certification that the Contractor is current in payment of all employees and subcontractors and vendors and, if not current, a description of the non-current items and reasons for such.

2.3.2. Unsatisfactory Invoices or Services. The Authority may return to the Contractor for revision of unsatisfactory invoices and may withhold payment thereof. The Authority may withhold payment for Services which are not completed as scheduled, or which are completed unsatisfactorily, until completed satisfactorily and may deny payment for such Services upon termination of this Contract.

2.4. Time of Payments. The Authority shall render payment to the Contractor within thirty (30) days of receipt of the invoice for all approved invoiced Services not previously invoiced and which were performed no more than forty-five (45) days prior to the Authority's receipt of the invoice.

**3. TERM.**

The term of this Contract shall be from the date first set forth above and shall expire on December 31, 2022, or completion of the Services, whichever occurs first, or by the exercise of the termination provisions specified herein, whichever occurs first.

**4. GENERAL PROVISIONS/REPRESENTATIONS.**

4.1. Inspections/Services. To the extent the Contractor deems necessary, the Contractor has inspected the sites and all surrounding locations whereupon it may be called to perform its obligations under this Contract and is familiar with the requirements of the Services and accepts them for such



performance.

4.2. Good Standing. The Contractor is validly organized and exists in good standing under the laws of the State of Colorado and has all requisite power to own its properties and assets and to carry on its business as now conducted or proposed to be conducted and it is duly qualified, registered to do business and in good standing in the State of Colorado.

4.3. Professional Standards. The Contractor will perform all Services in accordance with generally accepted standards of care, skill, diligence and professional competence applicable to contractors engaged in the Denver metropolitan area in providing similar services at the time and place that services are rendered.

4.4. Performance During Term. The Contractor will begin providing the Services on the first day of the term of this Contract and will thereafter continually and diligently perform the Services throughout the term of this Contract.

4.5. Compliance with the Law. The Contractor will, at its own expense, throughout the term of this Contract, comply with all federal, state, and local laws, statutes, ordinances, codes, guidelines, court rulings and orders of all governmental authorities applicable to services performed by the Contractor under this Contract, including but not limited to employee safety.

4.6. Personnel. The Contractor represents that all of its personnel who will perform any Services under this Contract have received the information, instructions and training required to provide such Services, including training to prevent harm to such personnel, residence and members of the public who may be in the vicinity.

4.7. Licenses. The Contractor represents that the Contractor and its personnel have all licenses required by applicable law to perform the Services required by this Contract and will, at Contractor's expense, maintain such licenses throughout the term of this Contract.

4.8. Mechanics' and Materialmen's Liens. The Contractor will (i) make timely payments to Contractor's employees, subcontractors and/or suppliers, and (ii) be responsible for satisfaction of any liens and encumbrances which are filed or asserted against the Authority and/or its property, which liens result from the Services performed by the Contractor under this Contract. If any lien is filed claiming by, through or under the Contractor or the Services performed by the Contractor, the Contractor will cause such lien to be discharged or bonded within ten (10) days after its filing. If the Contractor fails to cause such lien to be discharged or bonded within such ten (10) day period, the Authority, in addition to any other available remedy, may bond or discharge the lien and, at the Authority's discretion, deduct its costs incurred, including attorneys' fees and interest at the rate of twelve (12%) percent per annum from the dates incurred, from any payments due the Contractor or invoice the Contractor for the amounts paid.

4.9. Authorized Execution. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not require any further consent or approval of the board of directors or any shareholders of the Contractor or any other person which has not been obtained.

## **5. WORKERS WITHOUT AUTHORIZATION.**

5.1. Certification. Prior to the execution of this Contract, the Contractor shall certify to the Authority, as attached hereto as **Attachment 1**, that at the time of certification, it does not knowingly employ or contract with a worker without authorization who will perform work under this Contract and that the Contractor will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program (the "Department Program"), as further described in subsection 5.6 of this Section, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

5.2. Prohibited Acts. The Contractor shall not:

5.2.1. Knowingly employ or contract with a worker without authorization to perform work under this Contract; or

5.2.2. Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under this Contract. The Contractor shall provide the Authority with all certifications received from subcontractors in which subcontractors certify that said subcontractors do not knowingly employ or contract with a worker without authorization to perform work under this Contract.

5.3. Verification.

5.3.1. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either E-Verify Program or the Department Program.

5.3.2. The Contractor shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.

5.3.3. If the Contractor obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with a worker without authorization, the Contractor shall:

a. Notify the subcontractor and the Authority within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and

b. Terminate the subcontract with the subcontractor if, within three (3) days of receiving the notice required pursuant to subsection 5.3.3 a) of this Section, the subcontractor does not stop employing or contracting with the worker without authorization; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with worker without authorization.

5.4. Duty to Comply with Investigations. The Contractor shall comply with any reasonable

request by the Colorado Department of Labor and Employment (the “Department”) made in the course of an investigation conducted pursuant to Section 8-17.5-102 (5), C.R.S. to ensure that the Contractor is complying with this Section.

5.5. Breach. If the Contractor violates a provision of this Section, the Authority may terminate the Contract for a breach of the Contract. If the Contract is so terminated, the Contractor shall be liable for actual and consequential damages to the Authority. The Authority shall notify the Colorado office of the Secretary of State if the Contractor violates a provision of this Section and the Authority terminates the Contract.

5.6. Department Program. If the Contractor participates in the Department Program, in lieu of the E-Verify Program, the Contractor shall notify the Department and the Authority of such participation. The Contractor shall, within twenty (20) days after hiring an employee who is newly hired for employment to perform work under the Contract, affirm that the Contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. Sec. 1324a, and not altered or falsified the identification documents for such employees. The Contractor shall provide a written, notarized copy of the affirmation, similar in form to **Attachment 2**, to the Authority.

## **6. INDEMNIFICATION.**

Subject to the provisions of Section 13-50.5-102(8), C.R.S., to the extent applicable to this Contract, the Contractor shall indemnify, defend, and hold harmless the Authority and each of its directors, employees, agents, and consultants, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys’ fees), and liabilities, of, by, or with respect to third parties (“Any Claims”) to the extent they are caused by the intentional wrongful or negligent acts or omissions of the Contractor or any of its subcontractors, material suppliers, agents, representatives, or employees, or the agents, representatives, or employees of any subcontractors or material suppliers (collectively the “Contractor/Related Parties”), in connection with this Contract and/or the Contractor’s Services hereunder, including, without limitation, Any Claims which cause or allow to continue a condition or event which deprives the Authority or any of its directors or employees of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S.. Provided, however, that the Contractor shall not be liable for any claim, loss, damage, injury, or liability arising out of the negligence of the Authority, its directors, employees, agents, and consultants.

The obligations of the indemnifications extended by the Contractor to the Authority under this Section shall survive termination or expiration of this Contract.

The Contractor’s defense, indemnification, and insurance obligations shall be to the fullest extent permitted by law and nothing in this Contract shall be construed as requiring the Contractor to defend in litigation, indemnify, or insure the Authority against liability for damage arising out of the death or bodily injury to persons or damage to property caused by the negligence or fault of the Authority or any third party under the control or supervision of the Authority.

To the extent the terms of Section 13-50.5-102(8), C.R.S., are applicable to this Contract, the Contractor and the Authority hereby agree for the purposes of this Section that: (i) “the degree or percentage of negligence or fault attributable” to the Contractor/Related Parties as used in Section 13-50.5-102(8)(a), C.R.S., shall be conclusively determined by a trial court at the state level and (ii) the term

“adjudication” used in Section 13-50.1-102(8)(c), C.R.S., shall mean a trial court order at the state level.

Insurance coverage requirements specified in this Contract in no way lessen or limit the obligations of the Contractor under the terms of this Section. The Contractor shall obtain, at the Contractor’s own expense, additional insurance, if any, required to satisfy the terms of this Section.

## **7. INSURANCE.**

7.1. **General Requirements.** The Contractor shall acquire and maintain in full force and effect, during the entire term of the Contract, including any extensions thereof, and at any time thereafter necessary to protect the Authority, its directors, employees, agents, consultants and the Contractor from claims that arise out of or result from the operations under this Contract by the Contractor or by a subcontractor or a vendor or anyone acting on their behalf or for which they may be liable, the coverages set forth in subsection 7.2. All insurance is to be placed with insurance carriers licensed in the State of Colorado with an A.M. Best and Company rating of no less than A-(X) or as otherwise accepted by the Authority. The Authority and its respective directors, officers, employees and agents shall be named as an additional insured as provided in subsection 7.3. The Contractor shall request its insurer to amend or endorse its insurance policy to provide that the insurer will give the Authority thirty (30) days written notice prior to the cancellation of any policy of insurance obtained to comply with this Section. In addition, Contractor shall immediately upon receipt provide the Authority a copy of any notice of cancellation of any policy of insurance obtained to comply with this Section.

### **7.2. Minimum Insurance Coverages.**

7.2.1. Workers’ compensation insurance in accordance with applicable law, including employers’ liability with minimum limits of One Hundred Thousand Dollars (\$100,000.00) each accident, Five Hundred Thousand Dollars (\$500,000.00) Disease-Policy Limit, One Hundred Thousand Dollars (\$100,000.00) Disease each employee.

7.2.2. Commercial general liability insurance in the amount of One Million Dollars (\$1,000,000.00) combined single limit bodily injury and property damage, each occurrence; Two Million Dollars (\$2,000,000.00) general aggregate, and One Million Dollars (\$1,000,000.00) products and completed operations aggregate. Coverage shall be on an ISO 1996 Form (CG 0001 or equivalent), include all major divisions of coverage and be on a comprehensive basis, including:

- a. Premises and operations;
- b. Personal injury liability;
- c. Contractual liability;
- d. Property damage;
- e. Products and completed operations;
- f. Independent contractors coverage;
- g. Explosion, collapse and underground (for contractors only); and
- h. Contractors’ limited pollution coverage (for contractors only)

7.2.3. Commercial automobile liability insurance in the amount of One Million Dollars (\$1,000,000.00) combined single limit bodily injury and property damage, each accident covering owned, leased, hired, non-owned and employee non-owned vehicles used at the project site.

7.2.4. Professional liability coverage in the amount of One Million Dollars (\$1,000,000.00) each claim and in the aggregate covering the negligent acts or omissions of the Contractor and/or its subcontractors in the performance of the Services.

7.2.5. Excess liability coverage, beyond that of the general liability, automobile liability and employers liability coverages required herein, in the amount of at least Two Million Dollars (\$2,000,000.00) combined single limit bodily injury and property damage, each occurrence, and Two Million Dollars (\$2,000,000.00) in the aggregate. Separate aggregates need to be structured as found in the underlying coverages.

7.2.6. All coverages specified herein, except professional liability coverage, shall waive any right of subrogation against the Authority and its directors, officers and employees.

7.3. Additional Insured Parties. The Authority and its respective directors, officers, employees and agents shall be named as an additional insured on all policies (with the exception of workers' compensation insurance and professional liability coverage). Professional liability coverage shall be endorsed to include contractual liability coverage, insured contract coverage or similar coverage for the professional services performed under this Contract.

7.4. Certificates of Insurance. Prior to commencing any Services under the Contract, the Contractor shall provide the Authority with a certificate or certificates evidencing the coverages identified on the face of the certificate with the contract number for this Contract, the name of the project and a copy of the additional insured endorsement. If the Contractor subcontracts any portion(s) of the Services, such subcontractor(s) shall be required to furnish certificates evidencing workers' compensation and employers' liability insurance, commercial general liability insurance coverage and automobile liability insurance in amounts satisfactory to the Authority and the Contractor and containing the "additional insured," "waiver of subrogation" and "cancellation" conditions found in this Section. If the coverage required expires during the term of this Contract, the Contractor and its subcontractor(s) shall provide replacement certificate(s) evidencing the continuation of the required policies at least fifteen (15) days prior to expiration.

7.5. Additional Provisions. Each liability policy including, where required, umbrella/excess liability policy is to contain, or be endorsed to contain, the following:

7.5.1. The Contractor's insurance coverage shall be primary insurance with respect to the Authority and its directors, officers and employees. Any insurance maintained by the Authority or its directors, officers and employees shall be in excess of the Contractor's insurance and shall not contribute to it.

7.5.2. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to limits of liability.

7.6. Compliance with Reporting Provisions. The Contractor shall comply with reporting provisions or other conditions of the policies required herein, and a failure to do so constitutes a breach of this Contract. Any failure on the part of the Contractor to comply with reporting provisions or other conditions of the policies shall not affect the obligation of the Contractor to provide the required coverage to the Authority (and its directors, officers and employees).

7.7. Claims-Made Policies. If any policy is a claims-made policy, the policy shall provide the

Contractor the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. The Contractor agrees to purchase such an extended reporting period if needed to ensure continuity of coverage. The Contractor's failure to purchase such an extended reporting period as required by this Section shall not relieve it of any liability under this Contract. If the policy is a claims-made policy, the retroactive date of any such policy shall be not later than the date this Contract is executed by the parties hereto. If the Contractor purchases a subsequent claims-made policy in place of any prior claims-made policy, the retroactive date of such subsequent policy shall be no later than the date this Contract is executed by the parties hereto.

7.8. No Limitation on Other Obligations. The procuring of required policies of insurance shall not be construed to limit the Contractor's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. The Contractor shall be solely responsible for any deductible losses under the policy.

7.9. Additional Risks and Hazards. If the Authority requests in writing that insurance for risks other than those described herein or for other special hazards be included in property insurance policies, the Contractor shall obtain such insurance, if available, in a form and for a cost approved by the Authority, and the cost thereof shall be charged to the Authority.

7.10. Subcontractors. If the Contractor subcontracts any portion(s) of the Services, the Contractor shall require that each subcontractor retained by the Contractor acquire and maintain insurance coverage as set forth in this Section 7. The Contractor shall require each subcontractor to provide to the Contractor insurance certificates and endorsements, including necessary updates to the same, demonstrating compliance with this Section 7. The Contractor shall retain all subcontractor insurance certificates and endorsements for the duration of the Contract. The Contractor shall, upon Authority request, submit them to the Authority for review or audit. Failure to acquire and maintain subcontractor insurance certificates is a material breach of this Contract.

## **8. TERMINATION.**

### **8.1. Types of Termination.**

8.1.1. Events of Default and Termination For Cause. The Contractor shall be immediately in default hereunder (an "Event of Default") upon the occurrence of any of the events described below:

- a. Any breach of the terms and conditions of this Contract.
- b. Failure to perform the Services under this Contract, or significant delay or discontinuance of performance of the Services.
- c. Lack of financial responsibility (including failure to obtain and maintain insurance) for loss or damage to the Authority or its property.
- d. Dishonesty, embezzlement or false reporting of any material financial information, including but not limited to invoices.
- e. Insolvency, bankruptcy or commission of any act of bankruptcy or insolvency or assignment for the benefit of creditors.
- f. Any attempt by the Contractor to assign its performance of this Contract without the consent required by this Contract.
- g. Termination of any subcontract for any substantial Services without the prior written consent of the Authority.

In addition to any other rights provided herein, upon an Event of Default, the Authority shall have the right in its sole discretion to immediately terminate this Contract and further performance of the Services, in whole or in part, by delivery to the Contractor of written notice of termination specifying the extent of termination and the effective date of termination.

8.1.2. Termination Not For Cause. In addition to any other rights provided herein, the Authority shall have the right in its sole discretion to terminate, upon thirty (30) days advance notice, not for cause, this Contract and further performance of the Services, in whole or in part, by delivery to the Contractor of written notice of termination specifying the extent of termination and the effective date of termination.

8.2. Any Other Remedies Allowed by Law. The Authority shall be entitled to any other remedies allowed by law in addition to the remedies provided in this Section.

8.3. Payment and Liabilities Upon Termination.

8.3.1. Termination for Cause. If an Event of Default has occurred, the Contractor shall be liable to the Authority for any actual damages for losses, including, but not limited to, any and all costs and expenses reasonably incurred by the Authority or any party acting on the Authority's behalf in completing the Services or having the Services completed (excluding changes in the Services by the Authority following such Event of Default). The Authority shall determine the total cost of the Services satisfactorily performed by the Contractor prior to the effective date of termination for cause. All reasonable damages, losses, costs and charges incurred by the Authority, including attorney's fees and costs, relating to obtaining and mobilizing another contractor, of completing the Services and of retaining another contractor's acceptance of full responsibility for all obligations of the Contractor under this Contract shall be deducted from any monies due or which may become due to the Contractor. The Authority shall determine the total amount due and shall notify the Contractor in writing of the amount the Contractor owes the Authority or the amount the Authority owes the Contractor.

8.3.2. Termination Not For Cause. After termination not for cause, the Contractor shall submit a final termination settlement invoice to the Authority in a form and with a certification prescribed by the Authority. The Contractor shall submit the invoice promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the Authority upon written request of the Contractor within such thirty-day period. If the Contractor fails to submit the invoice within the time allowed, the Authority's payment obligations under this Contract shall be deemed satisfied and no further payment by the Authority to the Contractor shall be made.

8.4. Contractor's Obligations Upon Termination. After receipt of notice of termination, for cause or not for cause, and unless otherwise directed by the Authority, the Contractor shall immediately proceed as follows:

8.4.1. Stop work on the Services as specified in the notice of termination; and

8.4.2. Take any action that may be necessary, or that the Authority may direct, for the protection and preservation of the Services and property related to this Contract that is in the

possession of the Contractor and in which the Authority has or may acquire an interest.

## **9. OWNERSHIP OF MATERIALS AND RISK OF LOSS.**

All work product of the Contractor prepared pursuant to this Contract, including but not limited to all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall be, upon preparation, and remain the property of the Authority under all circumstances, whether or not the Services are completed. All work product shall be provided to the Authority at the time of completion of any of the discrete tasks specified herein or at the time of termination of this Contract, whichever event first occurs, and shall be provided to any subsequent owners only with the Authority's express permission. The Contractor shall maintain reproducible copies on file of any such work product involved in the Services for a period of five (5) years and shall make them available for the Authority's use and provide such copies to the Authority, upon request, at commercial printing rates. At any time, the Authority may obtain reproducible copies of the Contractor's work product by paying printing costs as set forth above.

## **10. CONTRACTOR'S TRADE SECRETS AND OPEN RECORDS REQUESTS.**

10.1. Application of the Act. The Contractor acknowledges and agrees that all documents in the Authority's possession, including documents submitted by the Contractor, are subject to the provisions of the Colorado Open Records Act, Sections 24-72-200.1 *et seq.*, Colorado Revised Statutes, and the Contractor acknowledges that the Authority shall abide by the Colorado Open Records Act, including honoring all proper public records requests made thereunder. The Contractor shall be responsible for all costs incurred in connection with any determinations required to be made by a court, pursuant to the Colorado Open Records Act. The Contractor is advised to contact legal counsel concerning such acts in application of the Colorado Open Records Act to the Contractor.

10.2. Confidential or Proprietary Materials. If the Contractor deems any document(s) which it submits to the Authority to be confidential, proprietary, or otherwise protected from disclosure under the Colorado Open Records Act, then it shall appropriately label such document(s), and submit such document to the Authority together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. This request will either be approved or denied by the Authority; however, the Authority will make a good-faith effort to accommodate all reasonable requests, subject to the provisions of the Colorado Open Records Act.

10.3. Stakeholder. In the event of litigation concerning the disclosure of any document(s) submitted by the Contractor to the Authority, the Authority's sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court, and the Contractor shall be fully responsible for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk.

## **11. INDEPENDENT CONTRACTOR.**

It is the express intention of the parties that the Contractor is not employed by the Authority but is an independent contractor. An agent or employee of Contractor shall never be or deemed to be an employee or agent of the Authority. The manner and means of providing the Services are under the sole control of the Contractor. The payment or withholding of any federal, state and local taxes for the Contractor, its employees or agents shall be the responsibility of the Contractor. As an independent contractor, the Contractor shall be responsible for complying with all applicable workers'



compensation laws concerning itself, its agents, employees and subcontractors.

**12. ASSIGNMENT.**

Neither the Authority nor the Contractor may assign this Contract or parts hereof or its rights hereunder without the express written consent of the other party.

**13. SUBCONTRACTORS.**

To the extent that the Contractor engages subcontractors to perform, or otherwise provide support to assist the Contractor to perform, any portion of the Services performed under this Contract (each a "Permitted Subcontractor"), then: (a) the Contractor shall remain responsible for the services, tasks, functions and responsibilities performed by Permitted Subcontractors to the same extent as if such services, tasks, functions and responsibilities were performed directly by the Contractor and, for purposes of this Contract, such Services shall be deemed Services performed by the Contractor; (b) the Contractor shall cause such Permitted Subcontractors to comply with the obligations and restrictions associated with the services, tasks, functions and responsibilities performed by such Permitted Subcontractors that are applicable to the Contractor under this Contract; and (c) the Contractor shall acquit its responsibilities as provided in subsection 7.10 of this Contract.

**14. MISCELLANEOUS**

14.1. Time is of the Essence. The performance of the Services of the Contractor shall be undertaken and completed in accordance with this Contract and in such sequence as to assure its expeditious completion in light of the purposes of this Contract. It is agreed that time is of the essence in the performance of this Contract.

14.2. Notice. All notices must be in writing and (a) delivered personally, (b) sent by United States certified mail, postage prepaid, return receipt requested ("US Mail"), or (c) placed in the custody of a nationally recognized overnight carrier for next day delivery ("Carrier"), and will be deemed given (i) when received, if delivered personally, (ii) 4 days after deposit, if sent by US Mail, or (iii) the next business day after deposited with a Carrier during business hours on a business day. All notices shall be delivered to the following addresses, or such other address as is provided by one party to the other in accordance with this Section:

**Notices to Authority:**

Beebe Draw Farms Authority  
c/o Special District Management Services, Inc.  
141 Union Blvd., Ste. 150  
Lakewood, CO 80228  
Attn: Lisa A. Johnson, Manager  
Email: ljohnson@sdmsi.com

**With a copy to:**

Icenogle Seaver Pogue, P.C.  
4725 South Monaco Street, Suite 360  
Denver, CO 80237  
Attn.: Alan D. Pogue  
Email: APogue@isp-law.com

**Notices to Contractor:**

Wiss, Janney, Elstner Associates, Inc.

3609 South Wadsworth Blvd., Suite 400  
Lakewood, CO 80235  
Attn: Dale Statler, PE  
Email: dstatler@wje.com

14.3. Governmental Immunity. Nothing in this Contract shall be construed to be a waiver, in whole or in part, of any right, privilege or protection afforded the Authority or its Board of Directors, officers, employees, servants, agents or authorized volunteers pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S.

14.4. Annual Appropriations. The Authority does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The Authority's payment obligations hereunder are subject to annual appropriation. The Authority has appropriated sufficient funds for this Contract for the current fiscal year.

14.5. Entire Contract. This Contract constitutes the entire agreement between the parties and sets forth the rights, duties and obligations of each to the other as of this date. Any prior agreements, promises, negotiations or representations not expressly set forth in this Contract are of no force and effect.

14.6. Contract Modification. The Contract may not be amended, altered or otherwise changed except by a written agreement signed by the parties.

14.7. No Waiver. No waiver of any of the provisions of this Contract shall be deemed to constitute a waiver of any other of the provisions of this Contract, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

14.8. Controlling Law and Venue. The parties hereto agree that exclusive jurisdiction and venue for the resolution of any dispute relating to this Contract or any Services to be provided hereunder shall lie in the state courts of the State of Colorado.

14.9. Binding Contract. This Contract shall inure to and be binding on the heirs, executors, administrators, successors and assigns of the parties hereto.

14.10. No Third Party Beneficiaries. This Contract is entered into for the sole benefit of the Authority and Contractor, and no other parties are intended to be direct or incidental beneficiaries of this Contract, and no third party shall have any right in, under or to this Contract.

14.11. Severability. The invalidity or unenforceability of any portion or previous version of this Contract shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Contract and the balance of this Contract shall be construed and enforced as if this Contract did not contain such invalid or unenforceable portion or provisions.

14.12. Headings. The headings and captions in this Contract are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Contract.

14.13. Counterpart Execution. This Contract 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.

**[Remainder of page intentionally left blank.]**

**IN WITNESS WHEREOF**, the parties have hereunto entered this Contract effective as of the date first written above.

**AUTHORITY:**

BEEBE DRAW FARMS AUTHORITY

DocuSigned by:  
*Eric Wernsman*

9B1A2F4404F5405...  
By: Eric Wernsman  
Its: Assistant Secretary

**CONTRACTOR:**

WISS, JANNEY, ELSTNER ASSOCIATES, INC.



By: Dale Statler  
Its: Senior Associate

**ATTACHMENT 1**

**Certification Regarding Worker Without Authorization**

To: BEEBE DRAW FARMS AUTHORITY

I, Tracy Perry, as Denver Unit Manager of Wiss, Janney, Elstner Associates, Inc., the prospective "Contractor" for that certain contract for structural engineering services to be entered into with the Beebe Draw Farms Authority, do hereby certify on behalf of said Contractor that, as of the date of this Certification, Contractor does not knowingly employ or contract with a worker without authorization who will perform work under this Contract and that Contractor will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program pursuant to Section 8-17.5-102(5)(c), C.R.S. in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

Executed on the 19 of May, 2022.

**CONTRACTOR:**

Tracy Perry  
By: Tracy Perry  
Its: Unit Manager

ATTACHMENT 2

Affirmation of Legal Work Status

Employee Name: Statler Dale E
Last First Middle

Date of Birth: 1/22/87 Date of Hire: 8/1/11

In accordance with Colorado Revised Statute § 8-17.5-102(5)(c)(II), I have:

- examined the legal work status of the above named employee.
retained file copies of the documents required by 8 U.S.C. sec. 1324a.
not altered or falsified the identification documents for the above named employee.

Employer Name / Designated Representative: Tracy Perry
Signature: Tracy Perry Date: 5/19/2022
Official Title: Unit Manager Employer Phone Number: 303-914-4300

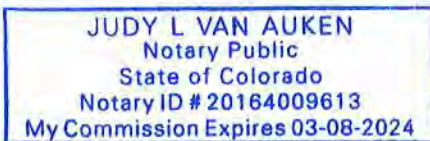
STATE OF COLORADO )
) ss.
COUNTY OF Jefferson )

The foregoing instrument was acknowledged before me this 19th day of May, 2022 by Tracy Perry as Unit Manager of Wiss, Janney, Elstner Associates, Inc.

(SEAL)

My commission expires: 03-08-2024

Judy L. Van Auken
Notary Public



## **EXHIBIT A**

### **SCOPE OF SERVICES**

1. Perform a Field Investigation to:
  - a. Document the severity and extent of structural damage to the building with field notes and photographs.
  - b. Identify and evaluate components that are in need of structural repair.
  - c. Measure the geometry of affected components for structural analysis and/or development of repair recommendations.

Contractor anticipates that Contractor's field investigation will occur after Property staff have coordinated removal of finishes to expose the underside of the impacted roof canopy and in any other areas where underlying distress is suspected. Contractor's observations will be predominantly visual; no further destructive or non-destructive testing is anticipated.

2. Assess the Structural Damage and Report Findings:
  - a. Analyze damaged structural components as needed and informed by Contractor's field investigation.
  - b. Provide a written report detailing the findings of Contractor's field investigation, structural assessment, and providing recommendations for repair.

Contractor's report will be intended to document and communicate the severity and extent of the damage and the general scope of necessary repairs to the various stakeholders such as ownership and insurance carriers. Contractor's recommendations for repair will be conceptual in nature and will not necessarily be developed to a level suitable for construction.

### **ADDITIONAL SERVICES**

1. Provide engineering and repair documents suitable for permitting and/or construction by a qualified contractor.
2. Respond to Requests for Information ("RFIs") from other Authority contractors, review submittals, and resolve technical questions that arise as work proceeds and unforeseen conditions are uncovered.
3. Perform additional site visits as needed during and after construction and issue a letter of general compliance at the end of the project, if appropriate.

Contractor's responsibilities will not include execution of the work specified in the repair documents, timeliness in completion of the work, job site safety, acquiring necessary permits, supervising the work, or any other aspect of the work that is the responsibility of the Authority or its other contractors.

**EXHIBIT B****SERVICES RATE SCHEDULE****I. Hourly Rates**

<b>Professional Staff</b>	
<b>Principal</b>	<b>\$300.00</b>
<b>Associate Principal</b>	<b>\$250.00</b>
<b>Senior Associate</b>	<b>\$225.00</b>
<b>Associate III</b>	<b>\$195.00</b>
<b>Associate II</b>	<b>\$175.00</b>
<b>Associate I</b>	<b>\$140.00</b>

<b>Professional Support Staff</b>	
<b>Senior Specialist</b>	<b>\$165.00</b>
<b>Specialist</b>	<b>\$145.00</b>
<b>Senior Technician</b>	<b>\$125.00</b>
<b>Technician II</b>	<b>\$110.00</b>
<b>Technician I</b>	<b>\$95.00</b>

**II. Expenses**

- Travel, communication, and reproduction charges will be billed at cost plus five percent (5%) and invoiced as an expense service fee.
- Use of vehicles will be billed at \$0.60 per mile.
- Expended materials for field and laboratory work, rental equipment, and any fees advanced on the Authority's behalf will be billed at cost plus ten percent (10%) and invoiced as an expense service fee.
- Contractor equipment used in field or laboratory work is billed at Contractor's equipment usage rate schedule in effect at the time the work is performed.
- Subcontracted services will be billed at cost plus ten percent (10%).



June 20, 2021

Beebe Draw Farms Authority  
c/o CliftonLarsonAllen LLP  
8390 E. Crescent Pkwy, Suite 300  
Greenwood Village, CO 80111

We are pleased to serve as the independent auditors for Beebe Draw Farms Authority (“Client”) for the year ended December 31, 2021. This letter, together with the attached Professional Services Terms and Conditions – Attest Engagements, confirms the terms of our engagement, and are collectively referred to herein as the “Letter” or the “Engagement Letter”.

#### Fees

Our fees for this engagement will be billed as work progresses, and progress billings may be submitted. Based upon our discussions with representatives of Client, the fee for this engagement will be \$5,200. Expenses for items such as travel, telephone, postage, clerical time, printing, and reproduction of financial statements are included in the fee. Our fee has been determined based on our understanding obtained through discussions with you regarding your preparation for the engagement and your current business operations. To the extent we encounter circumstances outside of our expectations that warrant additional procedures and time, we will communicate that fact and advise you of options and the additional fees necessary to complete the engagement. We expect payment of our billings within 30 days after submission.

Our fees for the services described below are based upon the value of the services performed and the time required by the individuals assigned to the engagement. Our fee estimate and completion of our work are based upon the following criteria:

1. Anticipated cooperation from Client personnel
2. Timely responses to our inquiries
3. Timely completion and delivery of client assistance requests
4. Timely communication of all significant accounting and financial reporting matters
5. The assumption that unexpected circumstances will not be encountered during the engagement.

If any of the aforementioned criteria are not met, then the fees may increase. Interim billings will be submitted as work progresses and as expenses are incurred.

#### Audit Scope and Objectives

We will audit Client’s financial statements, as of and for the year ended December 31, 2021, and the disclosures (collectively, the “financial statements”), and if applicable, supplementary information.

The objectives of our audit are to obtain reasonable assurance about whether Client's financial statements taken as a whole are free from material misstatement, whether due to fraud or error, and issue an auditor's report that includes our opinion about whether Client's financial statements are fairly presented, in all material respects, in conformity with accounting principles generally accepted in the United States of America ("GAAP"). Reasonable assurance is a high level of assurance, but is not absolute assurance and, therefore, is not a guarantee that an audit conducted in accordance with auditing standards generally accepted in the United States of America ("GAAS") will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they could influence the judgment of a reasonable user made based on the financial statements.

The supplementary information accompanying the financial statements will be subjected to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS, and we will provide an opinion on it in relation to the financial statements as a whole.

The other information accompanying the financial statements will not be subjected to the auditing procedures applied in our audit of the financial statements, and our auditor's report will not provide an opinion or any assurance on that other information.

#### **Auditor's Responsibilities for the Audit of the Financial Statements**

We will conduct our audit in accordance with GAAS and will include tests of your accounting records and other procedures we consider necessary to enable us to express such an opinion. As part of an audit in accordance with GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit.

An audit includes an evaluation of the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as an evaluation of the overall presentation of the financial statements, including the disclosures, to assess whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. To express an opinion, we are required to plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to Client or to acts by management or employees acting on behalf of Client.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that come to our attention. We will also inform the appropriate level of management of any violations of laws or government regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Beebe Draw Farms Authority

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June 20, 2021

In the conduct of our audit, we will obtain an understanding of Client and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under professional standards.

In performing our audit, we will consider and conclude whether, based on the audit evidence obtained, there are conditions or events, considered in the aggregate, which raise substantial doubt about Client's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts and may include tests of the physical existence of inventories, and direct confirmation of cash, receivables, loan balances, and certain assets and liabilities by correspondence with selected customers, funding sources, creditors, and financial institutions. We may also request written representations from your attorneys as part of the engagement, and they may submit an invoice for responding to this inquiry.

#### **Responsibilities of Management for the Financial Statements**

Our audit will be conducted on the basis that management acknowledges and understands its responsibility for designing, implementing, and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with GAAP. Management is also responsible for making available to us drafts of financial statements, all financial records, and related information, and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). Management is also responsible for providing us with (1) access to all information of which it is aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within Client from whom we determine it necessary to obtain audit evidence.

Management is responsible for adjusting the financial statements to correct material misstatements and for confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

Management is responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting Client involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Management is also responsible for informing us of its knowledge of any allegations of fraud or suspected fraud affecting Client received in communications from employees, former employees, regulators, or others. In addition, management is responsible for identifying and ensuring that Client complies with applicable laws and regulations.

Management is responsible for the preparation of the supplementary information in conformity with GAAP. Management agrees to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. Management also agrees to include the audited financial statements with any presentation of the supplementary information that includes our report thereon.

We cannot perform management functions or make management decisions on behalf of Client. However, we may provide advice and recommendations to assist management in performing its functions and fulfilling its responsibilities. We may advise management about appropriate accounting principles and their application, but the responsibility for the financial statements remains with management.

At the conclusion of our audit, we will require certain written representations from management about the financial statements and related matters. Because of the importance of management's representations to an effective audit, Client agrees to release and indemnify Wipfli LLP ("Wipfli"), its partners, employees, agents, and assigns from any claim, liability, cost, or expense relating to our services under this Engagement Letter attributable in any respect to any knowing misrepresentation by management. The preceding sentence shall not apply and shall be of no effect in the event its application, in the judgment of any government body or regulatory agency, would impair our independence as your auditor.

### Reporting

We will issue a written report upon completion of our audit of Client's financial statements. Our report will be addressed to the board of directors. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinion, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinion is other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed an opinion, we may decline to express an opinion or withdraw from this engagement.

If Client intends to reproduce or publish these financial statements or any portion thereof, whether in paper or electronic form, subsequent to anticipated year-end filings, and make reference to our firm name in connection therewith, management agrees to provide us with proofs in sufficient time for our review and written approval before printing. If in our professional judgment the circumstances require, we may withhold our approval. Client agrees to compensate Wipfli for the time associated with such review.

Beebe Draw Farms Authority

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June 20, 2021

Client acknowledges and agrees that any advice, recommendations, information, or work product provided to Client by Wipfli in connection with this engagement is for the sole use of Client and may not be relied upon by any third party. Wipfli has no liability or responsibility to any third parties as a result of this engagement.

### Management Assistance

Assistance to be supplied by Client personnel, including the preparation of schedules and analysis of accounts, has been discussed with appropriate personnel. Timely completion of this work will facilitate the completion of our engagement.

### Engagement Partner

Greg Livin will be your audit engagement partner.

### Other Services

We may prepare (or assist in preparing) Client financial statements in conformity with GAAP based on information provided by management, but the responsibility for the financial statements remains with management.

Management agrees to assume all management responsibilities for these services; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

### Workers without Authorization

We certify that Wipfli LLP shall comply with the provisions of C.R.S. 8-17.5-101, et seq.

- A. *Employment or Contracting with Workers without Authorization.* We certify that Wipfli LLP does not knowingly employ or contract with a worker without authorization to perform work under this engagement letter or will enter into a contract with a subcontractor that fails to certify to Wipfli LLP that such subcontractor does not knowingly employ or contract with a worker without authorization to perform work under this engagement letter.
- B. *Verification Regarding Workers without Authorization.* We certify that Wipfli LLP has verified the employment eligibility of all employees who are newly hired for employment, to perform the work under this engagement letter, through participation in either the Electronic Employment Verification Program, or Employment Verification Program which is established pursuant to Section 8-17.5-102 (5)(c), C.R.S., (collectively referred to as "Verification Programs").
- C. *Limitation Regarding Verification Programs.* We agree that Wipfli LLP will use the Verification Programs to undertake pre-employment screening of job applicants while performing professional services on behalf of the District.
- D. *Duty to Terminate Subcontractor:* If Wipfli LLP obtains actual knowledge that a subcontractor performing work pursuant to this engagement letter knowingly employs or contracts with a worker without authorization, Wipfli LLP shall:

(i) notify the subcontractor and the District within three (3) days that Wipfli LLP has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and

(ii) terminate the subcontract with the subcontractor if, within three (3) days of receiving notice required pursuant to C.R.S. 8-17.5-102(2)(b)(III)(A) that Wipfli LLP has actual knowledge that the subcontractor is employing or contracting with a worker without authorization, the subcontractor does not stop employing or contracting with the worker without authorization.

Wipfli LLP shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.

- E. *Duty to Comply with Investigation.* Wipfli LLP shall comply with any reasonable request of the Colorado Department of Labor and Employment made in the course of an investigation that the Colorado Department of Labor and Employment is undertaking pursuant to the authority established by C.R.S. 8-17.5-102(5).
- F. *Notification.* The District shall notify the office of the Colorado Secretary of State if Wipfli LLP violates a provision of C.R.S. 8-17.5-102(2), and the District terminates the engagement for such breach. The District will notify the Colorado Secretary of State if a court made such a determination.
- G. *Participation in Employment Verification Program.* Wipfli LLP shall notify the District of its participation in the Employment Verification Program and shall comply with the requirements of C.R.S § 8-17.5-102(5)(c).

**Conclusion and Approval to Proceed**

If the terms of this Engagement Letter are acceptable to you and the services outlined are in accordance with your requirements, please return a signed copy of this Letter to us.

We look forward to our continued association with you and management and appreciate the opportunity to serve you. Please do not hesitate to call us if you have any questions about the work we are to perform or any other aspect of the services we can provide.

*Wipfli LLP*

Wipfli LLP

ACCEPTED: **BEEBE DRAW FARMS AUTHORITY**

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

\_\_\_\_\_  
(Print Name and Title)

Date: \_\_\_\_\_

GHL/tp

Enc.

Cc: Eric Wernsman, Board Member

## Professional Services Terms and Conditions – Attest Engagements

**1. Entire Agreement**

These Terms and Conditions, together with the engagement letter (“Engagement Letter”) to which these Terms and Conditions are attached, and the Engagement Letter’s other appendixes and applicable Change Orders, if any, constitute the entire agreement between the parties on the subject matter thereof and supersede and merge all prior proposals (including prior proposals of Wipfli regarding the engagement), understandings, and agreements (oral or written) between the parties relating to the subject matter, including, without limitation, the terms of any request for proposal issued to Client or the standard printed terms on any purchase order issued by Client and any non-disclosure or confidentiality agreement between Wipfli and Client dated prior to the date of the Engagement Letter. No modification, amendment, supplement to, or waiver of these Terms and Conditions or Engagement Letter shall be binding upon the parties unless made in writing and duly signed by both parties. To the greatest extent reasonably possible, the provisions of the Engagement Letter, its Appendixes (including these Terms and Conditions), Implementation Plan, Change Orders, and any other exhibit, attachment, schedule, or other document referenced in or by the Engagement Letter shall be read together and harmonized to give effect to the parties’ intent. In the event of a direct conflict among the express provisions of the foregoing, the Engagement Letter shall be given controlling effect. No provision of these terms and conditions will apply to any attest services that may be performed by Wipfli for Client if such provision would impair Wipfli’s independence from Client requiring pursuant to applicable professional standards, such services being governed exclusively by the Engagement Letters issued with respect thereto. Wipfli may be referred to herein as “we” or “us” or in a similar manner, and Client may be referred to as “you” or in a similar manner, and such references shall be read in context.

**2. Commencement and Term**

The Engagement Letter shall become effective when signed by duly authorized representatives of both parties and shall remain in full force and effect until the services to be delivered under the Engagement Letter are complete (as reasonably determined by Wipfli) unless earlier terminated by either party as provided in the Engagement Letter or these Terms and Conditions. Each person executing an Engagement Letter on behalf of a party represents and warrants to the other that he or she has all power and authority to bind the party on whose behalf he or she is executing same.

**3. Termination of Agreement**

The Engagement Letter may be terminated as follows: (i) by either party immediately upon written notice to the other if either party hereto becomes the subject of voluntary or involuntary bankruptcy or other insolvency proceeding, (ii) by Wipfli or Client if either party defaults in the performance of any of its covenants and agreements set forth in the Engagement Letter or Change Order (except when such default is due to a cause beyond the control of the party) and such default is not cured within thirty (30) days after notice from either party specifying the nature of such default, and (iii) by Wipfli or Client with or without cause upon providing thirty (30) days written notice. Termination of the Engagement Letter shall have no effect on either party’s obligation to pay any amount due and owing with respect to such periods prior to the effective date of such termination.

Wipfli has the right to withdraw from this engagement with immediate effect if Client does not provide us with the information we request in a timely manner, refuses to cooperate with our reasonable requests, or misrepresents any facts. Our withdrawal will release us from any obligation to complete the engagement and will constitute completion of our engagement. Client agrees to compensate us for our time and out-of-pocket expenses through the date of our withdrawal.

**4. Fee Estimates and Change Orders**

Wipfli’s Engagement Letter may set forth certain ranges for Wipfli’s fees charged on any project or services. Wipfli provides fee estimates as an accommodation to Client. These estimates depend on certain assumptions, including: (a) anticipated cooperation from Client personnel, (b) timely responses to our inquiries, (c) timely completion and delivery of Client assistance requests, (d) timely communication of all significant accounting and financial reporting matters, (e) the assumption that unexpected circumstances will not be encountered during the engagement, and (f) where applicable, the assumption that Client’s hardware platform/computer system will, at the commencement of the services, be fully operable as intended and designed, functioning as necessary and available to Wipfli without material restriction for the duration of the services. Unless otherwise indicated in the Engagement Letter, fee estimates shall not be construed as or deemed to be a minimum or maximum fee quotation. Although Wipfli reasonably believes suggested fee ranges are accurate, Wipfli’s actual fees may vary from its fee estimates.

Services that fall outside the agreed-upon scope of Wipfli’s engagement shall be covered by a Change Order, or, if the nature and amount of such services are not material to the overall engagement, shall be delineated and included on Wipfli’s invoice for such services. A “Change Order” means a mutually agreed-upon change in the schedule or the time for Wipfli’s performance of the services on a project, the scope of specifications of a project, and/or the fees chargeable by Wipfli to Client, which is reduced to writing using an agreed-upon form that is executed by an authorized representative of each for Wipfli and Client.

Unless otherwise agreed in the Engagement Letter, miscellaneous expenses incurred by Wipfli in the course of performing the services will be charged in addition to Wipfli’s professional fees. Miscellaneous expenses may include, but are not limited to: travel, lodging, transportation, and meals for projects requiring travel; clerical processing; telecommunications charges; technology fees; delivery expenses; and all sales, use, ad valorem, excise, or other taxes or other governmental charges.

**5. Payment of Fees**

Unless otherwise agreed, all invoices are due and payable within thirty (30) days of the invoice date. All business or commercial accounts will be charged interest at the lesser of one percent (1%) per month or the maximum rate permitted by law, except where prohibited by law, on Client’s balance due to Wipfli that is outstanding over thirty (30) days. At our discretion, services may be suspended if Client’s account becomes overdue and will not be resumed until Client’s account is paid in full. Client acknowledges and agrees that we are not required to continue services in the event of a failure to pay on a timely basis for services rendered as required. Client further acknowledges and agrees that in the event Wipfli stops services or withdraws from this engagement as a result of Client’s failure to pay on a timely basis for services rendered as required by this Engagement Letter, Wipfli shall not be liable to Client for any damages that occur whether direct or indirect, foreseen or unforeseen, and whether or not the parties have been advised of the possibility of such damages.

In the event Wipfli is required to respond to a subpoena, court order, government regulatory inquiries, or other legal process related to Client or its management (other than a matter in which Wipfli is named as a party) for the production of documents and/or testimony relative to information we obtained and/or prepared during the course of this or any prior engagements, Client agrees to compensate us for all time we expend in connection with such response, at our regular rates, and to reimburse us for all related out-of-pocket costs, including attorney’s fees, that we incur. Any services under this paragraph will be deemed a separate engagement and, to the extent permitted by law and applicable professional standards, we will promptly notify you of the matter.

## Professional Services Terms and Conditions – Attest Engagements

**6. Privacy and Engagement Staffing**

Wipfli expressly reserves the right to replace, in its sole discretion, any of our professional project team members, as necessary, to provide quality and timely service to Client. From time to time, and depending upon circumstances, Wipfli may use third-party service providers, such as independent contractors, specialists, or vendors to assist us in providing professional services, including tax services. These parties and their personnel may be located within or outside the United States. We may also use personnel from affiliates of Wipfli and other Wipfli-related entities (including our wholly-owned subsidiary based in India and contractors in the Philippines) or any of their respective affiliates. In addition, Wipfli may utilize third-party service providers, including cloud-based service providers, who may collect, use, transfer, transmit, store, or otherwise process Client information in connection with the delivery of certain services. Wipfli is committed to maintaining the confidentiality and security of Client's information, and accordingly, Wipfli maintains policies, procedures and safeguards to protect the confidentiality of Client information. In addition, our agreements with all service providers appropriately maintain and protect the confidentiality of Client information, provided we may use electronic media to transmit Client information and such use in itself will not constitute a breach of any confidentiality obligation. We remain responsible to Client for the supervision of all service providers, entities, and personnel who assist us in rendering professional services hereunder and for protecting the confidentiality of Client information. Client hereby consents and authorizes us to disclose Client information to the foregoing entities and parties for the purpose of providing professional services, including tax services, to Client.

Wipfli is committed to protecting personal information that can be linked to specific individuals, including health information ("Personal Data") and will maintain such Personal Data in confidence in accordance with professional standards and governing laws. Client will not provide any Personal Data to Wipfli unless necessary to perform professional services described in the Engagement Letter. When providing any Personal Data to us, Client will comply with all applicable laws (both foreign and domestic) and will anonymize, mask, obfuscate, and/or de-identify, if reasonably possible, all Personal Data that is not necessary to perform the professional services described in the Engagement Letter. Any Personal Data provided to us by Client will be kept confidential and not disclosed to any third party not described above (parties providing us assistance in rendering professional services) unless expressly permitted by Client or required by law, regulation, legal process, or to comply with professional standards applicable to Wipfli. Client is responsible for obtaining, pursuant to law or regulation, consents from parties that provided Client with their personal information, which will be obtained, used, and disclosed by Wipfli for its required purposes, and Wipfli may rely on the representation that Client has obtained such consents.

Please see Wipfli's Privacy Statement located at [www.wipfli.com/privacy-statement](http://www.wipfli.com/privacy-statement) for further information.

Applicable rules in some states require that we advise you that some persons who own an interest in Wipfli may not be licensed as Certified Public Accountants and may provide services related to this engagement.

**7. Intellectual Property Rights**

Client acknowledges that Wipfli owns all intellectual property rights, title, and interest to all materials and information produced or developed by Wipfli throughout the duration of this engagement, excluding any pre-existing ownership right of Client and without implying any ownership interest in any Client materials, data or other information, all of which shall remain the property of Client. Upon completion of the services contemplated by the Engagement Letter, Wipfli grants to Client a perpetual paid-up license to use or modify, for internal purposes only, any deliverable produced by Wipfli and actually delivered to Client,

provided that any use or modification of such deliverable, other than for the stated purposes in the Engagement Letter, is not authorized. In addition, Client shall not alter or remove any of Wipfli's trademarks, copyright registration marks, patent, or other intellectual property notices applicable to any of Wipfli's goods, marketing material, or advertising media, and shall not in any way alter any of Wipfli's products. Client shall promptly notify Wipfli in writing of any infringement of Wipfli's intellectual property by third parties of which Client becomes aware. Neither party shall acquire any right, title, or interest in or to the other party's code, data, business processes, or other information to which such party may have access during the term of the engagement hereunder. All such code, data, business process and other information shall be solely and exclusively the property of the originating party.

**8. Mutual Confidentiality**

During the course of performing services, the parties may have access to information that is confidential to one another, including, without limitation, source code, documentation, specifications, databases, system design, file layouts, tool combinations, development methods, or business or financial affairs, which may incorporate business methods, marketing strategies, pricing, competitor information, product development strategies and methods, customer lists, customer information, and financial results (collectively "Confidential Information"). Confidential Information may include information received from third parties, both written and oral, that each party is obligated to treat as confidential.

Confidential Information shall not include any information that (i) is already known by the recipient party or its affiliates, free of any obligation to keep it confidential, (ii) is or becomes publicly known through no wrongful act of the receiving party or its affiliates, (iii) is received by the receiving party from a third party without any restriction on confidentiality, (iv) is independently developed by the receiving party or its affiliates, (v) is disclosed to third parties by the disclosing party without any obligation of confidentiality, or (vi) is approved for release by prior written authorization of the disclosing party.

Without the advance written consent of the other party, except as required by law, regulation, or to comply with professional standards applicable to a party or for the performance of the services, neither party shall disclose to a third party Confidential Information of the other party. Each party agrees to maintain at least the same procedures regarding Confidential Information that it maintains with respect to its own Confidential Information. Each party may use the Confidential Information received from the other party only in connection with fulfilling its obligations under this Agreement. The parties further agree that expiration or termination of this Agreement, for any reason, shall not relieve either party, nor minimize their obligations with respect to Confidential Information, as set forth herein.

**9. Independent Contractor**

The relationship between Wipfli and Client is solely and exclusively that of independently contracting parties.

**10. Non-Exclusivity**

No right of exclusivity is granted, guaranteed, or implied by Wipfli and Client entering into any engagement letter. Client acknowledges that Wipfli regularly performs the same or similar services as are being provided hereunder to third parties.

**11. Dispute Resolution**

If any dispute arises among the parties regarding the subject matter hereof and such dispute cannot be resolved through informal negotiations and discussion, the parties agree to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its applicable rules for resolving professional accounting and related services disputes before resorting to arbitration or litigation. Costs of any mediation proceeding shall be shared equally by all parties. Except for an



## Professional Services Terms and Conditions – Attest Engagements

action by us to collect payment of our invoices, Wipfli and Client agree that no claim arising out of services rendered pursuant to the Engagement Letter or any Change Order shall be filed: (i) in the case of any report or deliverable issued by Wipfli under the Engagement Letter, no later than two years from the date of such report or deliverable (or if no report or deliverable is issued, two years from the date of the Engagement Letter), or (ii) in the case of any tax form or similar governmental filing, no later than two years after the initial due date of such tax form or filing.

12. **Governing Law**

Any and all claims relating to agreements between Wipfli and Client for any service shall be governed by and construed in accordance with the internal laws of the state in which the Wipfli office which issues the Engagement Letter related to the services is located.

13. **Severability**

In the event that any term or provision of the Engagement Letter or these Terms and Conditions shall be held to be invalid, void, or unenforceable, then the remainder shall not be affected and each remaining term or condition shall be valid and enforceable to the fullest extent permitted by law.

14. **Notices**

All notices required to be given to either party under the Engagement Letter shall be in writing and sent by traceable carrier to each party's address indicated on the Engagement Letter, or such other address as a party may indicate by at least ten (10) business days' prior written notice to the other party. Notices shall be effective upon receipt. A copy of such notice should be provided to Wipfli's General Counsel at [wipfli-legal@wipfli.com](mailto:wipfli-legal@wipfli.com).

15. **Electronic Signature**

Each party hereto agrees that any electronic signature of a party to the Engagement Letter or any electronic signature to a document contemplated hereby is intended to authenticate such writing and shall be as valid, and have the same force and effect, as a manual signature. Any such electronically signed document shall be deemed (i) to be "written" or "in writing," (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. Each party hereto also agrees that electronic delivery of a signature to any such document (via email or otherwise) shall be as effective as manual delivery of a manual signature. For purposes hereof, "electronic signature" includes, but is not limited to: (i) a scanned copy (as a "pdf" (portable document format) or other replicating image) of a manual ink signature, (ii) an electronic copy of a traditional signature affixed to a document, (iii) a signature incorporated into a document utilizing touchscreen capabilities, or (iv) a digital signature. Neither party shall contest the admissibility of true and accurate copies of electronically signed documents on the basis of the best evidence rule or as not satisfying the business records exception to the hearsay rule.

16. **Record Retention**

We will retain records related to this engagement pursuant to our record retention policy. At the end of the relevant time period, we will destroy our records related to this engagement. However, Client's original records will be returned to Client upon the completion of the engagement. When records are returned, it is Client's responsibility to retain and protect the records for possible future use, including potential examination by governmental or regulatory agencies.

17. **Assignment**

The Engagement Letter to which these Terms and Conditions are attached shall be binding on the parties hereto and their respective successors and assigns. Neither party may assign this Engagement Letter without prior written consent of the other, except that Wipfli may assign its rights and obligations under this Engagement Letter without the approval of Client to an entity that acquires all

or substantially all of the assets of Wipfli or to any subsidiary or affiliate or successor in a merger, acquisition, or change of control of Wipfli; provided that in no event shall such assignment relieve Wipfli of its obligations under this Engagement Letter.

18. **Force Majeure**

Either party may suspend (or if such suspension continues for more than thirty (30) days, terminate) its obligations (except the obligation to pay for services previously rendered) under the Engagement Letter or any amendment or Change Order, if such obligations are delayed, prevented, or rendered impractical or impossible due to circumstances beyond its reasonable control, including, without limitation, fires, floods, storms, washouts, tsunamis, earthquakes, wars (declared or undeclared), civil disturbances, accidents, terrorist acts (including biochemical attacks), health pandemics, acts of any governmental body, damage to its plants and equipment, computer network problems caused by any Internet Service Provider or telecommunications company servicing Wipfli and/or Client, or acts of God or events beyond a party's control (collectively referred to herein as "Force Majeure"). Each party will use reasonable efforts to promptly minimize the duration and consequences of any failure of or delay in performance resulting from a Force Majeure event. In such event, the affected party will not be liable to the other for delay or failure to perform its obligations under this Engagement Letter.



OFFICE OF THE STATE AUDITOR • LOCAL GOVERNMENT AUDIT DIVISION

KERRI L. HUNTER, CPA • STATE AUDITOR

## Request for Extension of Time to File Audit for Year End December 31, 2021 ONLY

If someone other than an elected board member submitted an extension request, this form should be signed by a member of the elected governing body and submitted with the audit by September 30, 2022.

Requests may be submitted via internet portal: <https://apps.leg.co.gov/osa/lg>.

<b>Government Name:</b>	<u>Beebe Draw Farms Authority</u>
<b>Name of Contact:</b>	<u>Terri Boroviak</u>
<b>Address:</b>	<u>8390 E. Crescent Parkway, Suite 300</u>
<b>City/Zip Code</b>	<u>Greenwood Village, CO 80111</u>
<b>Phone Number:</b>	<u>303-779-5710</u>
<b>Fax Number:</b>	<u>303-779-0348</u>
<b>E-mail</b>	<u>Terri.boroviak@clacconnect.com</u>
<b>Fiscal Year Ending (mm/dd/yyyy):</b>	<u>12/31/2021</u>
<b>Amount of Time Requested (in days):</b> (Not to exceed 60 calendar days)	<u>60 days</u> <u>Audit Due:</u> <u>September 30, 2022</u>
<b>Comments (optional):</b>	<u></u>

I understand that if the audit is not submitted within the approved extension of time, the \_\_\_\_\_ government named in the extension request will be considered in default without further notice, and the State Auditor shall take further action as prescribed by Section 29-1-606(5)(b), C.R.S.

### Must be signed by a member of the governing board.

**Signature** \_\_\_\_\_

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

**Title:** President

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

June 1, 2022

Lisa Johnson  
Beebe Draw Farms Authority  
141 Union Boulevard #150  
Lakewood, Colorado 80228

## Beebe Draw Farms Entrance Building – Vehicle Impact Damage

Structural Assessment  
WJE No. 2022.3323

Dear Lisa Johnson:

At your request, Wiss, Janney, Elstner Associates, Inc. (WJE) is pleased to provide this report concerning our evaluation of the vehicle impact damage to the Entrance Building at the Beebe Draw Farms (the Property) located at the intersection of Beebe Draw Farms Parkway with West Colorado Road 39 in Platteville, Colorado.

### BACKGROUND

The Entrance Building is a wood-framed structure consisting of a central enclosed guardhouse with roof canopies extending over the entrance and exit lanes to the south and north, respectively. The structure is wood-framed with walls clad in stone and horizontal lap siding covered with a hip roof clad in standing seam metal sheathing. Exposed log timbers support the drive lane canopies, which are framed with open-web wood trusses at 2 feet on center spanning in the east-west direction. The Entrance Building was recently impacted by a vehicle, resulting in damage to the structure. The purpose of this letter is to provide our findings and recommendations.

### OBSERVATIONS

Dale Statler, PE, of WJE visited the Property on May 31, 2022, and performed a visual evaluation of the structural damage resulting from the vehicle impact. Up-close access to the roof structure was provided via a step ladder. Our significant observations are outlined below:

1. The impact damage was localized to the eastbound (entrance) canopy on the south side of the building (Figure 1 to Figure 4).
2. The log beam supporting the west side of the canopy was fractured and missing approximately four feet of its northernmost extents, which were staged nearby on the ground (Figure 4 to Figure 5).
  - a. The log was reportedly found displaced to the east by Property staff, but had been returned to nominal position and shored temporarily with 4x4 wood posts.
  - b. Two ½-inch diameter lag screws were observed penetrating from the wall sheathing at the north bearing of the log (Figure 6). These screws had withdrawn from the fallen end portion of the log.

- c. The north end of the remaining portion of the log was fully fractured at the location of a knot in the wood grain (Figure 7).
  - d. The log was measured to be approximately 12-inch diameter and 20'-6" long and appeared to consist of some species of relatively low-density pine.
3. The wood trusses above the damaged west log exhibited no noticeable deformation or damage except for at their connections to the log beam, which typically consisted of (4) 16d toenails from each truss into the top of the log. These nails had typically been withdrawn from the log (Figure 8).
4. The log beam supporting the east side of the canopy exhibited impact damage near mid-height of its west face, located approximately 4'-4" from its north end (Figure 9 and Figure 10). The impact damage was approximately 3" tall and penetrated about ¾-inch deep with ragged edges that appeared to be freshly made.
5. Adjacent non-structural damage included:
  - a. Approximately 20 square feet of damaged plywood soffit sheathing (Figure 4).
  - b. A damaged and deformed can light and missing fixture adjacent to the impacted west log beam (Figure 11).
  - c. A missing light fixture adjacent to the impacted east log beam (Figure 12).
6. The interior of the building was accessed for evaluation and no damage to the structure or finishes resulting from the impact was observed.

## DISCUSSION

Structural damage was limited to the log beam supporting the west side of the roof canopy. The severity of the damage will require full replacement of the affected log beam. The west side of the roof structure will need to be temporarily shored and lifted to allow the existing portions of the beam to be removed and for a new log beam to be installed. Additionally, interior and canopy soffit finishes will need to be locally removed and replaced in order to mechanically connect the log to the supported trusses and its end bearings. The connections of the new beam to the existing trusses and to its north and south bearings should be made in like kind to, or better than, the original attachments. The species and grade of the original log is not known. Therefore, WJE has analyzed the log to determine its design stresses and has confirmed that readily available soft pine species graded for timber construction will be structurally adequate.

The log beam supporting the east side of the roof canopy exhibited minor damage that has not impaired the integrity of the structure. This location is sheltered under the interior of the roof and not exposed to wetting. Therefore, no structural repairs to this beam are required. If desired, the impact damage may be filled with wood putty and painted for durability and aesthetics.

The authority having jurisdiction (AHJ) over the repair work is the Weld County Building Department, which has adopted the 2018 International Existing Building Code (2018 IEBC). Per Section 405.2.1, damage of this scope and severity is permitted to be restored to the predamage condition. Therefore, repair with like kind construction is permitted.

## RECOMMENDATIONS

Based upon our structural engineering evaluation outlined above, we recommend the following scope of repairs:

- Remove and replace the 12-inch diameter x 20'-6" long log beam supporting the west side of the roof canopy in like kind.
  - Replacement log shall be a round construction timber of Douglas Fir, Lodgepole Pine, Ponderosa Pine, Red Pine, Southern Pine, or similar species and shall be visually graded by a registered timber products inspector for conformance with ASTM D3200. Moisture content at the time of installation shall not exceed 15%.
  - Temporarily shore and jack roof structure as needed for log removal and replacement.
  - Install mechanical connections to the existing trusses and at the log's north and south bearings in like kind to, or better than, the original existing connections.
- Fill localized impact damage to the log beam supporting the east side of the roof canopy with wood putty and coat as desired for durability and aesthetics.
- Remove and/or replace soffit and interior finishes locally as needed to perform the structural work described above. Repair and/or replace lighting in kind.

## CLOSING

We appreciate this opportunity to be of service on this project. If you have any questions concerning this report, please do not hesitate to contact us.

Sincerely,

**WISS, JANNEY, ELSTNER ASSOCIATES, INC.**



Dale Statler, PE  
Senior Associate

## FIGURES



Figure 1. Overview of entrance building (looking northwest)



Figure 2. Overview of entrance building (looking east)



Figure 3. Overview of impact damage to north end of west log beam with temporary shoring in place (looking southeast)



Figure 4. Overview of impact damage to north end of west log beam and adjacent soffit sheathing (from southeast)



Figure 5. Fallen portion from north end of west log beam



Figure 6. Bearing connection at north end of west log beam





Figure 7. Fractured north end of remaining portion of west log beam



Figure 8. Toe nails protruding from truss at missing portion of west log beam



Figure 9. Overview of impact damage to east log beam, approximately 4'-4" from north end



Figure 10. Close-up of impact damage to east log beam



Figure 11. Damaged can light and missing fixture adjacent to impact damage on west log beam



Figure 12. Missing light fixture adjacent to impact damage on east log beam

# Big Horn buildings

LLC

16484 Ledyard Rd S.

Platteville, CO 80651

970-405-2502



[n](#)

Job address: PLR gate house

Mail to: [Lisa.Johnson@claconnect.com](mailto:Lisa.Johnson@claconnect.com)

Contact: Bill Caldwell

Phone:

Job description: Material and labor to frame temporary support wall, demo soffit and trim and remove damaged log. Hand peel 12"x 22' log and prep for stain. Install new log in place of damaged log fastened with lag bolts and timber locks. Stain and seal log and damaged area on east log. Install new soffit material and trim. Paint entire soffit area to match existing. (Includes required lift equipment).

\$7880.00

Options	cost	option	total
Insulation		00.00	\$
		00.00	
Concrete		00.00	\$
Man doors		00.00	
Over head doors		00.00	
windows	00.00	00.00	00.00
Extras- key pad entry -	Included	00.00	
	\$		\$
	Incl.		\$
	\$		\$
<b>Subtotal</b>	<b>\$</b>		<b>\$7,800.00</b>
<b>Tax.</b>			<b>\$incl.</b>
<b>Permits</b>			<b>\$ +</b>
<b>Total</b>			

Acceptance of proposal- the above prices, specifications, and conditions are satisfactory and are hereby accepted. You are Authorized to do the work as specified. Payments will be made as outlined.

Date \_\_\_\_\_ Authorized representative \_\_\_\_\_

Payment due upon completion unless otherwise noted. A late charge of 3.5% per month or 28% annual for past due accounts will be added.

## 2022 PLR Pool Season

### Status report through 6/30/2022

#### Collections:

	Midseason 2022	Midseason 2021
Pool Memberships	\$ 13,600	\$ 10,050
Pool Parties	\$ 800	\$ 400
Pool Pavilion Rental	<u>\$ 25</u>	<u>\$ 25</u>
<b>Total</b>	<b>\$ 14,425</b>	<b>\$ 10,475</b>

#### Memberships Issued:

	Midseason 2022	Midseason 2021
Resident Memberships	66	65
Non-resident memberships	1	1
Employees*	6	6
Bartered**	0	2
<b>Total</b>	<b><u>73</u></b>	<b><u>74</u></b>

\*Free passes issued to 5 part-time pool employees working avg 8-15/hrs a week and 1 pool manager.

#### Pool Visits:

	Midseason 2022	Midseason 2021
Total visitors	1,525	1,342
Average visitors per day	44	39
Peak visitors in one day	96	85



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## Reserve Study Bid Proposal



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44847 - 0a

**Beebe Draw Farms Authority**

c/o Jenny Hackelman  
Beebe Draw Farms Authority  
16502 Beebe Draw Farms Parkway  
Platteville, CO 80651

**History with our organization**

We have not had the pleasure of working with your Property yet!

Subject: Bid Options for 0 units in Platteville, CO

Dear Jenny,

Thank you for requesting a Reserve Study proposal from Association Reserves. We recognize that you have a choice of Reserve Study providers and want to make sure you understand the many benefits of working with our company:

- Your Reserve Study will be prepared in accordance with National Reserve Study Standards™ by a credentialed Reserve Specialist™
- Our complete, accurate, and user friendly 30-year Reserve Studies include a full cover photographic inventory for reports involving site inspections.
- Your Report (and other files) will be posted securely online for easy, anytime access
- Clients will have a year of free access to our proprietary [uPlant!](#)® cloud-based software and spreadsheets. This will allow clients with the ability to adjust and supplement the Reserve Study data.
- All files relating to your component report are included with our reports.

When you're ready for the next step, simply sign and return the Agreement along with a 50% deposit. Our office will then contact you regarding the next steps in the process, such as scheduling the site inspection and collecting any documents needed. Please don't hesitate to contact us if you have any questions, or would like any additional information. We hope to hear from you soon!

Sincerely,

Bryan Farley, RS  
President  
Association Reserves – Colorado



# Pricing Options

March 25, 2022

#44847 - 0a Beebe Draw Farms Authority

	12 Week Delivery	8 Week Delivery	4 Week Delivery
<b>'Full' – With Site Visit</b>	\$3,350	\$3,600	\$5,400
<b>With Site Visit Update</b>	\$2,950	\$3,200	\$4,800
<b>No Site Visit Update</b>	\$1,440	\$1,600	\$2,400
<b>Loyalty Update Plan*</b>		\$4,600	

- A **Full-With Site Visit Reserve Study** is required when the client has no prior Reserve Study, or wishes to start “from scratch” with a completely new study, including measurements and full-color photographic inventory.
- A **With Site Visit Update Reserve Study** can be chosen when the client has a prior, professionally completed Reserve Study that can be updated, based on visual observations, with no re-measuring. The report will include a full-color photographic inventory.
- A **No Site Visit Update Reserve Study** can be chosen when the client has a prior, professionally completed Reserve Study that can be updated, based on a series of interviews.
- A **Loyalty Update Plan** includes one Full Reserve Study (or With Site Visit) and two \$500 No-Site-Visit Reserve Study Updates delivered over three consecutive years with an (8) week turnaround. The total fee is charged once, at the beginning of the three year engagement. *\*This is our most popular selection.*

*Prices are valid for 180 days*

---

## Agreement between Association Reserves and Beebe Draw Farms Authority

### 1. Please, circle fee associated with the desired pricing and indicate the nature of this agreement

Fee \$ \_\_\_\_\_ Turnaround Time \_\_\_\_\_ Weeks For the FY beginning \_\_\_/\_\_\_/\_\_\_

### 2. Obtain a Boardmember signature

We, the undersigned, understand that the Reserve Study being prepared will identify and address the normal deterioration of properly built and installed components with predictable life expectancies. Inspecting for construction defects, performing destructive testing to search for hidden issues (such as plumbing or electrical problems), environmental hazards (asbestos, radon, lead, etc.), or accounting for unpredictable acts of nature are all outside our scope of work. We understand that the above Fee is based on the accuracy of how the Association was described to Association Reserves in our Request for Proposal. If this is not found to be a true representation of our common area maintenance responsibilities, Association Reserves reserves the right to negotiate an adjusted fee for our services. Association Reserves liability in any matter involving this Reserve Study is limited to our Fee for services rendered.

Print Name: \_\_\_\_\_ Company/Title: \_\_\_\_\_

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

### 3. Return this agreement to us, along with a check made payable to Association Reserves

- Circle fee associated with the desired level of service and turnaround time and email: [arco@reservestudy.com](mailto:arco@reservestudy.com)
- Sign agreement and return check to: 1301 Arapahoe St. Suite #302 – Golden, CO 80401 (or pay via [Credit Card](#))
- All professional Reserve Studies require a 50% deposit with the final 50% balance due upon initial delivery of the Reserve Study
- **Delivery turnaround time will start once the 50% deposit and signed agreement is received**

## Deliverables

From the founding of our company, our focus has been on creating a useful, reliable document that can be picked up and understood by any Board member, resident, or property manager. The Reserve Study will help our clients plan for the inevitable and improve their future. Upon completion of the Reserve Study, the Association will receive the following:

- **Electronic copy:** A digital version of the entire Reserve Study document is delivered securely by email in PDF form. We also post the completed study to a password-protected location on our website, where association representatives can view and download the entire study, Executive Summary section and funding plan software file.
- **Meetings:** Our Full and WSV services include a pre-site inspection meeting onsite with the board and management to discuss the scope of work and answer any questions (can be done virtually). After completion, we will gladly host a virtual meeting via Zoom to help explain the process, outcomes, and other key details found within a Reserve Study. The Reserve Study document is shown on-screen, and our staff will walk you through the document, explaining key terminology, reviewing the component list and explaining how we formulate our recommendations in a study.
- **Funding plan software:** [uPlanIt](#) is a powerful interactive online tool that enhances a Reserve Study by giving Clients absolute control of their Reserve funding information. Designed by experts and available for a year free to our clients with every professional Reserve Study engagement, uPlanIt gives real-time answers to all your “what-if” Reserve funding scenarios. uPlanIt allows clients to consider a variety of conditions throughout the reserve budget process, forecast the potential impact on the funding plan, and test and validate their budget decisions. Whether you want to change the contribution level, adjust replacement costs, or postpone certain projects, you’ll be able to foresee the outcome. Results are delivered in an assortment of insightful charts & tables. Includes a year subscription with every professional Reserve Study and has 24-7 access to “what-if” scenarios in real time, even during budget meetings!



- **Video presentation:** We will provide a brief video presentation of a Reserve Study to help explain the outcomes and provide more background information. The Reserve Study document is shown on-screen, and you’ll hear our staff describe the key financial details, review the component list, and explain how we formulate our recommendations in the study. This is ideal for sharing at Board meetings, annual association events, etc.
- **Loyalty Update Plan:** The plan includes three Reserve Studies prepared over three consecutive years. The "Level of Service" can be completed in any order (Full, NSV, NSV) or (NSV, WSV, NSV), etc. The fee is charged only once, at the beginning of the three-year engagement.
- **Complimentary revisions:** We will gladly revise the study at no charge to the client for a period of up to **60 days** following delivery of the completed study if there is a material error or discrepancy identified within the study.
- **Printed copies, upon request:** Printed copies are available upon request.
- **Additional services:** Association Reserves can also provide additional consulting work, attend association meetings, re-visit the property for follow-up inspections, etc. Additional labor charges will be billed at a rate of \$200.00/hour, including travel to and from the meeting. Please contact us directly for more specific information and requests for additional services.

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(Click [here](#) for an online demo of uPlanIt)



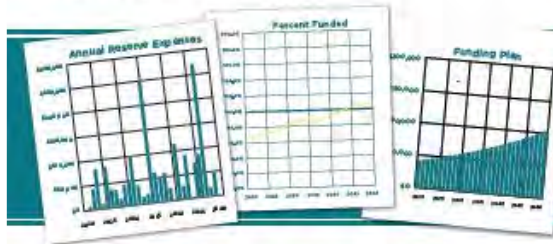
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**uPlanIt is a powerful interactive online tool that allows our Clients to run faster, jump higher, and leap tall buildings in a single bound!**

Okay, maybe we're exaggerating a bit, but in the always stressful and often divisive Reserve budget process, uPlanIt can facilitate collaboration, build consensus and eliminate guesswork for Managers and Boardmembers.

Designed by experts and available FREE to our Clients with every professional Reserve Study engagement, uPlanIt gives instant answers to all your "what-if" Reserve funding scenarios. Whether you face "pushback" to funding Reserves, objections about the life expectancies or costs of certain projects, or outrage for a proposed special assessment, you'll be able to instantly foresee the outcome of alternative budget strategies.



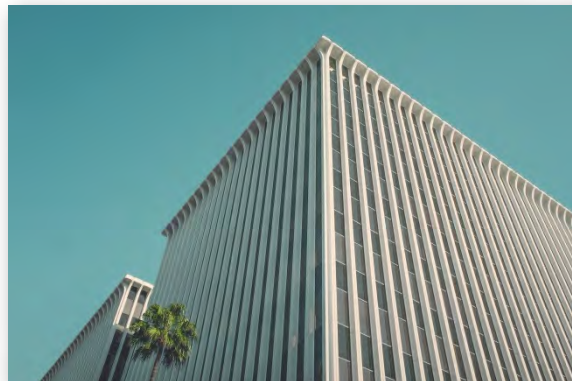
**Results are delivered in an assortment of insightful charts & tables. With uPlanIt, you can validate budget decisions, respond quickly and confidently to uncertainties, and prevent misunderstandings.**

- Free for our professional Reserve Study clients during their budget season
- Year-to-Year (and Board-to-Board) continuity with one centralized data bank
- 24-7 access to play with the numbers during budget meetings!

# Introduction to Reserve Studies

## What's a Reserve Study?

A Reserve Study is best described as a document used by community associations (or any other type of common interest real estate development) to help plan financially for major repair, replacement, or restoration projects over a long period of time. Our studies cover a thirty year period, beginning with the current or upcoming fiscal year. Read on to learn more about the scope of work and other details related to the process of conducting a Reserve Study!



## Are Reserve Studies really that important?

Absolutely. It's fairly easy to plan and prepare for recurring costs like management fees, insurance premiums, landscaping contracts, and utilities, but what about the projects and expenses that DON'T happen every year? That's our specialty...identifying, forecasting, and planning for inevitable failure of the components that are often overlooked or underestimated. There's no question that setting aside Reserve funds over a long period of time is the simplest, most cost-effective, and most responsible way to plan for major projects.

The work will need to be done; it's up to the association to plan accordingly. Without adequate Reserves, associations will have to make a tough decision: will you take out costly loans, push for recurring special assessments, or worst, accept a drop in home values due to deteriorating conditions and deferred maintenance? A current-year, reliable Reserve Study is the first step toward long-term financial strength for every association. Without one, association homeowners will be misinformed, underprepared, and left exposed to serious financial consequences. A current-year, reliable Reserve Study is a hallmark of well-managed associations, and an important part of a homeowner board's fiduciary duty to act in the best interest of their association members.

## What components are included in a Reserve Study?

The National Reserve Study Standards specify the following definition of a Reserve Component:

- Must be the association's responsibility.
- Must have a limited Useful Life (UL)
- Must have a predictable Remaining Useful Life (RUL)
- Must be above a certain "threshold cost"



We typically recommend funding for projects such as: roof replacement, painting/waterproofing, pavement sealing and resurfacing, elevator modernization, balcony and deck sealing and restoration, major mechanical systems (HVAC, fire alarm, hot water, etc.), major pool and spa expenses, interior/amenity area remodeling, and many more. The bottom line is that every property is different, and will require a thorough inspection to determine what belongs in your study.

State requirements vary on what types of projects should be addressed through Reserves (and therefore included in a Reserve Study). Our studies will always meet and usually exceed these requirements, ensuring that our clients are acting in accordance with legal requirements and sound fiduciary responsibility.

Colorado law (**C.R.S. 38-33.3-209.5(IX)**), legislates that a community has a Reserve Policy that includes the following:

- When the association has a reserve study prepared for the portions of the community maintained, repaired, replaced and improved by the association.
- Whether there is a funding plan for any work recommended by the reserve study.
- If there is a funding plan, the projected sources of funding for the work.
- Whether the reserve study is based on a physical analysis and financial analysis.

# Scope of Work

Our Reserve Studies are prepared in accordance with National Reserve Study Standards, established in 1998 by the Community Associations Institute. Per these standards, a Reserve Study engagement generally consists of the following:

## 1. Component Inventory & Condition Assessment

The component inventory is “the task of selecting and quantifying Reserve Components. This task can be accomplished through on- site visual observations, review of association design and organizational documents, a review of established association precedents, and discussion with appropriate association representative(s) of the association or cooperative.” The condition assessment is “the task of evaluating the current condition of the component based on observed or reported characteristics.” As part of our inspection, we review any available building documents including site plans, building plans, fire alarm inspection records, equipment schedules and any other data that may be informative regarding component details, project history or expectations for upcoming work. We then photograph, measure and inspect all areas or components to be included. A Reserve Study site inspection is visual in nature and does not incorporate any destructive or other testing. The inspection is not intended to identify code or construction defects, nor is it intended to be the foundation for anything other than budgeting and planning purposes.

**NOTE:** For Update, With Site Visit (Level 2) Reserve Studies, the component inventory is for verification purposes only, using previously-established component quantities from a prior Reserve Study. However, the condition assessment is re- established based on current conditions. For Update, No Site Visit (Level 3) Reserve Studies, there is no physical inspection of the property. We review the component inventory and condition assessments from the most recent Level 1 or Level 2 study, then proceed with the Life and Valuation Estimates and Financial Analysis.



## 2. Life & Valuation Estimates

This process is usually much more time consuming than the actual site inspection, and represents the bulk of the overall Reserve Study process. Our Reserve Specialist® begins by organizing and interpreting the raw data he or she gathered during the site inspection, reviewing all measurements, notes and photographs for key details and insights. Next, we establish the component list structure, and determine the life and cost estimates for each Reserve component. Our standard procedure is to use any historical information provided to us by the client (such as when certain projects were done, and what they cost), and to review any bids or estimates for upcoming work. We review our findings with your current vendors for their insights, and also check their input against information we’ve gathered working with other comparable properties in your area. We constantly consult our own internal databases, composed of data collected from over 50,000 Reserve Studies. As a supplement, we also make use of professional construction estimating software programs, guidebooks, publications and manufacturer’s publications to supplement our knowledge base. The end result is a complete, thorough set of estimates that are accurate, current, property-specific, and generated by a qualified, independent third party.

## 3. Financial Analysis, Report Preparation & Delivery

Once the component list is established and we’ve reviewed your current annual budget and Reserve fund balance(s), we will make a determination of relative current Reserve fund strength and created a recommended funding plan covering the next 30 fiscal years via the cash flow (pooled) methodology, including a schedule of projected annual income and expenses.

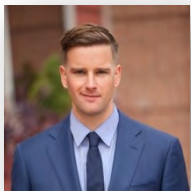
## Why should we choose Association Reserves?

Association Reserves was established in 1986 as a professional engineering consulting firm serving community associations throughout the United States and abroad. To date, our firm has completed over **60,000** Reserve Studies for properties of all types, including condominium and homeowners associations, community development districts, timeshare and resort properties, commercial facilities, worship facilities, and more. Over the years, our firm has been instrumental in defining and advocating the National Reserve Study Standards endorsed by the Community Associations Institute (CAI). Each Reserve Study we provide is conducted with special consideration for the unique characteristics of the client property, especially age, regional weather patterns, local pricing factors, and input from the Board of Directors. Our time-tested approach involves thorough research of all key factors, especially project history, projected useful life and cost data, and aesthetic standards in the local area. Our staff members earn and maintain the Reserve Specialist® credential administered by the Community Associations Institute (CAI), the international authority on all aspects of community association living.

We don't take a one-size-fits-all approach to our work, because we know that every association is different, and we take the time and care to ensure our results will help you to make wise decisions regarding the long-term care of your physical and financial assets. From our first phone call to final delivery of your study, we hold ourselves to the highest standards of professionalism. We pride ourselves on delivering a first-rate product, because we know you're putting your trust in our hands.



## Our Team



**Bryan Farley, RS** is the President of our Rocky Mountain regional offices. Bryan has completed over 2,000 Reserve Studies for property types including residential developments, schools, historic buildings, commercial developments, metro districts, ranch developments, worship facilities, resorts and more. Bryan has earned the

Reserve Specialist designation (#260) and is also a frequent author and speaker in the industry. Bryan earned a Bachelor of Science degree in Business Administration from Pepperdine University.



### **Cooper Fogle, MBA**

Cooper Fogle graduated from Wartburg college in 2017 with a degree in Business Administration as well as a Masters in Global Business from Pepperdine Graziadio School of Business in 2020. Through these

programs and multiple study abroad experiences in the UK and Germany he was able to build up technical skills and interpersonal skills working with a bright and diverse group of people.



**Andrew Klausen** Andrew earned a degree in Finance and Management from the University of Nebraska as well as a Masters in Research and Education from Trinity International University. Andrew's experience includes non-profit leadership, teaching at the collegiate level, financial accounting, and risk-management for

residential and commercial properties.



**Paul Shoemaker** Paul graduated from the University of Arkansas in 2014 with a BS in Business Administration, majoring in Finance and Information Systems. He brings with him experience as a Community Association Manager in the HOA

management industry. As a member of CAI, Paul obtained the CMCA designation and continues to pursue education in the industry. Paul understands the unique challenges that a Board of Directors and managing agent face in maintaining a community's assets, and strives to offer a seamless customer service experience from pre-project planning through completion.



**Chris Galey** Chris Galey graduated from Kansas State University with a Bachelor of Science in Business Administration. He began a career in the Resort and Hospitality industry and has worked with multiple ski resorts, managing sales operations in the Front

Range. Chris acquired skills in this role by managing large sales events, partnerships, promotions, budgeting, and financial strategy.



**Paige Daniels** Paige joined Association Reserves in 2012 after graduating from California Lutheran University with a Master's degree in Business Administration. A native of Colorado, she obtained a BS in Business Marketing from the

University of Northern Colorado. Her undergraduate education also included a semester at Griffith University in Queensland, Australia. Her experience with trade show operations, her knowledge of business, and her marketing passion and creativity makes her an excellent addition to our team and an asset to our clients.



**Ruth Walden-Turek** Ruth joined Association Reserves in 2016 as the client service specialist. She brought with her many experience years in administrative work specific to the building industry, having worked for a residential developer as a spec sheet writer as well as a systems coordinator and as a contract administrator for a general contractor managing multi-million dollar projects.

Ruth has a business degree as well as a nursing degree.



# What can I expect to see in my Reserve Study?

Simple, concise summary of recommendations, with a clear, organized listing of Reserve components.

### 3-Minute Executive Summary

Association: Sample Condo # 99991-0  
 Location: Anywhere, US # of Units: 142  
 Report Period: January 1, 2015 through December 31, 2015

**Findings/Recommendations as-of 1/1/2015:**

Projected Starting Reserve Balance:	\$750,000
Current Fully Funded Reserve Balance:	\$1,306,267
Average Reserve Deficit (Surplus) Per Unit:	-\$3,917
Recommended 2015 Monthly "Full Funding" Contributions:	\$19,000
Alternate minimum contribs* to keep Reserves above \$0:	\$14,175
Recommended 2015 Special Assessment for Reserves:	\$0
Most Recent Budgeted Reserve Contribution Rate:	\$16,000

Reserves % Funded: 57% (30% - 70% - 100%)  
 Special Assessment Risk: High Medium Low

**Economic Assumptions:**  
 Net Annual "After Tax" Interest Earnings Accruing to Reserves: 1.00%  
 Annual Inflation Rate: 3.00%

- This is a "Full" Reserve Study (original, created "from scratch"), and is based on our site inspection on September 1, 2014. It was prepared by a credentialed Reserve Specialist (RS).
- Because your Reserve Fund is between 30% and 70% at 57% Funded, this means the association's special assessment & deferred maintenance risk is currently "medium." The objective of your multi-year Funding Plan is to **Fully Fund** your Reserves, where associations enjoy a low risk of such Reserve cash flow problems.
- Based on this starting point, your anticipated future expenses, and your historical Reserve contribution rate, our recommendation is to increase your Reserve contributions in the upcoming fiscal year.
- No assets appropriate for Reserve designation were excluded.

\*officially called "Baseline Funding"

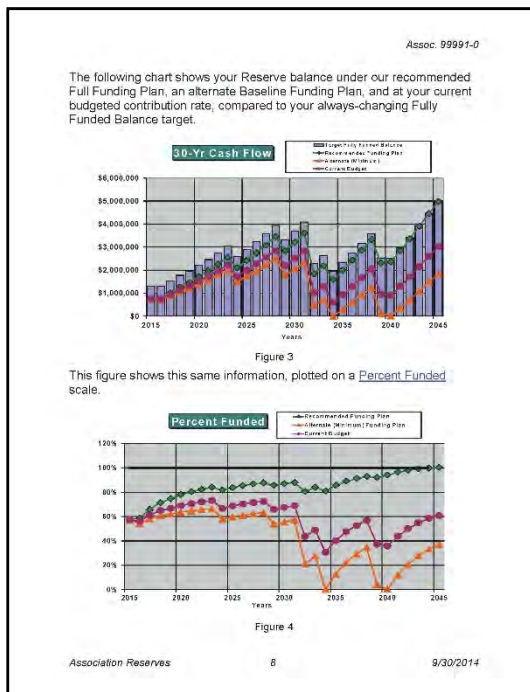
Association Reserves 9/30/2014

### Table 1. Executive Summary


#	Component	Useful Life (yrs)	Rem. Useful Life (yrs)	Current Cost Estimate
<b>Site and Grounds</b>				
2119	Driveway Pavets - Replace	40	33	\$24,350
2145	Garage Gates - Replace	20	15	\$9,900
2149	Entry Area Fountains - Maintain	12	5	\$4,000
2149	Sundeck Fountain - Maintain	20	5	\$3,000
2177	Boilerd Lights - Replace	20	13	\$7,500
<b>Building Exterior</b>				
2303	Entry Flooring Area Lights - Replace	10	3	\$2,475
2321	Balcony, Deck Rails - Replace	24	16	\$614,700
2325	Sundeck - Resurface/Restore	24	16	\$16,400
2335	Planters - Waterproof/Re-plant	24	16	\$180,000
2341	Building Exterior - Restoration	24	16	\$284,000
2343	Building Exterior - SumpPump	11	5	\$216,300
2343	Common Area Windows - Replace	30	23	\$312,800
2377	Low Slope Roof - Replace	20	13	\$67,500
<b>Mechanical/Electrical/Plumbing</b>				
2505	Automatic Entry Doors - Replace	20	13	\$16,000
2509	Garage Gate Operators - Replace	10	8	\$5,500
2511	Barrier Arm Operator - Replace	10	8	\$5,500
2515	Traction Elevators - Modernize	25	18	\$625,000
2517	Elevator Cabs - Remodel	25	18	\$35,000
2519	Air Handler - Lobby/Dic - Replace	15	8	\$18,000
2519	Air Handler - Social Room - Replace	15	8	\$6,000
2519	HVAC - Elevator Room - Replace	15	8	\$7,500
2519	HVAC - Hallways - Replace	15	8	\$90,000
2523	Large Exhaust Fans - Replace	15	8	\$14,750
2523	Cooling Tower - Replace	20	13	\$185,000
2525	Cooling Tower Pumps - Replace	15	8	\$27,500
2537	Variable Frequency Drives - Replace	15	8	\$5,500
2543	Security System - Modernize	12	5	\$15,900
2549	Generator - Replace	40	33	\$52,300
2557	Fire Alarm System - Modernize	15	8	\$105,000
2559	Fire Sprinkler Pump/Controls - Repl	40	33	\$68,000
2569	Heat Exchanger (Hot Water) - Repl	15	8	\$4,000
2569	Heat Exchanger (HVAC) - Repl	15	8	\$16,500
2571	Boilers - Replace	20	13	\$40,000
2575	Dom. Water Pumps/Controls - Replace	20	13	\$40,000
2583	Fountain Equipment - Replace	3	1	\$2,250
<b>Interior &amp; Amenities</b>				
2703	Walkovers - Replace	20	13	\$95,250
2705	Garage Ceiling Lights - Replace	25	18	\$34,700
2705	Hallway Lights - Replace	20	13	\$17,350
2709	Tie Flooring - Replace	20	13	\$44,400
2811	Hallway Carpeting - Replace	10	3	\$33,000

Association Reserves 9/30/2014

Large, color-coded charts and tables to illustrate long-term implications



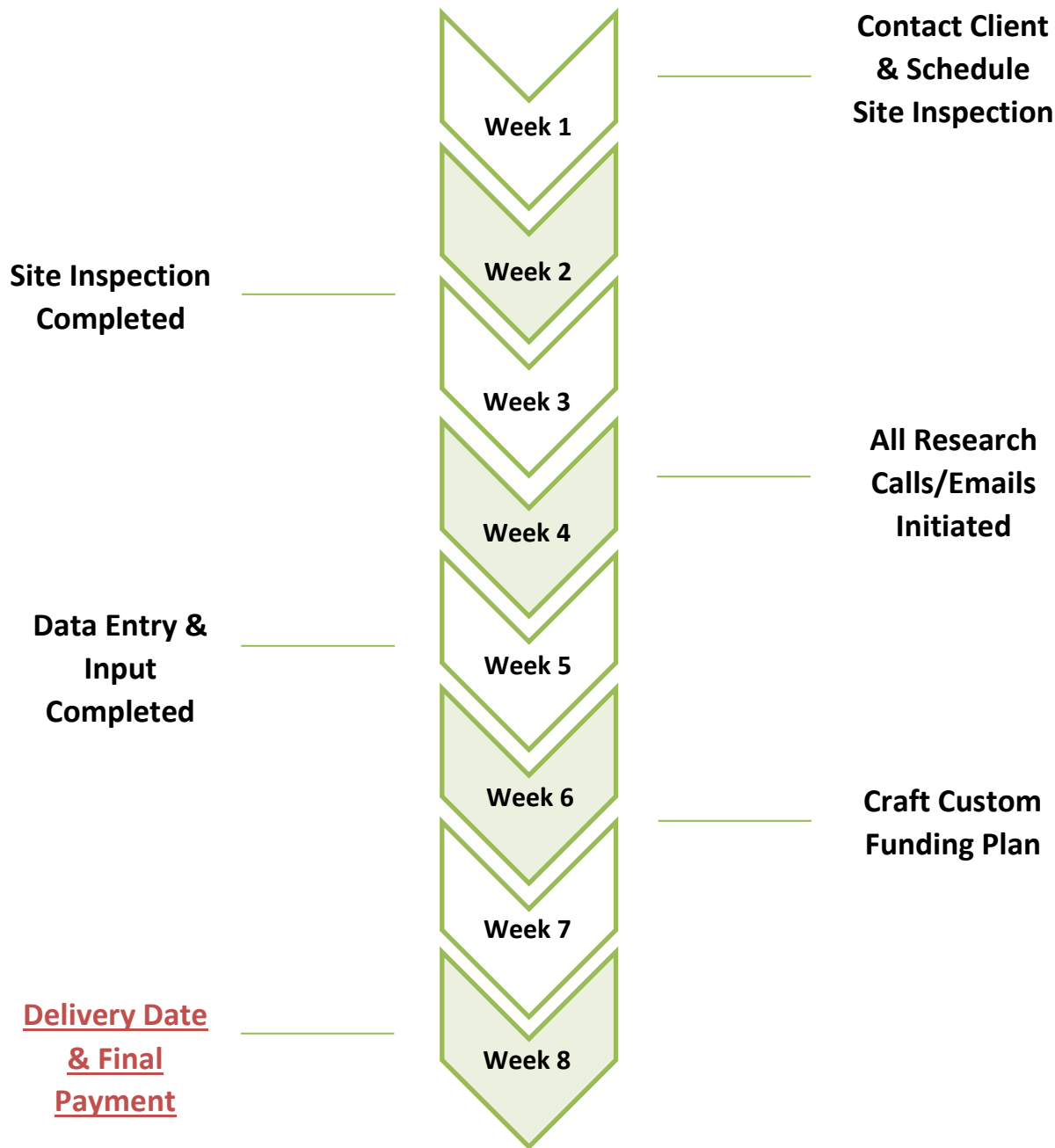
Here's a sample of our Inventory Appendix pages. We devote a half-page summary to every single component included in your Reserve Study.

Association Reserves	Inventory Appendix	
<b>Client:</b> 99991B Sample Condo - Building Exteriors		
<b>Comp #:</b> 2343 Building Exterior - Seal/Paint		
<b>Quantity:</b> Approx 165,200 GSF		
<b>Location:</b> Building exteriors		
<b>Evaluation:</b> Generally fair condition noted. Building has not been painted since original construction, but the association has obtained some bids for painting in the near future according to manager. Project may be postponed or done in stages due to ongoing construction at an adjacent site. We were provided with copy of exterior painting specifications prepared by Sherwin-Williams, which calls for an 8-year warranty. All door and window frame perimeters are to be caulked with a urethane sealant. As routine maintenance, inspect regularly (including sealants), repair locally and touch-up paint as needed. Typical paint cycles can vary greatly depending upon many factors including type of material painted, surface preparations, quality of material, application methods, weather conditions during application, moisture beneath paint, and exposure to weather conditions. Proper sealant/caulking is critical to preventing water intrusion and resulting damage to the building structure. Incorrect installations of sealant are common, and can greatly decrease its useful life. Inspect sealant, more frequently as it ages, to determine if it is failing. Typical sealant problems include failure of sealant to adhere to adjacent materials and tearing/splitting of the sealant itself. As sealants age and are exposure to ultra-violet sunlight, they will dry out, harden, and lose their elastic ability. Remove and replace sealant as signs of failure begin to appear. Proper cleaning, prep work, and proper installation are critical for a long lasting sealant/caulking. Repair areas as needed prior to project.		
Useful Life: 8 years		Descriptive, thorough observations
Remaining Life: 0 years		Full Color Photographs
Easy-to-find details	Best Case: \$180,000.00 Lower estimate to seal/repaint	Worst Case: \$250,000.00 Higher estimate
Cost Source: Estimates Provided by Client		
April 16, 2014	Page 8 of 10	

# Delivery Timeline

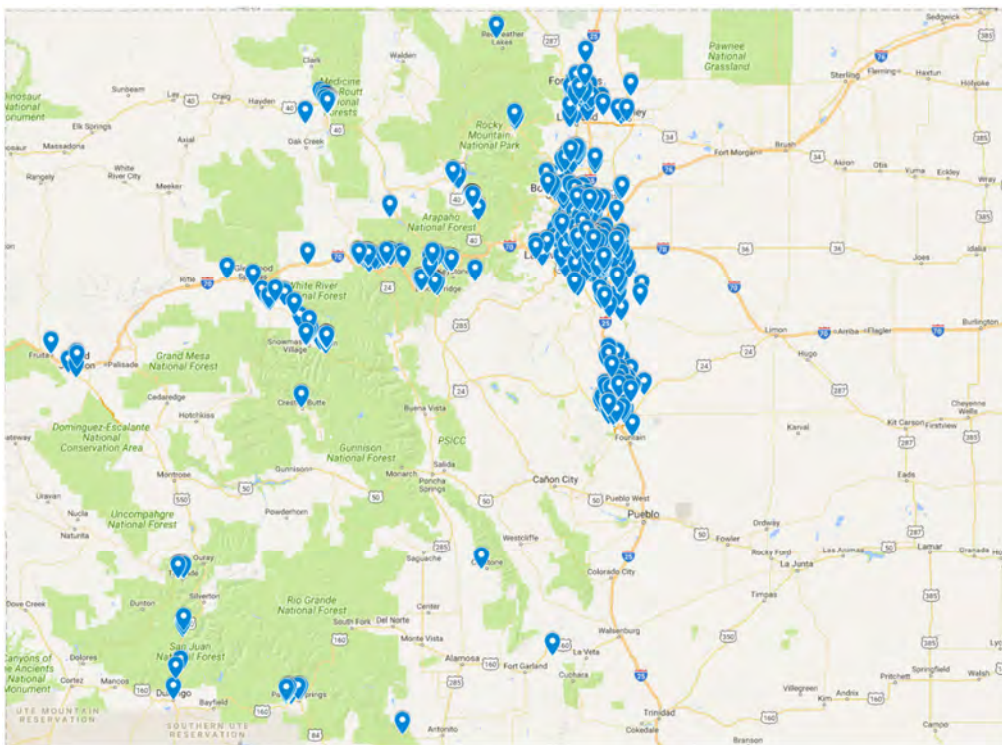
The delivery timeline for an 8-week turnaround will typically look as follows once we have received:

- ✓ Signed proposal agreement with 50% deposit
- ✓ CCRs (If a Full)



## Client Map and Testimonials

You don't get to be in business for over 30 years and counting without building a great reputation. Here's what some of our clients have had to say about us recently:



- “For over 20 years, I have relied upon Association Reserves to provide essential information during the lending process. Nobody does it better”  
*Alan Crandall, SVP Mutual of Omaha Bank*
- “I have used Association Reserves for many years and have always found them to be excellent in their depth, details and analysis.”  
*Quentin Yates PCAM, CCAM Meridian Residential Association*
- “The follow up and willingness to work with the Association was excellent. Any questions or concerns were addressed immediately.”  
*Michael Mazziotta Rivershores Plantation POA*

**Client References Available Upon Request**



**ASSOCIATION  
RESERVES™**

May 27, 2022

**BEEBE DRAW FARMS**

Weld County, Colorado

**Attn: Lisa Johnson**

**Transmitted via email: [Lisa.Johnson@claconnect.com](mailto:Lisa.Johnson@claconnect.com)**

**RE: Proposal for sidewalk/trail**

Lisa,

Thank you for the opportunity to provide this proposal for Civil Engineering & Surveying Services for the proposed sidewalk improvements to the Beebe Draw Farms Subdivision, near Platteville, Colorado.

It is our understanding that you desire to add approximately 1.1-miles of 6' wide and 3" thick asphalt sidewalk along the north side of Beebe Draw Farms Parkway as was discussed during our site visit conducted on May 9, 2022. The sidewalk will meander in a manner to provide more distance from the roadway; although there are several pinch points where 3 or 4 lot lines would require the walk to shift closer to the road. The construction drawings will be prepared showing plan and profiles of the sidewalk at a 1"=50' scale or less. There will be a crossing to design where a natural drainage course will intersect the sidewalk. Also, a controlled pedestrian crossing at Beebe Draw Farms Parkway near the recreation center will be included with the improvements and designed by our traffic engineer. Several other minor crossings (3) with Beebe Draw Farms Parkway, as well as at local street intersections (2) are expected; however, these crossing will not involve designed traffic control measures – rather just simple striping and signage of the crosswalks.

Grading is expected to best conform with the existing ground to allow the best balance of cut & fill. Additionally, since more than 1-acre of area will be disturbed, a State of Colorado Stormwater Discharge Permit will be required. The scope of this proposal includes providing the necessary engineering documents (Stormwater Management Plans & Report) required for obtaining the permit. Note that it will be the owner or contractor's responsibility to apply for and obtain the permit prior to construction. They will also be liable for implanting the plan during construction and all the way to final close out of the permit.

It is assumed that the design and construction plans will be prepared in accordance to meet Weld County Criteria, although it is expected that the County does not

*Beebe Draw Farms*  
*May 27, 2022*

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actually provide a review of these private improvements since they are owned and maintained by a Metropolitan District. If a review of the plans is deemed to be required by the County or other agency, there will not be additional fees as long as there are no major changes involved with redesigning the sidewalk.

The scope of the work to be provided in this proposal has been broken down into the various tasks required for the surveying and engineering design. Additionally, an estimated fee for construction staking and administration is included for budgeting purposes. A formal and more accurate proposal for those services will be provided as requested at a later time when the construction plans are near completion and the full scope of work is clearly identified. As the plans are near completion, an engineers probably cost of construction will be completed for all work and materials needed for the project. This will include calculating earthwork cut and fill amounts.

A topographic survey will first be required in order to obtain the base mapping and elevation information to be used in the engineering design. The mapping will include cross-sections from the northerly edge of asphalt to a point between 20 feet and 60 feet north of the road, depending on the topography, every 75 feet for an approximate mile-long portion of Beebe Draw Farms Parkway, from Fairbanks Road to Stoneleigh Road. These cross-sections will include grade breaks, flowline of the existing swale, and all visible improvements and surface features such as asphalt, cross pans, sidewalks, fences, signs, posts, etc., and all visible surface features of utilities including poles, overhead lines, pedestals, valve boxes, etc. Mapping will also show the right-of-way of Beebe Draw Farms Parkway, the rights-of-way of intersecting streets, outlots & lots within the topo area, and also show and easements that affect the topo area, all as shown on the Replat of Beebe Draw Farms and Equestrian Center. A current title commitment should be provided by the client in order to verify the recorded easements & plat. The survey work will be sub-contracted thru Drexel, Barrell to Civil Arts Surveying, in which we have used on many projects and are known to do quality and timely work. Typically, a survey provides for a Level 2 SUE (Sub-surface Utility Engineering) by sub-contracting a private underground utility locator to mark all identifiable underground utility lines. However, during our site visit it was noted that no known utilities (other than some sparse irrigation lines) are in the vicinity of the project on the north side of the street. Therefore, the effort and cost of underground utility locating has been removed from the scope of services at the direction of the owner and will instead be the responsibility of the contractor during construction to be aware of all utility lines that they may encounter. Drexel, Barrell & CO. assumes no liability or

*Beebe Draw Farms*  
*May 27, 2022*

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responsibility for any damages that may result from not providing this underground utility locating.

At your request, we have included Construction Administration and Bidding Assistance in the scope of work. Bidding assistance will include preparation of any project specific specifications, attendance at the Pre-Bid meeting and answering any bidding related questions by contractors. Construction Administration services will be limited to answering and responding to Contractor Request for Information (RFI's), review and approval of submittals, and site inspections and project coordination. Site inspection work is expected to include 4 hours on a given day, twice a week during the construction period (expected to last 6 weeks). For the purposes of this proposal, that would equal 48 hours of time on site. If additional time on site is required beyond that, time may be billed according to our hourly rates.

The table on the following page shows the breakdown of each task (service) to be provided and the associated fee for each task. We will provide the offered services for the fixed-fee listed, billed on a percentage of completion basis (provided that the scope of services does not change). Reimbursables, such as printing costs/mylars/etc., are not included in the fee but will be kept to a minimum by utilizing electronic submittals whenever possible.

Beebe Draw Farms  
May 27, 2022

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<b>SURVEYING</b>	<b>Fee</b>
<b>Topographic Survey</b> <ul style="list-style-type: none"> <li>Field Topography Survey &amp; Design Mapping of project area (1' contours &amp; existing features &amp; lot/ROW lines added to drawing)</li> </ul>	\$7,380
TOTAL SURVEYING FEE:	\$7,380
<b>CIVIL ENGINEERING</b>	<b>Fee</b>
<ul style="list-style-type: none"> <li>Sidewalk Construction Plan Set (To include, but not limited to: Cover Sheet, Project &amp; /General Notes, Sidewalk plan and profiles, pedestrian crossing design sheet, details sheets, typical sections)</li> </ul>	\$6,800
<ul style="list-style-type: none"> <li>Stormwater Management Plan &amp; Report (to fulfill State Permit Requirement since site is over 1 acre)</li> </ul>	\$4,080
<ul style="list-style-type: none"> <li>Construction Cost Estimate &amp; Quantity Takeoffs</li> </ul>	\$680
<ul style="list-style-type: none"> <li>Pedestrian crossing meeting with Committee (attended by Traffic Engineer &amp; Project Manager)</li> </ul>	\$680
TOTAL ENGINEERING FEE:	\$12,240
<b>CONSTRUCTION SERVICES</b>	<b>Fee</b>
<ul style="list-style-type: none"> <li>Bidding Assistance</li> </ul>	\$2,040
<ul style="list-style-type: none"> <li>Site visits/inspections/meetings with Contractor (48 hours @\$120/hr)</li> </ul>	\$5,760
TOTAL CONSTRUCTION SERVICES FEE:	\$7,800
<b>TOTAL FEE:</b>	<b>\$27,420</b>



Beebe Draw Farms  
May 27, 2022

We have utilized the following assumptions in preparation of this proposal:

1. It is assumed that no drainage analysis, report or study is required.
2. Preparation of As-Built Plans are NOT included with this proposal.
3. An estimated fee for construction staking was provided by Civil Arts for **\$13,725**; however, this would need to be confirmed once the final plans are completed since the full scope of the improvements are not known at this time.
4. Drexel, Barrell & Co. offers no geotechnical services; therefore, the sidewalk pavement section provided by the client to be shown on the plans, if not provided by a licensed geotechnical engineer, will be constructed at the client's risk. No guarantees as to the durability or longevity of the sidewalk can be made.
5. The survey work will take approximately 3-weeks to complete from the time of authorization to begin. The engineering design can be expected to take an additional 3-4 weeks beyond that time to complete the final drawings but will depend on current work loads.

Drexel Barrell's 2022 Fee Schedule and standard Terms and Conditions are attached and made a part of this proposal. In order to authorize us to being work, I will need your signature below. Thank you again for the opportunity to present this proposal and we look forward to working with you on this project.

Accepted:

**Drexel, Barrell & Co.**



**Cameron W. Knapp, P.E.**

Project Manager

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

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

Date: \_\_\_\_\_



**DREXEL, BARRELL & CO.**  
***FEE SCHEDULE***  
 Effective January 1, 2022

**I. PERSONNEL:**

<u>CATEGORY</u>	<u>HOURLY RATE</u>	<u>CATEGORY</u>	<u>HOURLY RATE</u>
<b>General:</b>		<b>Surveying:</b>	
Managing Principal	\$190	Office Surveyor / Analyst	\$125-145
Principal	\$180	Field Surveyor*	\$120-130
Associate	\$170-180		
<b>Engineering:</b>		<b>Administration:</b>	
Project Engineer / Manager	\$135-160	Controller	\$125
Design Engineer	\$110-130	Administrative	\$75
<b>CAD:</b>		<b>Construction Inspection:</b>	
Technician	\$105-115	Construction Inspector	\$110-130
<b>Miscellaneous:</b>		*1-person crew: \$60/hr charge for ea. extra crew member	
Expert Witness Duties	\$305		

- II. SUB-CONSULTANTS:** Unless agreed otherwise in the Professional Services Agreement, Drexel Barrell adds a 10% markup to invoices from sub-consultants to cover administrative and project management expenses.
- III. MILEAGE:** Unless agreed otherwise in the Professional Services Agreement, Drexel Barrell charges for all project related mileage at the rate of \$0.75 / mile.
- IV. TRAVEL TIME:** Unless agreed otherwise in the Professional Services Agreement, Drexel Barrell charges for travel time to and from the project site.
- V. REPROGRAPHICS:** Reprographics provided by outside printing companies will be charged at Drexel Barrell's cost plus 10%.
- VI. FIELD SUPPLIES:** Unless otherwise stated in the Professional Services Agreement, standard survey supplies (stakes, pin caps, etc.) are included in the negotiated fee. Drexel Barrell charges an additional \$100.00 per monument and \$200.00 for monument boxes when the project requires.
- VII. DELIVERY SERVICES:** Drexel Barrell will add a 10% mark-up to all messenger and overnight delivery service fees.
- VIII. OUT-OF-TOWN EXPENSES:** On projects requiring overnight lodging, Drexel Barrell charges a per diem rate for meals, lodging, and related expenses. The per diem rate will be Drexel Barrell's costs plus 10%.
- IX. RATE REVISIONS:** Drexel Barrell adjusts this Fee Schedule annually on January 1. Projects extending beyond December 31 of each year shall be subject to the new Fee Schedule.

**Drexel, Barrell & Co.**  
**TERMS AND CONDITIONS**

**1. SERVICES**

1.1. Client desires to retain Drexel to provide Client with certain Services (as defined below) with respect to the Client's project on the Project Site as described in the Scope of Work.

**2. DEFINITIONS**

2.1. "Scope of Work" shall mean the proposed work described on the attached Professional Services Agreement and any Proposal, which collectively specify the Services, the scope thereof, and the applicable fees for the Services.

2.2. "Services" shall mean the work to be performed by Drexel on the Client's project, subject to the terms of this Agreement, as specified in the Scope of Work. Drexel shall have no responsibility to perform any Services other than those specifically set forth as the Scope of Work.

**3. CHARGES, PAYMENT AND TAXES**

3.1. **Fees for Services.** Unless otherwise expressly stated in the Professional Services Agreement, Services shall be provided on a time and materials ("T&M") basis at Drexel's Fee Schedule rates current when the Services are performed. The Fee Schedule may be modified at the commencement of each calendar year and, as modified, shall be effective thereafter. If the parties agree that the T&M basis is Not to Exceed ("NTE") a sum certain, that shall be stated in the Professional Services Agreement and shall be deemed the maximum amount to be paid by Client on a T&M basis. If the Services are to be provided on a Fixed Fee basis, said Fixed Fee is the amount that shall be paid by Client for the Services provided in the Scope of Work, which Fixed Fee shall be billed and paid monthly based upon Drexel's estimate of the percentage of the work completed. If the Scope of Work is modified, Drexel shall provide the Services for new or additional work on a T&M basis not subject to the NTE or Fixed Fee unless a written change order modifying the NTE or Fixed fee for the modified Scope of Work is signed by the parties.

3.2. **Reimbursable Expenses.** Client shall reimburse Drexel for reasonable travel, communications, equipment rental, consultant's fees, disposal fees, reproduction, delivery and express shipping fees, subcontractor fees and expenses and other out-of-pocket expenses incurred in conjunction with the Services. All such reimbursables shall be billed at 1.10 times the direct out-of-pocket expense. Unless stated to the contrary in the Professional Services Agreement, Drexel shall be paid for all reimbursables in addition to any sum set forth as the NTE or Fixed Fee. Drexel's estimate of reimbursables in the Professional Services Agreement is an estimate only, and the actual reimbursables may be higher or lower.

3.3. **Invoicing and Payment.** Drexel shall invoice Client monthly, unless otherwise agreed in the Professional Services Agreement. Payment of all invoiced amounts shall be due within 45 days from the last day of the month for which Services were rendered (the "Grace Period"); for example, payment for work performed in September would be due by November 14. Client agrees to pay interest at the rate of 1.5% per month, compounded monthly, on any amount not timely received by Drexel, and interest shall accrue commencing with the first day of the Grace Period until the amount is paid in full. If any amount payable by Client remains unpaid after the Grace Period, in addition to other remedies available to it, Drexel shall be entitled, but not obligated, without terminating this Agreement to cease all Services until paid in full, which cessation shall extend all time-related obligations of Drexel. If the Client relies on payment or proceeds from a third party to pay Drexel and Client does not pay Drexel's invoice within 60 days of invoice date, Drexel may communicate directly with such third party to secure payment. If Client fails to pay Drexel timely, Drexel shall be entitled to recover its attorney fees and costs, as well as any employee costs in pursuing collection. Drexel will charge employee costs incurred in pursuing collection to the Client at our normal hourly billing rates.

3.4. **Taxes and Governmental Fees.** The agreed-upon compensation set forth in the Professional Services Agreement does not include any applicable taxes or fees levied or charged by any governmental entity. If Drexel is required to pay any federal, state, or local taxes or fees based on or in connection with its performance of the Services under this Agreement (other than taxes based on Drexel's income), such taxes and fees shall be billed to and paid by Client as a reimbursable expense pursuant to the provisions of Paragraph 3.2 above.

3.5. **Retainer.** If Client has provided to Drexel a Retainer, said Retainer shall be applied to amounts due under the final invoice submitted by Drexel upon completion of its Services; provided, however, that if Client fails to timely pay an earlier invoice, Drexel may apply any or all of the Retainer to pay such invoice and Client shall immediately replenish the Retainer. The Retainer may be applied by Drexel to satisfy, in whole or in part, any default of Client. If the Retainer is in an amount in excess of amounts remaining due from Client, Drexel shall refund such excess to Client within 30 days following completion of mailing its final invoice.

3.6. **Accuracy of Invoices.** Client agrees that invoices from Drexel to Client are correct, conclusive, and binding on Client unless Client, within 30 days from the date of the invoice, notifies Drexel in writing of alleged inaccuracies, discrepancies, or errors in the invoice.

3.7. **Fee Adjustment Due to Cessation of Work.** If Client requests Drexel to suspend or cease performance of the work or Drexel ceases its performance as provided under the terms of this Agreement, Client agrees to pay additional fees and expenses resulting from such suspension of work on a T&M basis as a modification to the Scope of Work.

3.8. **Rate Revisions.** Drexel adjusts its Fee Schedule annually on January 1. Fees on projects extending beyond January 1 of a year shall be subject to the new Fee Schedule.

**4. PROJECT**

4.1. **Access to Project Site.** Client agrees to cooperate in every way requested by Drexel to expedite the commencement and completion of its Scope of Work. Client agrees to provide Drexel access to the Project Site and to make available any records, documents, deeds or other items requested by Drexel for the reasonable performance of the work. If the Client does not own some or all of the real property within the Project Site, Client shall upon request provide to Drexel written authorization from the owner of such property to perform the work described in the Scope of Work. If Drexel is prevented from timely accessing the Project Site or commencing its work for any reason outside the control of Drexel, Client shall be responsible for all general conditions and other delay damages incurred by Drexel.

4.2. **Right of Entry.** Client grants Drexel, its agents, employees, consultants, contractors and subcontractors the right to enter the Project Site for the purpose of studying, researching, sampling and testing as necessary to perform the Services.

**5. TERM AND TERMINATION**

5.1. **Term.** This Agreement shall commence on the date the Professional Services Agreement is signed by Drexel (the "Commencement Date") and continue until the Services are completed and full payment has been received.

5.2. **Termination for Breach.** Either party may terminate this Agreement if the other party is in material breach of this Agreement and has not cured such breach within 15 days of written notice specifying the breach. Consent to extend the cure period for a non-monetary breach shall not be unreasonably withheld, so long as the breaching party has commenced efforts to cure during the 15-day notice period and pursues cure of the breach in good faith.

5.3. **Suspension and Termination for Cause.** Drexel may suspend its Services or terminate this Agreement upon 15 days written notice to Client if:

5.3.1. Client fails to pay an invoice within 30 days of the date of the invoice;

5.3.2. Client should become insolvent or have a receiver appointed over any of its assets;

5.3.3. Proceedings are instituted by or against Client for winding up, reorganization, or bankruptcy;

5.3.4. Client makes an assignment for benefit of its creditors;

5.3.5. Client, a governmental entity, or other cause beyond control of Drexel causes the work to be discontinued for a period in excess of 90 days; or

5.3.6. Due to matters beyond the control of Drexel, the work described in the Scope of Work has not been completed by the end of the second year from the Commencement Date.

**5.4. Effect of Termination.** The parties' rights and obligations shall survive termination of this Agreement. Termination of this Agreement shall not limit either party from pursuing any other remedies available to it, including injunctive relief. Termination shall not relieve Client of its obligation to pay: (a) all charges that accrued prior to such termination, (b) all charges incurred by Drexel after such termination in connection with the withdrawal of equipment and personnel from the Project Site, and (c) unless the termination results from Drexel's breach, Drexel shall be entitled to recover its lost profits and overhead as if it had completed its Services.

## **6. WARRANTY, REMEDY AND LIMITATION OF LIABILITY**

**6.1. Warranty.** Drexel warrants that the Services shall be performed consistent with generally accepted standards of care of professional engineers and surveyors in the locality of the Project Site. Client must report any deficiencies in the Services to Drexel in writing within 60 days of completion of the Services in order to receive the warranty remedy set forth in this Section. THE WARRANTY HEREIN IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

**6.2. Limitation of Liability/Exclusive Remedy.** For any claim against Drexel (whether it is for breach of warranty, for tort, for breach of contract, or otherwise), Drexel shall not be liable for any indirect, incidental, special or consequential damages, or damages for loss of profits, revenue, delay or use incurred by the Client or any third party. The risks have been allocated such that the Client agrees to the fullest extent permitted by law that Drexel's maximum liability to Client for any warranty claims, damages, or breaches arising out of this Agreement and the provision of its Services shall, at Drexel's choice, be one of the following: (a) Drexel's re-performance of the Services, (b) the fees paid to Drexel under this Agreement, or (c) \$50,000.

**6.3. Indemnification.** To the fullest extent permitted by law, Client shall indemnify, defend and hold Drexel harmless from and against any and all demands, suits, causes of action, judgments, expenses, attorneys' fees and losses arising out of or in connection with bodily injury (including death) to persons or damage to property resulting from conditions at the Project Site, the inaccuracy of data or information supplied by Client, and the acts or omissions of Client, its agents or employees.

**6.4. Estimates.** Drexel makes no representation or warranty concerning the estimated quantities, land areas, or probable costs made in connection with surveys, maps, plans, specifications, reports or drawings, other than that all such quantities, areas, and costs are estimates only. Certified land areas will only be provided when requested in writing and at additional charge to Client.

## **7. GENERAL**

**7.1. Governmental Approvals.** If set forth in the Scope of Work, Drexel agrees to assist and advise client in seeking the necessary governmental approvals for the project. Unless stated to the contrary in the Professional Services Agreement, Drexel shall be paid for its work in seeking such approvals on a T&M basis in addition to any sum set forth as the NTE or Fixed Fee. Drexel makes no warranties or representations regarding the likelihood of obtaining or timing of governmental approvals. Unless set forth to the contrary in the Professional Services Agreement, Drexel shall have no responsibility for assisting in submitting more than two sets of documents seeking governmental approval.

**7.2. Documents.** Drexel shall have the right to retain the originals of all documents, including but not limited to reports, surveys, plans, drawings, specifications, boring logs, field notes, laboratory test data, calculations or estimates prepared by Drexel in performing the Services (the "Documents") all of which shall remain the property of Drexel and may be used by Drexel without Client's consent. Client agrees not to use or rely on any Documents other than in connection with the Project without Drexel's prior written consent. Any such use of or reliance on the Documents without Drexel's permission is at Client's sole risk, and to the fullest extent permitted by law Client shall indemnify, defend and hold Drexel harmless from any and all Claims arising from such unauthorized use. Upon request and payment of the fees and costs involved and provided Client is not then in breach of this Agreement; Drexel shall provide copies of the Documents to Client for use in connection with the Project (in paper or Adobe PDF format only). All, alterable electronic documents (e.g., AutoCAD drawings, models, spreadsheets, word processing documents) are Drexel's instruments of service and intellectual property. Drexel is under no obligation to provide AutoCAD or other alterable electronic documents or data to the Client, their successors, assigns, agents, or third parties.

**7.3. Subcontracting.** Drexel shall be authorized to subcontract any of the Services, but such subcontracting shall not relieve Drexel of any of the responsibilities or obligations under this Agreement. The fees and expenses of such subcontractors shall be deemed reimbursable. Subject to the limitations set forth in Article 6 above, Drexel shall be and will remain responsible to Client for the neglect of any subcontractor's officers, agents, and employees.

**7.4. Force Majeure.** Drexel shall not be responsible for damages or delay in performance caused by events beyond the control of Drexel, including, without limitation, acts of God, strikes, lockouts, accidents, the actions of governmental entities, terrorist activities, failures of Client or others to provide timely information to Drexel, or otherwise.

**7.5. Third-Party Beneficiary.** Client and Drexel agree that there are no express, intended, or implied third-party beneficiaries to this Agreement, and this Agreement may only be enforced by the Client and Drexel.

**7.6. Relationship between the Parties.** Drexel is an entity independent from Client and is in direct control of its direction and timing of actions. This Agreement does not establish a joint venture, agency or partnership between the parties, nor does it create an employer-employee relationship. Each party shall be solely responsible for payment of all compensation owed to its employees, as well as employment-related taxes. Drexel is not responsible for the performance of work by third parties (other than Drexel subcontractors) including, without limitation, construction contractors.

## **8. MISCELLANEOUS**

**8.1. Governing Law.** The laws of the State of Colorado shall govern this Agreement, and all matters arising out of or relating to this Agreement.

**8.2. Jurisdiction.** Any legal action or proceeding relating to this Agreement shall be adjudicated in the District Court, Boulder County, State of Colorado, or the United States District Court for the District of Colorado, except that any action involving perfection or foreclosure of a mechanic's lien shall be adjudicated in the District Court for the county in which the Project Site is located. Drexel and Client agree to submit to the jurisdiction of, and agree that venue is proper in, the aforesaid courts in any such legal action or proceeding. Client and Drexel agree to waive any right to a jury trial.

**8.3. Notice.** All notices, including notices of address change, required or permitted to be sent hereunder shall be in writing and shall be deemed to have been given when mailed by first-class mail to the address for the party listed in the Scope of Work.

**8.4. Severability.** If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force.

**8.5. Waiver.** The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. Except for actions for nonpayment, no action, regardless of form, arising out of this Agreement may be brought by either party more than one year after the cause of action has accrued. A claim by the Client that Drexel failed properly or timely to complete its work shall be deemed to have accrued on the date Drexel substantially completed its Services.

**8.6. Successors and Assigns.** This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns. Neither party may assign its interest herein without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding the above, no assignment shall operate to relieve the assignor of its obligations hereunder.

**8.7. Entire Agreement.** This Agreement constitutes the complete agreement between the parties and supersedes all previous and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a Principal of Drexel and a representative of the Client. No other act, document, usage, or custom shall be deemed to amend or modify this Agreement. It is expressly agreed that any request or proposal by Client shall be superseded by the terms of this Agreement.

**NOTICE OF CONSIDERATION OF RATE ADJUSTMENT**  
**C.R.S. § 32-1-1001(2)(a)**

This NOTICE is required by state law. NOTICE IS HEREBY GIVEN that the Board of Directors of the **BEEBE DRAW FARMS AUTHORITY** (“Authority”) will hold regular meetings at 6:00 P.M. on Wednesday, the 13<sup>th</sup> day of July 2022 and at 6:00 P.M. on Wednesday, the 21<sup>st</sup> day of September 2022, at Pelican Lake Ranch Community Info and Sales Center, 16502 Beebe Draw Farms Parkway, Platteville, Colorado, and via MS Teams or other virtual platform, at which the Authority will consider and may take such action to fix and/or increase domestic water fees, rates and charges imposed by the Authority. The meeting will be open to the public. Access information to attend the meeting via MS Teams or other virtual platform is available on the Authority’s website, <https://beebedrawfarmsauthority.colorado.gov/>.

## ENGINEERING SERVICES AGREEMENT

This **ENGINEERING SERVICES AGREEMENT** (“Agreement”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_, 2022 (the “Effective Date”), by and between BEEBE DRAW FARMS AUTHORITY, an authority and separate legal entity duly created pursuant to Section 29-1-203, C.R.S. (the “Authority”), and WERNSMAN ENGINEERING AND LAND DEVELOPMENT, LLC, Colorado limited liability company (the “Consultant”), collectively, the “Parties.”

### RECITALS

WHEREAS, the Authority was established pursuant to its Authority Establishment Agreement dated April 12, 2011 in accordance with the laws of the State of Colorado to furnish, operate, and plan for certain public improvements; and

WHEREAS, the Authority is permitted to enter into, make and perform contracts of every kind and to conduct its business and affairs; and

WHEREAS, the Authority desires to procure consulting engineering services as further described herein; and

WHEREAS, the Consultant represents that it has that degree of specialized expertise and holds all required licenses necessary to perform the services contemplated herein; and

WHEREAS, the Authority desires to engage the Consultant to perform such services as are contemplated herein, and the Consultant is willing to provide such services to the Authority for reasonable consideration; and

WHEREAS, the Parties hereto desire to enter into this Agreement to establish the terms and conditions by which the Consultant shall provide such services to the Authority.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### COVENANTS AND AGREEMENT

#### 1.0 SERVICES PROVIDED BY CONSULTANT

1.1 Scope of Services. The Consultant shall provide such services as are set forth in **Exhibit A** attached hereto and incorporated herein (the “Services”). The Authority may, from time to time, request changes to the Services to be performed hereunder. Such changes, including any increase or decrease in the amount of Consultant’s compensation, shall be agreed to by the Parties and set forth in an amendment to this Agreement as provided in Section 7.3 hereof. No amendment to provide for a change in Services that results in an increase in the Consultant’s compensation shall be authorized and executed by the Authority unless sufficient funds have been appropriated by the Authority for payment of the increased compensation, as provided in Section 7.8 hereof.

The Consultant shall have no right or authority, express or implied, to take any action, expend any sum, incur an obligation, or otherwise obligate the Authority in any manner whatsoever, except to the extent specifically provided in this Agreement.

1.2 Professional Practices. All Services to be provided by the Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence, and skill ordinarily exercised by professionals in similar fields and circumstances in accordance with sound professional practices. The Consultant shall be responsible for providing, at the Consultant's sole cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Services, all in accordance with this Agreement.

1.3 Representation. The Consultant represents that it is familiar with all laws that may affect its performance of this Agreement and shall advise the Authority of any changes in any laws that may affect the its performance. The Consultant represents that it shall perform the Services required by this Agreement in compliance with all applicable federal and Colorado laws and regulations. The Consultant is solely and fully responsible to the Authority for the Services, including all acts and omissions of subcontractors and persons employed by them.

1.4 Responsibility for Errors. The Consultant shall be responsible for its work and results pursuant to this Agreement. The Consultant, when requested, shall furnish clarification and/or explanation as may be required by the Authority, regarding any Services rendered pursuant to this Agreement, at no additional cost to the Authority. In the event that an error or omission attributable to the Consultant occurs, the Consultant shall, at no cost to the Authority, provide all necessary design drawings, estimates, data, documents, services and any other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of the Authority and participate in any meeting required with regard to the correction.

## **2.0 Compensation and Billing**

2.1 Compensation. Compensation for satisfactory performance of the Services shall be based on the rate schedule set forth in **Exhibit A** attached hereto and incorporated herein, subject to Authority budgets and appropriations as set forth in Section 7.8 hereof.

2.2 Compensation for Change in Services. The Consultant shall not receive additional compensation for any change in Services provided unless the Authority and the Consultant have executed an amendment to this Agreement authorizing the change in Services and the payment of additional compensation to the Consultant. It is specifically understood that oral requests and/or approvals of a change in Services and payment of additional compensation shall be barred and are unenforceable.

2.3 Method of Billing. The Consultant shall submit invoices for the Services performed to the Authority for approval on a progress basis by the 3rd day of each month. Said invoices shall be based on the total of all Services provided by the Consultant which have been completed to the Authority's sole satisfaction. The Authority shall pay Consultant's invoice within forty-five (45)

days from the 3<sup>rd</sup> day of each month. Each invoice shall describe in detail the Services performed and the associated time for completion.

### **3.0 TIME OF PERFORMANCE**

3.1 Commencement and Completion of Work. The Services shall commence upon the Effective Date. Failure to commence work in a timely manner and/or to diligently pursue work to completion may be grounds for termination of this Agreement.

3.2 Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or Parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, riots, acts of war, or any other condition beyond the reasonable control of a party.

### **4.0 TERM AND TERMINATION**

4.1 Term. This Agreement shall commence upon the Effective Date and shall expire upon the completion of all Services set forth in Section 1.1 of this Agreement, provided that in the event the completion of Services occurs in a fiscal year following the Effective Date, such Services to be performed in the following fiscal year shall be subject to annual appropriations by the Authority. This Agreement may be extended upon mutual written agreement of the Parties, and such writing shall become an amendment to and part of this Agreement. Any extension of this Agreement shall be subject to annual appropriations by the Authority.

4.2 Notice of Termination. The Authority may terminate this Agreement prior to its expiration and completion of the Services for convenience or for cause, in whole or in part, by delivery to the Consultant of a written notice of termination at least thirty (30) days prior to the effective date of termination. Such notice shall specify the extent of termination and the effective date. If the Consultant is found in violation of any provision of this Agreement, the Consultant shall be liable for actual and consequential damages to the Authority. In the event of such termination, the Consultant shall immediately stop rendering Services pursuant to this Agreement unless otherwise directed by the Authority. The Consultant may terminate this Agreement, with cause, by delivery to the Authority of written notice of termination at least thirty (30) days prior to the effective date of termination. The Consultant shall stop rendering Services pursuant to this Agreement upon the effective date of termination.

4.3 Compensation. In the event of termination by either party, the Authority shall pay the Consultant only for those Services satisfactorily performed, as determined by the Authority, up to the effective date of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination, as applicable. In ascertaining the Services actually rendered up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the Services contemplated herein whether delivered to the Authority or in the possession of the Consultant.



4.4 Documents. In the event of termination of this Agreement by either party, all documents, including all Work Product as described in Section 7.1 hereof, prepared by the Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the Authority if all undisputed amounts owed to the Consultant are paid within ten (10) days of delivery of the effective date of termination, at no cost to the Authority. Any use of uncompleted documents without specific written authorization from the Consultant shall be at the Authority’s sole risk and without liability or legal expense to the Consultant.

**5.0 INSURANCE**

5.1 Minimum Scope and Limits of Insurance. The Consultant shall acquire and maintain in full force and effect during the entire term of this Agreement, and at its sole cost and expense, including any extension of this Agreement, the minimum insurance coverages and limits set forth in this Section 5.1 to provide protection from claims set forth below that may arise out of or result from the Consultant’s performance or obligation pursuant to this Agreement, whether such performance is by the Consultant, by anyone directly or indirectly employed by the Consultant, or by anyone who acts on behalf of the Consultant, including any subcontractors of the Consultant. The minimum insurance coverages and limits to be acquired by the Consultant are as follows:

(1) Commercial General Liability Insurance:

General Aggregate	\$ 2,000,000.00
Products and Completed Operations	\$ 1,000,000.00
Personal and Advertising Injury	\$ 1,000,000.00
Each Occurrence	\$ 1,000,000.00
Damage to Rented Premises	\$ 100,000.00
Medical Expenses (Any one person)	\$ 5,000.00

(2) Comprehensive Automobile Liability Insurance shall include all motor vehicles owned, hired, leased, or borrowed, with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence.

(3) Workmen's Compensation and Employer Liability Insurance:

Worker’s Compensation	Per Colorado Statutes
Employers’ Liability	\$100,000 each accident

(4) Professional Liability Insurance: Professional Liability insurance with coverage in the amount of One Million Dollars (\$1,000,000) each claim and in the aggregate covering the negligent acts, errors, or omissions of the Consultant and/or its subcontractors in the performance of the Services.

(5) Umbrella Policy: \$1,000,000

Unless otherwise indicated, all policies listed herein shall be on an occurrence basis.

5.2 Additional Insured Parties. The Authority shall be named as an additional insured on all policies (with the exception of workers' compensation insurance). The Consultant's insurance coverage shall be primary insurance and non-contributory with respect to all other available insurance sources.

5.3 Certificates of Insurance. Prior to commencing performance of the Services, the Consultant shall provide the Authority with certificates of insurance showing the insurance coverages and required endorsements described above.

5.4 Notice. The Consultant agrees to provide the Authority with a minimum 10-day notice for the cancellation of any insurance policies required by this Agreement due to the non-payment of a premium and with a minimum of a 30-day notice for any change to or cancellation of an insurance policy other than for non-payment of a premium. Any failure on the part of the Consultant to comply with the notice reporting provisions or other conditions of the insurance policies set forth herein shall not affect the obligation of the Consultant to provide the required coverage to the Authority and its directors, officers, employees, and agents.

5.5 Subcontractor Insurance. If the Consultant subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to maintain the insurance coverages set forth in Section 5.1 hereof. The Consultant shall require each subcontractor to provide to the Consultant insurance certificates and endorsements, including necessary updates to the same, demonstrating compliance with Section 5.1. The Consultant shall retain all subcontractor insurance certificates and endorsements for the duration of the Agreement. The Consultant shall, upon Authority request, submit them to the Authority for review. Failure to acquire and maintain subcontractor insurance certificates is a material breach of this Agreement.

5.6 Non-limiting. No provision, term or condition set forth in Sections 5.0 through 5.5 of this Agreement shall be construed as limiting in any way, the indemnification provision contained in Section 7.5 hereof, or any rights, immunities and protections provided to the Authority by the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S., or the extent to which the Consultant may be held responsible for payments of damages to persons or property.

## **6.0 WORKERS WITHOUT AUTHORIZATION PROVISIONS.**

6.1 Certification. Prior to the execution of this Agreement, the Consultant shall certify to the Authority, as attached hereto as **Exhibit B**, that at the time of certification, it does not knowingly employ or contract with a worker without authorization who will perform work pursuant to this Agreement and that the Consultant will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program (the "Department Program"), as further described in Section 6.6 herein, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work pursuant to this Agreement.

6.2 Prohibited Acts. The Consultant shall not:

(A) Knowingly employ or contract with a worker without authorization to perform work pursuant to this Agreement; or

(B) Enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work pursuant to this Agreement.

6.3 Verification.

(A) The Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform work pursuant to this Agreement through participation in either the E-Verify Program or the Department Program.

(B) The Consultant shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

(C) If the Consultant obtains actual knowledge that a subcontractor performing work pursuant to this Agreement knowingly employs or contracts with a worker without authorization, the Consultant shall:

(i) Notify the subcontractor and the Authority within three (3) days that the Consultant has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and

(ii) Terminate the subcontract with the subcontractor if, within three (3) days of receiving the notice required pursuant to subparagraph (i) hereof, the subcontractor does not stop employing or contracting with the worker without authorization; except that the Consultant shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.

6.4 Duty to Comply with Investigations. The Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation conducted pursuant to Section 8-17.5-102 (5), C.R.S. to ensure that the Consultant is complying with the terms and conditions contained under Section 6.0 of this Agreement.

6.5 Breach. If the Consultant violates any provision set forth under Section 6.0 herein, the Authority may terminate the Agreement for breach of the Agreement. If the Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the Authority. The Authority shall notify the Colorado office of the Secretary of State if the Consultant violates any provision set forth under Section 6.0 herein and the Authority terminates the Agreement.

6.6 Department Program. If the Consultant participates in the Department Program in lieu of the E-Verify Program, the Consultant shall notify the Department and the Authority of such participation. The Consultant shall, within twenty (20) days after hiring an employee who is newly hired for employment to perform work under the Agreement, affirm that the Consultant has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. Sec. 1324a, and has not altered or falsified the identification documents for such employees. The Consultant shall provide a written, notarized copy of the affirmation to the Authority.

## **7.0 GENERAL PROVISIONS**

7.1 Ownership of Work Product. Any and all Work Product, as such term is defined herein, created, prepared, and/or produced by the Consultant pursuant to this Agreement shall become the sole and exclusive property of the Authority under all circumstances, whether or not the Consultant completes the Services set forth hereunder or the Agreement is terminated. Upon request by the Authority, all Work Product shall be delivered to the Authority in hard copy and in an electronic format compatible to the Authority's computer applications at the Consultant's expense. Upon payment to the Consultant for its Services, the Authority shall have the right to use and re-use all Work Product resulting from the Consultant's efforts performed pursuant to this Agreement in any way or manner deemed appropriate by the Authority. Any modification of the documents, without written verification, completion, or adaptation by the Consultant, as appropriate for the specific purpose intended, will be at the Authority's sole risk and without liability or legal exposure to the Consultant or to its officers, directors, members, partners, agents, employees, and subcontractors. The Authority's use of any or all such Work Product for its own purposes shall not be a violation of any patent or copyright thereof. For purposes of this Agreement, "Work Product" includes, but is not limited to, any and all finished or unfinished design, development and/or construction documents, drawings, reports, writings, data, studies, graphics, maps, plans, specifications, electronic files and other documents, materials and information, in every form and/or format, which the Consultant prepared and/or used in connection with this Agreement. All drawings, specifications and other documents prepared by the Consultant pursuant to this Agreement are not intended or represented to be suitable for reuse by the Authority or others on extensions of the work or on any other project.

7.2 Independent Contractor Status. The Consultant is an independent contractor and nothing contained herein shall be construed as constituting any relationship with the Authority other than that of owner and independent contractor, nor shall it be construed as creating any relationship whatsoever between the Authority and any of the Consultant's employees. Neither the Consultant nor any of the Consultant's employees are or shall be deemed employees of the Authority. The Consultant is not, and shall not act as, the agent of the Authority. The employees who assist the Consultant in the performance of the Services shall at all times be under the Consultant's exclusive direction and control and shall be employees of the Consultant and not employees of the Authority. The Consultant shall pay all wages, salaries, and other amounts due the Consultant's employees in connection with the performance of the Services and shall be responsible for all reports and obligations respecting such employees including, without limitation social security tax, income tax withholding, unemployment compensation, worker's compensation, employee benefits and similar matters. Further, the Consultant has sole authority

and responsibility to employ, discharge, and otherwise control the Consultant's employees. The Consultant has sole authority and responsibility as principal for the Consultant's agents, employees, subcontractors and all others the Consultant hires to perform or assist in performing the Services.

7.3 Modification. This Agreement may not be amended, modified, or changed, in whole or in part, without a written agreement executed by both the Authority and the Consultant.

7.4 Assignment. The Consultant shall not assign or transfer all or any part of the Consultant's interest in this Agreement without the Authority's prior written consent. Any attempted assignment or transfer shall be void, shall constitute a breach of the Agreement, and shall be cause for termination of this Agreement. Regardless of the Authority's consent, no assignment or transfer shall release the Consultant from the Consultant's obligation to perform all other obligations to be performed by the Consultant hereunder for the term of the Agreement. The consent to one assignment shall not be deemed to be consent to any subsequent assignment nor the waiver of any right to consent to such subsequent assignment.

7.5 Indemnification. The Consultant shall indemnify, assume all responsibility for, and hold harmless the Authority and each of its directors, officers, consultants, employees, servants, agents, and authorized volunteers, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities arising, or alleging to arise, directly or indirectly, in whole or in part, from any intentional or negligent acts or omissions of the Consultant or any of its subcontractors, agents or employees, in connection with the Consultant's performance, duties, and obligations pursuant to this Agreement; provided, however, that the Consultant shall not be liable for any claim, loss, damage, injury or liability caused by the negligence or fault of the Authority or any third party under the control or supervision of the Authority. If the Consultant is providing architectural, engineering, surveying, or other design services, then the extent of the Consultant's obligation to indemnify or hold harmless the Authority may be determined only after the Consultant's liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the Consultant and the Authority. The obligations of the indemnifications extended by the Consultant to the Authority under this Paragraph shall survive termination or expiration of this Agreement.

7.6 Governmental Immunity. Nothing in this Agreement shall be construed to be a waiver, in whole or in part, of any right, privilege, or protection afforded the Authority or its Board of Directors, officers, employees, servants, agents, or authorized volunteers, pursuant to the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S.

7.7 Liability of the Authority. No provision, covenant or agreement contained in this Agreement, nor any obligations herein imposed upon the Authority shall constitute or create an indebtedness or debt of the Authority within the meaning of any Colorado constitutional provision or statutory limitation.

7.8 Subject to Annual Appropriations. The Authority does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The

Authority's payment obligations hereunder, including for any change in Services authorized pursuant to an amendment to this Agreement as set forth in Section 1.1 hereof, are subject to annual appropriations. The Authority has appropriated sufficient funds for this Agreement for the current fiscal year. Any extension of this Agreement or any change in Services to be provided by the Consultant resulting in additional compensation to be paid by the Authority, as set forth in an amendment to this Agreement, shall be subject to annual appropriations by the Authority.

7.9 Notices. Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be in writing and may be personally delivered; sent by certified mail, return receipt requested; sent by electronic mail, delivery receipt requested; or sent by a nationally recognized receipted overnight delivery service for earliest delivery the next day. Any such notice shall be deemed to have been given as follows: when personally delivered to the party to whom it is addressed; when mailed, three delivery (3) days after deposit in the United States mail, postage prepaid; when by electronic mail, on the day sent if sent on a day during regular business hours (9 a.m. to 5 p.m.) of the recipient, otherwise on the next day at 9 a.m.; and when by overnight delivery service, one (1) day after deposit in the custody of the delivery service. The addresses for mailing, transmitting, or delivering notices shall be as follows:

**If to the Authority:** Beebe Draw Farms Authority  
c/o CliftonLarsonAllen LLP  
Attn: Lisa A. Johnson, Manager  
8390 E. Crescent Parkway, Suite 300  
Greenwood Village, CO 80111  
Email: [Lisa.Johnson@claconnect.com](mailto:Lisa.Johnson@claconnect.com)

**Copy to:** Icenogle Seaver Pogue, PC.  
Attn: Alan D. Pogue  
4725 S. Monaco St., Suite 360  
Denver, Colorado 80237  
Email: APogue@ISP-law.com

**If to the Consultant:** Wernsman Engineering and Land Development, LLC  
Attn: Eric Wernsman  
16493 Essex Rd. S.  
Platteville, Colorado 80651  
Email: ejwerns25@gmail.com

7.10 No Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence of event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

7.11 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

7.12 Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance.

7.13 Attorneys' Fees. In the event that litigation is brought by either party hereto in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any terms, conditions, or provisions hereof.

7.14 No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of the Authority and the Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under, or to this Agreement.

7.15 Conflicts. The terms of this Agreement may be used to construe the intent of the Parties in connection with any exhibit addendum or amendment attached hereto, and shall be read as nearly as possible to make the provisions of any such exhibit, addendum, or amendment and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the provisions of any exhibit, addendum, or amendment, the provisions of this Agreement shall prevail.

7.16 Headings. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

7.17 Binding Agreement. This Agreement shall inure to and be binding upon the respective Parties hereto and their successors and permitted assigns.

7.18 Entire Agreement. This Agreement, including all exhibits attached hereto, constitutes the entire Agreement between the Parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations.

7.19 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

(Remainder of Page Left Intentionally Blank.)

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

**BEEBE DRAW FARMS AUTHORITY:**

\_\_\_\_\_

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

**WERNSMAN ENGINEERING AND LAND DEVELOPMENT, LLC**

\_\_\_\_\_

By: Eric Wernsman, P. E.  
Its: \_\_\_\_\_



## EXHIBIT A

### SCOPE OF SERVICES AND RATES FOR SERVICES

1. INITIAL SERVICE
  - a. Review and determination of existing data/files from prior engineer
  - b. Summary of what is needed to complete CAD files and base map workable for concept planning and through final engineering and final plat.
  - c. Complete work to make base mapping useable.
2. CONCEPT PLAN
  - a. To be prepared with TerraForma & Land Planner.
  - b. Bubble land use map with existing facilities, easements and similar limitations shown with main road network.
  - c. General land use summary and amenity locations.
3. BACKGROUND PLANS FOR MEETING WITH STAKEHOLDERS
  - a. Site analysis plans
    - i. Slope grades
    - ii. Elevation levels, with high and low points.
    - iii. Drainage ways
    - iv. Existing physical features ie: fences, roads/trails, windmills, stock tanks, water wells
    - v. Oil and gas features including well heads, tank facilities, flow lines, transmission lines and associated easements, access roads, and setbacks
  - b. Composite analysis plan noting restrictions for development
  - c. Location map noting major roads and nearby communities and facilities such as: schools, hospital/medical facilities, shopping and amenities.
  - d. Concept plan
    - i. Major road system
    - ii. Land Use
    - iii. Road standards
    - iv. Water system concept
    - v. Trail system
    - vi. Amenity sites
  - e. Concept details
    - i. Typical lot layouts and setbacks
    - ii. Irrigation limitations
    - iii. Landscape concepts
  - f. Plans to be at scales where can be large format and also readable for reproduction on a 11x17 sheet size.
  - g. Preparation of written materials, photo images and incorporated into a presentation booklet.
4. FUTURE SCOPE TO BE DETERMINED
  - a. Final PUD plans
  - b. Final Plat

- c. Final Engineering
- d. All per current Weld County Requirements

5. FEE SCHEDULE

Staff	Fee
Principal Civil Engineer	\$150 per hour
Professional Civil Engineer	\$130 per hour
Civil Cad Drafter	\$80 per hour

**EXHIBIT B**

**CERTIFICATION REGARDING WORKERS WITHOUT AUTHORIZATION**

To: BEEBE DRAW FARMS AUTHORITY

I, \_\_\_\_\_, as \_\_\_\_\_ of Wernsman Engineering and Land Development, LLC, the “Consultant” for that certain contract for engineering services (“Agreement”) to be entered into with Beebe Draw Farms Authority, do hereby certify on behalf of said Consultant that, as of the date of this Certification, Consultant does not knowingly employ or contract with a worker without authorization who will perform work pursuant to this Agreement and that Consultant will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment’s Employment Verification Program pursuant to Section 8-17.5-102(5)(c), C.R.S. in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work pursuant to this Agreement.

Executed on the \_\_\_\_ of \_\_\_\_\_, 2022.

WERNSMAN ENGINEERING AND LAND DEVELOPMENT, LLC

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

**RESOLUTION OF THE BOARD OF DIRECTORS OF  
BEEBE DRAW FARMS AUTHORITY**

A RESOLUTION APPROVING THE IMPROVEMENT ACQUISITION, ADVANCE AND REIMBURSEMENT AGREEMENT AND, IN CONNECTION THEREWITH, AUTHORIZING THE ISSUANCE OF A SUBORDINATE PROMISSORY NOTE TO REI LLC TO EVIDENCE THE AUTHORITY'S REIMBURSEMENT OBLIGATION FOR CAPITAL IMPROVEMENTS

WHEREAS, the Beebe Draw Farms Authority (the "Authority"), was established pursuant to its Authority Establishment Agreement dated April 12, 2011 ("Establishment Agreement") in accordance with the laws of the State of Colorado to effect the development and operations and maintenance of public improvements for the benefit of the Beebe Draw Farms Metropolitan District Nos. 1 and 2, and the residents and property owners served by the Authority; and

WHEREAS, REI LLC, a Wyoming limited liability company ("REI"), has expended and intends in the future to expend funds to provide for planning, engineering, and construction costs related to the provision of public improvements within the Authority's service area, including street, traffic and safety, water, sanitation, parks and recreation improvements (collectively, the "Improvements") for the benefit of the property within its service area; and

WHEREAS, the Authority will incur capital costs associated with the acquisition of Improvements constructed by REI and/or the construction of Improvements by the Authority; and

WHEREAS, the Authority currently lack sufficient funds to finance the acquisition, design, construction and installation of Improvements; and

WHEREAS, REI is willing to fund the costs associated with the planning, acquisition, design, construction and installation of Improvements, provided that the Authority agrees to repay REI for such costs funded by REI; and

WHEREAS, the Authority has agreed to repay REI for any Improvements designed and constructed by REI and acquired by the Authority and/or for any advances received from REI for the Authority's design, construction and installation of Improvements, subject to the terms and conditions set forth herein; and

WHEREAS, the Authority and REI have negotiated, and desire to enter into, a "Improvement Acquisition, Advance and Reimbursement Agreement," as attached hereto as Exhibit A and incorporated herein by reference (the "Agreement"), for the purpose of consolidating all understandings and commitments between the parties relating to the funding and repayment of costs associated with the construction and acquisition of Improvements; and

WHEREAS, to evidence the Authority's repayment obligation to REI pursuant to the Agreement, the Authority desires to issue a subordinate promissory note, as attached hereto as Exhibit B and incorporated herein by reference (the "Subordinate Note"), to REI.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF BEEBE DRAW FARMS AUTHORITY AS FOLLOWS:

1. The Board of Directors hereby approves the “Improvement Acquisition, Advance and Reimbursement Agreement” attached hereto as Exhibit A, and further authorizes the Authority’s President to execute the same.

2. The Board of Directors hereby authorizes the issuance of the Subordinate Note, as attached hereto as Exhibit B, to REI, to evidence the Authority’s repayment obligation to REI pursuant to the Improvement Acquisition, Advance and Reimbursement Agreement approved herein, and authorizes the Authority’s President to execute the same.

3. This Resolution shall take effect on the date and at the time of its adoption.

(Signatures Begin On Next Page.)

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

**BEEBE DRAW FARMS AUTHORITY**

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

Its: \_\_\_\_\_

**EXHIBIT A**  
(To Resolution)

**IMPROVEMENT ACQUISITION, ADVANCE AND REIMBURSEMENT AGREEMENT**

## IMPROVEMENT ACQUISITION, ADVANCE AND REIMBURSEMENT AGREEMENT

THIS IMPROVEMENT ACQUISITION, ADVANCE AND REIMBURSEMENT AGREEMENT (the “Agreement”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between BEEBE DRAW FARMS AUTHORITY, an authority and separate legal entity duly created pursuant to Section 29-1-203, C.R.S. (the “Authority”), and REI LLC, a Wyoming limited liability company (“REI”), (collectively, the “Parties”).

### RECITALS

WHEREAS, the Beebe Draw Farms Authority (the “Authority”), was established pursuant to the Authority Establishment Agreement dated April 12, 2011 (“Establishment Agreement”) in accordance with the laws of the State of Colorado to effect the development and operations and maintenance of public improvements for the benefit of the Beebe Draw Farms Metropolitan District Nos. 1 and 2, and the residents and property owners served by the Authority; and

WHEREAS, capitalized terms not defined herein shall have the meanings given to them in the Establishment Agreement; and

WHEREAS, the Authority has the power to exercise all powers now conferred by law upon separate legal entities established pursuant to Section 29-1-203, C.R.S., including, without limitation, the power to plan, design, acquire, construct, install, relocate and/or redevelop and finance the Public Improvements (hereafter, the “Improvements”) for the benefit of the Authority; and

WHEREAS, in furtherance of the Establishment Agreement, the Authority will incur capital costs associated with the planning, acquisition of Improvements constructed by REI and/or the construction of Improvements by the Authority; and

WHEREAS, the Authority currently lacks sufficient funds to finance the planning, acquisition, design, construction and installation of Improvements; and

WHEREAS, REI is willing to fund the costs associated with the acquisition, design, construction and installation of Improvements, provided that the Authority agrees to repay REI for such costs funded by REI; and

WHEREAS, the Authority has agreed to repay REI for Improvements designed and constructed by REI and acquired by the Authority and/or for any advances received from REI for the Authority’s design, construction and installation of Improvements, subject to the terms and conditions set forth herein; and

WHEREAS, the Authority and REI have negotiated, and desire to enter into, this Agreement for the purpose of consolidating all understandings and commitments between the parties relating to the funding and repayment of costs associated with the construction and acquisition of Improvements; and



WHEREAS, to evidence the Authority's repayment obligation to REI, the Authority desires to issue a Subordinate Note to REI; and

WHEREAS, the Authority's Board of Directors and REI have authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement; and

WHEREAS, those employees and/or affiliates of REI who serve on the Authority's Board of Directors have each disclosed potential conflicts of interest in connection with this Agreement, as required by law.

NOW THEREFORE, in consideration of the mutual covenants and promises expressed herein, REI and the Authority hereby agree as follows:

### **COVENANTS AND AGREEMENTS**

1. Purpose of Agreement. The Parties acknowledge that the Authority does not presently have the funds to construct the Improvements. In furtherance of the purposes of the Authority as expressed in the Establishment Agreement, this Agreement shall provide a means by which the Authority may reimburse REI for (i) certain Certified Authority Eligible Costs (as such term is defined herein) of the Improvements financed and constructed by REI, and (ii) advances made to the Authority for the design, construction and installation of Improvements by the Authority. For purposes of this Agreement, the term "Certified Authority Eligible Costs" shall mean "Authority Eligible Costs" (as defined below) with respect to which the Authority has issued an "Acceptance Resolution" as hereinafter provided.

2. Improvement Acquisition Procedures/Application for Acceptance/Reimbursement of Soft Costs. The Parties hereby acknowledge and agree that REI may design and/or construct, or cause to be designed and constructed, certain Improvements for the benefit of the property within the Authority's boundaries including the Pelican Lake Ranch Development (the "Development"), subject to the terms and conditions set forth herein. REI will only construct Improvements as authorized by the Authority and the Authority is not authorized to accept any improvements or certify any costs for any Improvements that are not pre-approved by the Authority and agreed to by REI. REI agrees to design, construct, and complete any such Improvements in substantial conformance with the design standards and specifications as established and in use by the Authority, Weld County (the "County"), and other appropriate jurisdictions. Upon completion of any design of and/or incurrence of other soft costs related to the construction and installation of Improvements (collectively, the "Soft Costs") and upon the completion of Improvements, REI shall submit an application for reimbursement of "Authority Eligible Costs" for Soft Costs and/or completed Improvements. For purposes of this Agreement, the term "Authority Eligible Costs" shall mean any and all costs of any kind related to the provision of the Improvements that may be lawfully funded by the Authority pursuant to the Establishment Agreement and as permitted by law.

a. Dedicated Improvements. With respect to Improvements that are being transferred to other governmental entities or authorities, REI shall furnish the following to the Authority:

(1) A completed “Application for Acceptance of Authority Eligible Costs” on the Authority’s standard form, attached hereto and incorporated herein as Exhibit A;

(2) A description of the Improvements to be dedicated and the proposed Authority Eligible Costs thereof;

(3) Contracts and approved change orders;

(4) Copies of all invoices, statements and evidence of payment thereof equal to the proposed Authority Eligible Costs, including lien waivers from any suppliers and subcontractors;

(5) A letter from the governmental entity to which the Improvements are being dedicated evidencing the governmental entity’s preliminary or conditional acceptance of such Improvements, subject to any applicable warranty period;

(6) A letter agreement in form and substance satisfactory to the Authority addressing the maintenance of such Improvements during the applicable warranty period, REI’s commitment to fund the costs of any corrective work that must be completed before final acceptance by the governmental entity to which such Improvements are being dedicated, and REI’s agreement to obtain final acceptance from the governmental entity; and

(7) Such additional information as the Authority may reasonably require.

b. Acquired Improvements. With respect to Improvements to be acquired by the Authority, REI shall furnish the following:

(1) A completed “Application for Acceptance of Improvements” on the Authority’s standard form, attached hereto and incorporated herein as Exhibit B;

(2) A description of the Improvements to be acquired and the proposed Authority Eligible Costs thereof;

(3) Bid tabulations, bid evaluations, contracts and approved change orders;

(4) Copies of all invoices, statements and evidence of payment thereof equal to the proposed Authority Eligible Costs, including lien waivers from any suppliers and subcontractors;

(5) Evidence that any and all real property interests necessary to permit the Authority's use and occupancy of the Improvements have been granted, or, in the discretion of Authority, assurances acceptable to the Authority that REI, as applicable, will execute or cause to be executed such instruments as shall satisfy this requirement;

(6) A complete set of digital record drawings of the Improvements which are certified by a professional engineer registered in the State of Colorado or a licensed land surveyor, showing accurate dimensions and location of all Improvements. Such drawings shall be in form and content reasonably acceptable to the Authority;

(7) Approved landscape plan and certification by a landscape architect or engineer that all landscape Improvements were installed in accordance with the approved landscape plan(s) (*if applicable*);

(8) Test results for Improvements conforming to industry standards (compaction test results, concrete tickets, hardscape test results, cut-sheets etc.) (*if applicable*);

(9) Pressure test results for any irrigation system (*if applicable*);

(10) Certification from an independent engineer or other appropriate design professional (such professional shall not have been previously engaged by REI on the construction of the Improvements) stating that 1) the Improvements have been inspected for compliance with approved designs, plans and construction standards, 2) that the Improvements (or its individual components and/or subsystems, if applicable) have been substantially constructed in accordance with the approved designs, plans and construction standards, and, 3) the Improvements are fit for their intended purpose (the "Engineer's Design Certification");

(11) Assignment of any warranties or guaranties;

(12) Any operation and maintenance manuals;

(13) An executed Bill of Sale and Warranty Agreement in form and substance acceptable to the Authority;

(14) If the Authority is to assume ownership of any real property, a title commitment and form of Special Warranty Deed, in a form acceptable to the Authority, conveying the real property free and clear of all liens, claims and other encumbrances; and

(15) Such additional information as the Authority may reasonably require.

c. Soft Costs. With respect to the repayment of Soft Costs incurred by REI, REI shall furnish the following to the Authority:

(1) A completed "Application for Acceptance of Authority Eligible Costs" for Soft Costs related to Improvements constructed or to be constructed by REI and to be

dedicated to a governmental entity, and/or a completed “Application for Acceptance of Improvements” for Soft Costs incurred for Improvements to be accepted by the Authority, on the Authority’s standard forms, attached hereto and incorporated herein as Exhibit A and Exhibit B, respectively.

- (2) A description of the proposed Authority Eligible Costs thereof;
- (3) Contracts and approved change orders for Soft Costs related to Improvements to be accepted by the Authority;
- (4) Copies of all invoices, statements and evidence of payment thereof equal to the proposed Authority Eligible Costs;
- (5) A complete set of digital record drawings of the Improvements which are certified by a professional engineer registered in the State of Colorado or a licensed land surveyor, showing accurate dimensions and location of all Improvements. Such drawings shall be in form and content reasonably acceptable to the Authority (*if applicable*);
- (6) Approved landscape plan (*if applicable*);
- (7) Test results for Improvements conforming to industry standards (compaction test results, concrete tickets, hardscape test results, cut-sheets etc.) (*if applicable*);
- (8) Pressure test results for any irrigation system (*if applicable*);
- (9) Certification from an independent engineer or other appropriate design professional (such professional shall not have been previously engaged by REI on the construction of the Improvements) stating that 1) the Improvements have been inspected for compliance with approved designs, plans and construction standards, 2) that the Improvements (or individual components and/or subsystems, if applicable) have been substantially constructed in accordance with the approved designs, plans and construction standards, and, 3) the Improvements are fit for their intended purpose (the “Engineer’s Design Certification”);
- (10) Assignment of any warranties or guaranties (*if applicable*); and
- (11) Such additional information as the Authority may reasonably require.

3. Application Review Procedures/Acceptance Resolution. Following receipt of an Application for Acceptance of Authority Eligible Costs or an Application for Acceptance of Improvements (collectively, the “Application”) as described above, and within a reasonable period of time thereafter:

- a. The Authority manager shall review the Application to ensure all required materials have been submitted with the Application. Incomplete Applications will not be processed and will be returned to REI to complete and resubmit to the Authority.

b. The Authority accountant shall review the invoices and other material presented in the Application to substantiate the Authority Eligible Costs set forth therein and shall issue a cost certification in form and substance reasonably acceptable to the Authority Board, certifying the total amount of Authority Eligible Costs associated with the Improvements to be dedicated to other governmental entities or acquired by the Authority (the “Accountant Cost Certification”). If the Authority accountant cannot substantiate all Authority Eligible Costs reported in the Application or determines that only certain costs reported in the Application qualify as Authority Eligible Costs, the Authority’s accountant shall discuss the same with REI and only certify those Authority Eligible Costs that can be substantiated and reimbursed by the Authority.

c. The Authority’s engineer (such engineer shall be independent of any engineer engaged by REI to perform work on the Improvements) shall also review the invoices and other material presented in the Application, including the Engineer Design Certification, to substantiate the Authority Eligible Costs and shall issue a cost certification in form and substance reasonably acceptable to the Authority, certifying the total amount of Authority Eligible Costs associated with the Improvements to be dedicated to other governmental entities or acquired by the Authority and that such costs are reasonable and appropriate for the type of Improvements being constructed in the vicinity of the Development (the “Engineer’s Cost Certification”). In the event the Authority’s engineer determines that corrective work must be completed before the Engineer’s Cost Certification can be issued or that costs associated with the Improvements are not deemed reasonable or appropriate, REI shall promptly be given written notice thereof and shall have an opportunity to dispute and/or complete such corrective work. The Authority’s engineer shall only certify those Authority Eligible Costs that have been certified by the Authority’s accountant as set forth in the Accountant Cost Certification. To the extent the Authority’s engineer cannot certify all Authority Eligible Costs set forth in the Accountant Cost Certification, the Authority accountant and engineer shall work together to resolve any discrepancies and provide written notice to REI of any final adjustments to the total Authority Eligible Costs to be certified by the Authority’s accountant and engineer.

d. Upon receipt of a satisfactory Accountant’s Cost Certification, Engineer’s Cost Certification and, if applicable, Engineer’s Design Certification, and within a reasonable time thereafter, the Authority shall accept the Authority Eligible Costs, and any related Improvements to be owned by the Authority, by adopting a Resolution declaring satisfaction of the conditions to acceptance as set forth herein (subject to any variances or waivers which the Authority may allow in its sole and absolute discretion), with any reasonable conditions the Authority may specify (the “Acceptance Resolution”).

4. Payment of Certified Authority Eligible Costs. The Authority shall repay Certified Authority Eligible Costs approved by the Authority pursuant to the Acceptance Resolution from any legally available funds of the Authority. In the event the Authority lacks legally available funds at the time of adoption of the Acceptance Resolution, the Authority shall evidence its obligation to repay REI for the accepted Certified Authority Eligible Costs on the Subordinate Note issued to REI pursuant to Paragraph 7 herein.

5. Advances for Construction of Improvements. The Parties acknowledge that the Authority may construct certain Improvements to serve the Development and lacks sufficient funds to pay the costs associated with the construction of such Improvements. REI hereby agrees to advance such funds to the Authority or expend such funds on behalf of the Authority in one or more installments, provided that in no event shall the total amount that REI must advance to the Authority or expend on behalf of the Authority exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), (the "Maximum Principal Amount"). The Maximum Principal Amount constitutes the maximum amount that may be advanced or expended hereunder, notwithstanding any payment or prepayment of any portion of the funds advanced or expended pursuant to the terms hereof, unless this Agreement is further supplemented or amended. Advanced funds shall be available to the Authority in one or a series of installments as of the effective date of this Agreement through December 31, 2022, which period shall constitute the "Funding Obligation Term" of this Agreement. The Authority's repayment obligation shall survive the Funding Obligation Term until REI is repaid in full, provided that the Authority's repayment obligation shall terminate on the date that is forty (40) years after the execution date hereof (or \_\_\_\_\_, 2062), even if any portion of the Maximum Principal Amount remains outstanding.

6. Manner for Requesting Advances. REI is obligated to promptly advance funds to the Authority or expend funds on the Authority's behalf upon proper request from the Authority, in the specific amounts requested. The procedure for making such a request shall be as follows:

A. The Authority's Board shall hold public meetings, as necessary, to review and authorize the execution of contracts and the incurrence of other fees and costs, and to authorize payments and expenditures therefor, consistent with the Establishment Agreement and budget. At said meetings, REI, any and all consultants, contract parties, and/or other individuals or entities shall have the opportunity to submit invoices and/or other notices of payment due for review and authorization. If the Authority Board determines that said invoices and/or notices of payment are consistent with the Establishment Agreement, the terms of this Agreement, and the applicable budget, it shall authorize payment therefor contingent on the receipt of funds advanced from REI, or authorize expenditures to be made by REI on behalf of the Authority.

B. Thereafter, the Authority shall advise REI in writing of the amount to be advanced to or expended on behalf of the Authority in an amount sufficient to pay said invoices and/or notices of payment or expenditures. The Authority shall certify that the funds so requested are to be used for purposes permitted under this Agreement and consistent with the Establishment Agreement.

C. Immediately upon the receipt of funds from REI, or when funds are expended by REI on behalf of the Authority, the Authority shall maintain evidence of the (i) amount of funds advanced to or expended on behalf of the Authority; (ii) date such amount was advanced or expended; (iii) total amount of funds advanced to the Authority and/or expended on the Authority's behalf to date pursuant to this Agreement; and (iv) total unpaid accrued interest due thereon. In addition, the Authority shall notate the same on Schedule "A" of the Subordinate Note to be issued hereunder as provided in Paragraph 7 hereof. The Authority will make such evidence available to REI upon reasonable request and such evidence shall constitute the agreed-upon amounts to be repaid by the Authority in accordance with the terms of this Agreement.

7. Issuance of the Subordinate Note; Recordation of Advances; Interest.

A. On the Effective Date of this Agreement, the Authority shall promptly issue, execute, and deliver to REI a Subordinate Note, substantially in the form as attached hereto as Exhibit C, in an amount not to exceed the Maximum Principal Amount, which Subordinate Note shall evidence the Authority's repayment obligation to REI for funds advanced to or expended on behalf of the Authority as provided in the Agreement.

B. The Subordinate Note issued hereunder shall bear simple interest at a fixed rate not to exceed the prime interest rate (as reported on the date of issuance by *The Wall Street Journal*) plus 3% up to a maximum Total Interest Rate of 8.5%, from the date of each advance received by the Authority hereunder and the date of accepted Certified Authority Eligible Costs approved by the Authority, regardless of the date such advance or accepted Certified Authority Eligible Costs are noted on Schedule A, to the earlier of the maturity date or date of redemption thereof, subject to Paragraph 11.B. hereof. If the Subordinate Note, or any portion thereof, is redeemed prior to its maturity date, then the interest that accrued on the principal amount so redeemed, must be paid upon redemption; for purposes of the foregoing, interest shall be deemed to have accrued up to and including the date of redemption.

C. Upon receipt of each advance from REI or acceptance of Certified Authority Eligible Costs, the Authority shall complete the appropriate information on Schedule "A" of the Subordinate Note, showing the amount of each advance or accepted Certified Authority Eligible Costs, the date of receipt, and the total principal and unpaid accrued interest thereon.

D. The Subordinate Note shall be repayable only to the extent, and in the amount of noted as outstanding on Schedule "A" thereto, which amount shall not exceed the Maximum Principal Amount, notwithstanding any payment or prepayment of any portion of the advances pursuant to the terms thereof, unless this Agreement and the Subordinate Note are further supplemented or amended.

E. The terms of this Agreement may be used to construe the intent of the Authority and REI in connection with the issuance of the Subordinate Note, and shall be read as nearly as possible to make the provisions of the Subordinate Note and this Agreement fully effective. Should any irreconcilable conflict arise between the terms of this Agreement and the terms of any Subordinate Note, the terms of such Subordinate Note shall prevail.

F. If, for any reason, the Subordinate Note is determined to be invalid or unenforceable (except in the case of fraud by REI in connection therewith), the Authority shall issue a new promissory note to REI that is legally enforceable. Said new Subordinate Note must evidence the Authority's obligation to repay all amounts advanced to the Authority and all unpaid accepted Certified Authority Eligible Costs pursuant to this Agreement with interest, subject to the terms hereof.

8. Terms of Repayment; Source of Revenues.

A. Subject to Paragraph 11.B. of the Agreement, any funds advanced to the Authority and any unpaid accepted Certified Authority Eligible Costs shall be repaid in accordance with the terms of the Subordinate Note on which the amount of such outstanding and unpaid obligations are notated and in accordance with the terms provided herein. The Subordinate Note shall have a maturity date of \_\_\_\_\_, 2062 (the "Maturity Date"). In the event the Parties amend the Maximum Principal Amount pursuant to an amendment to the Agreement, the Authority agrees to refund the existing Subordinate Note and issue a new Subordinate Note to REI in an amount not to exceed the amended Maximum Principal Amount, with same Maturity Date, and subject to the same terms as provided in the Agreement. Schedule "A" of the Subordinate Note issued by the Authority shall reflect all outstanding principal on the Subordinate Note being refunded and all unpaid accrued interest to date.

B. Subject to the conditions set forth in this Paragraph 8.B., the Authority shall repay the Subordinate Note from any revenues of the Authority as the Authority determines in its sole discretion, are available for such purpose, including funds on deposit in the Infrastructure Account and bond proceeds made available to the Authority from bonds issued by District No. 2, subject to any restrictions provided in the Establishment Agreement. The Subordinate Note will be paid in full by the Authority prior to payment of any other obligation thereof that may have a claim on any Authority revenues which are otherwise available for payment of the Subordinate Note, other than current Authority operation and maintenance expenses, other budgeted general operating expenditures of the Authority, and as otherwise provided in this Paragraph 8.B.

C. Repayment by the Authority of some or all the amounts owing hereunder, as evidenced on the Subordinate Note issued hereunder, shall be contingent upon the availability of bond proceeds or other legally available revenues of the Authority described in Paragraph 8.B. hereof. Failure by the Authority to repay the amounts due hereunder as a result of insufficient funds shall not constitute a default, nor subject the Authority to any claims and/or causes of action by REI, including mechanic's liens, arising out of the Authority's nonperformance of its payment obligation. Failure by the Authority to make a payment of principal and/or interest on the Subordinate Note shall not cause or permit acceleration thereof; rather, the Subordinate Note shall continue to bear interest at the rate and in the manner specified therein and herein.

D. The Subordinate Note may be prepaid, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued to the date of prepayments on the principal amount prepaid. Any and all prepayments shall first be applied to unpaid accrued interest and then to the principal amount outstanding.

E. The Subordinate Note issued hereunder shall be repayable only to the extent of the amount owed by the Authority as noted on Schedule "A" attached to the Subordinate Note.

F. Any repayment made to REI by the Authority shall be notated on Schedule "A" to the Subordinate Note.



9. Obligations Irrevocable. The obligations created by this Agreement are absolute, irrevocable, and unconditional, unless a contrary notation is specifically made herein, and may only be modified pursuant to Paragraph 17 herein. REI shall not take any action which would delay or impair the Authority's ability to receive the advanced proceeds contemplated herein with sufficient time to properly pay approved invoices and/or notices of payment due.

10. Tax Covenant. In the event the Authority is advised by nationally recognized bond counsel that payments of all or any portion of interest due on any Subordinate Note issued hereunder may be excluded from gross income of the holder thereof for federal income tax purposes upon compliance with certain procedural requirements and restrictions that are not inconsistent with the intended uses of funds contemplated herein and are not overly burdensome to the Authority, the Authority agrees to take all action reasonably necessary to satisfy the applicable provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder, in accordance with written instructions of nationally recognized bond counsel. REI acknowledges that no representations or warranties whatsoever have been made by the Authority or its Board as to the treatment for federal or state income tax purposes of any interest payable hereunder.

11. Termination.

A. REI's obligation to construct, or cause to be constructed the Improvements, and/or to advance funds to the Authority or expend funds on the Authority's behalf in accordance with the Agreement shall terminate upon the expiration of the Funding Obligation Term, except to the extent that (i) advance requests have been made to REI that are pending by this termination date, in which case said pending request(s) will be honored notwithstanding the passage of the termination date, or (ii) the Funding Obligation Term has been extended by the Parties via written amendment, as provided in Paragraph 17 herein.

B. The Authority's obligations hereunder shall terminate upon the earlier of: (i) repayment in full of the Maximum Principal Amount or such lesser amount advanced or expended on its behalf hereunder if it is determined by the Authority that no further advances are needed and no further Improvements will be constructed by REI and acquired by the Authority hereunder, as evidenced pursuant to the Subordinate Note issued hereunder; or (ii) the Maturity Date. Any amounts remaining outstanding on the Subordinate Note on the Maturity Date shall be discharged with no further amounts due by the Authority.

12. Subject to Annual Appropriations. The Authority does not intend to create hereunder a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The Authority's repayment obligations set forth herein, and as further evidenced on the Subordinate Note issued by the Authority to REI pursuant to the terms of this Agreement, are subject to the annual appropriation of funds by the Authority.

13. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or the date otherwise determined for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday or legal holiday, the time for

performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

14. Indemnification. REI hereby agrees to indemnify and save harmless the Authority from all claims and/or causes of action, including mechanic’s liens, arising out of REI ’s performance of any act or the nonperformance of any obligation with respect to the Improvements constructed and conveyed to the Authority or dedicated to the County, and in that regard, agrees to pay any and all costs incurred by the Authority as a result thereof, including settlement amounts, judgments and reasonable attorneys’ fees.

15. Governmental Immunity. Nothing herein shall be construed as a waiver of the rights and privileges of the Authority pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., as amended from time to time.

16. Notices and Place for Payments. Any notices, demands, or other communications required or permitted to be given by any provision of this Agreement shall be given in writing and shall be delivered in person, by certified mail, postage prepaid, return receipt requested, by a commercial overnight courier that guarantees next day delivery and provides a receipt, or by electronic mail communications (“E-Mail”), and such notices shall be addressed as follows:

**If to the Authority:** Beebe Draw Farms Authority  
c/o Icenogle Seaver Pogue, P.C.  
4725 S. Monaco St., Suite 360  
Denver, Colorado 80237  
Attn: Alan D. Pogue  
Email: [apoge@isp-law.com](mailto:apoge@isp-law.com)

**With a copy to:** Icenogle Seaver Pogue, P.C.  
4725 S. Monaco St., Suite 360  
Denver, Colorado 80237  
Attn: Alan D. Pogue  
Email: [apogue@isp-law.com](mailto:apogue@isp-law.com)

**If to REI :** REI LLC  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Email: \_\_\_\_\_

or to such other address as either party may from time to time specify in writing to the other party. Notice shall be considered delivered upon delivery by certified mail, overnight courier, E-Mail or upon hand delivery. When using E-Mail to provide notice, the receiving party must respond via “reply” acknowledging receipt of the E-Mail notification or a read receipt or delivery receipt must be provided to the sender. If the sending party fails to receive acknowledgement of such receipt, an alternative form of notification must be used.

17. Amendments. Except as otherwise provided herein, this Agreement may not be amended, modified, or changed, in whole or in part, without a written agreement executed by both the Authority and REI.

18. Assignment. This Agreement may not be assigned, in whole or in part. Any attempted assignment in violation of this paragraph shall be immediately void and of no effect.

19. Applicable Laws. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado.

20. Severability. If any clause or provision of this Agreement is adjudged invalid and/or unenforceable by a court of competent jurisdiction or by operation of any law, such clause or provision shall not affect the validity of this Agreement as a whole, but shall be severed herefrom, leaving the remaining Agreement intact and enforceable.

21. Authority. By execution hereof, the Authority and REI each represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

22. Legal Existence. The Authority will maintain its legal identity and existence so long as any of the advanced amounts contemplated herein remain outstanding. The foregoing statement shall apply unless, by operation of law, another legal entity succeeds to the liabilities and rights of the Authority hereunder without materially adversely affecting REI 's privileges and rights under this Agreement.

23. Entire Agreement. This Agreement and the Subordinate Note issued hereunder constitute and represent the entire, integrated agreement between the Authority and REI with respect to the matters set forth herein and therein, and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date and year first written above.

24. Counterparts. This Agreement may be executed in one or more counterparts, either electronically or by original signature, each of which shall be deemed an original and together shall constitute one and the same instrument.

(Remainder of Page Left Intentionally Blank.)

IN WITNESS WHEREOF, the Authority and REI have executed this Agreement, effective as of the date and year first above written.

**BEEBE DRAW FARMS AUTHORITY**

By: \_\_\_\_\_  
Its: President \_\_\_\_\_

*Signature Page Beebe Draw Farms Authority  
Improvement Acquisition, Advance and Reimbursement Agreement*

**REI LLC,**  
a Wyoming limited liability company

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

**EXHIBIT A**

(To Improvement Acquisition, Advance and Reimbursement Agreement)

**APPLICATION FOR ACCEPTANCE OF AUTHORITY ELIGIBLE COSTS**

**Application for Acceptance of Authority Eligible Costs**

**Applicant Name:** \_\_\_\_\_

**Applicant Address:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Daytime Phone #:** ( ) \_\_\_\_\_ **Alt./Cell:** ( ) \_\_\_\_\_

**Email:** \_\_\_\_\_

**Description and Location of Improvements:** (please include a narrative description and attach maps/exhibits showing the location of all improvements) \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Public Improvement Category and Costs:** (a separate spreadsheet with the information set forth below may be provided in lieu of completing the chart below)

Description of Improvement	Entity That Will Own, Operate and Maintain Improvement	Improvements located within Public Property, Easements, or Public ROW (please specify)	Hard Construction Costs (including Staking and Testing) <i>Please include name of vendor next to dollar amount</i>	Soft Costs (Engineering, Legal, Planning, Landscape & Irrigation Design) <i>Please include name of vendor next to dollar amount</i>
Street Improvements:				
Water Improvements:				
Sanitary Sewer Improvements:				

Parks & Recreation, Landscaping & Irrigation:				
Other Improvements:				

**Required to be submitted:**

- Completed and Signed Application
- Contracts and Approved Change Orders
- Invoices and Pay Applications
- Evidence of Payment
- Lien Waivers
- Acceptance Letters for Improvements from Applicable Jurisdictions
- Agreement Addressing Maintenance and Corrective Work Prior to Final Acceptance
- Any other information reasonably requested by Authority

If any of the materials above are not included in the submission, please provide reason: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Total amount of Authority Eligible Costs requested for reimbursement: \$**\_\_\_\_\_

**By its signature below,** Applicant certifies that this Application for Acceptance of Authority Eligible Costs and all documents submitted in support of this application are true and correct, that the Applicant is authorized to sign this application, and the costs submitted for reimbursement herein qualify as Authority Eligible Costs in accordance with the Improvement Acquisition, Advance and Reimbursement Agreement with Beebe Draw Farms Authority.

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

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

**EXHIBIT B**

(To Improvement Acquisition, Advance and Reimbursement Agreement)

**APPLICATION FOR ACCEPTANCE OF IMPROVEMENTS**

**Application for Acceptance of Improvements**  
 (To be owned, operated and maintained by the Authority)

**Applicant Name:** \_\_\_\_\_

**Applicant Address:** \_\_\_\_\_ **State:** \_\_\_\_\_ **Zip:** \_\_\_\_\_

**Daytime Phone #:** ( ) \_\_\_\_\_ **Alt./Cell:** ( ) \_\_\_\_\_

**Email:** \_\_\_\_\_

**Description and Location of Public Infrastructure:** (please include a narrative description and attach maps/exhibits showing the location of all improvements) \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Public Improvement Category and Costs:** (a separate spreadsheet with the information set forth below may be provided in lieu of completing the chart below)

Description of Improvement	Improvements located within Authority Property, Easements, or Public ROW	Hard Construction Costs (including Staking and Testing) <i>Please include name of vendor next to dollar amount</i>	Soft Costs (Engineering, Legal, Planning, Landscape & Irrigation Design) <i>Please include name of vendor next to dollar amount</i>
Street Improvements:			
Water Improvements:			
Sanitary Sewer Improvements:			
Parks & Recreation, Landscaping & Irrigation:			



Other Improvements:			
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**Required to be submitted:**

- Completed and Signed Application
- Bid Tabulation and Evaluation
- Contracts and Approved Change Orders
- Invoices and Pay Applications
- Evidence of Payment
- Lien Waivers
- Approved Landscape Plan and Landscape Architect or Engineer Certification of Landscape Improvements (if applicable)
- Test Results for improvements conforming to industry standards, Videos, CADD files, etc.
- Pressure Test Results for any irrigation system (if applicable)
- Evidence of Real Property Interests in favor of Authority (if applicable)
- Partial Release from lender (if applicable)
- Record Drawings certified by a professional engineer or licensed land surveyor
- Engineer Certification of Public Infrastructure
- Assignment of Warranties or Guaranties
- Operation and Maintenance Manuals
- Signed Bill of Sale and Warranty Agreement
- Title Commitment (if applicable)
- Special Warranty Deed (if applicable)

If any of the materials above are not included in the submission, please provide reason: \_\_\_\_\_

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**Total amount of Authority Eligible Costs requested for reimbursement: \$** \_\_\_\_\_

**By its signature below,** Applicant certifies that this Application for Acceptance of Improvements and all documents submitted in support of this application are true and correct, and that the Applicant is authorized to sign this application and convey the Improvements set forth in this application to Beebe Draw Farms Authority, free and clear of any liens or encumbrances whatsoever, in accordance with the Improvement Acquisition, Advance and Reimbursement Agreement with the Authority.

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

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

**EXHIBIT C**

(To Improvement Acquisition, Advance and Reimbursement Agreement)

**FORM OF SUBORDINATE PROMISSORY NOTE**

BEEBE DRAW FARMS AUTHORITY  
REVENUE AND LIMITED TAX OBLIGATION  
SUBORDINATE PROMISSORY NOTE

PRINCIPAL AMOUNT: Up to \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

INTEREST RATE: Prime interest rate (as reported on the date of issuance by *The Wall Street Journal*) plus 3% up to a maximum Total Interest Rate of 8.5%, simple interest

DATED: \_\_\_\_\_, 2022

REGISTERED OWNER: REI LLC (“REI”)

MATURITY DATE: \_\_\_\_\_, 2062

Beebe Draw Farms Authority (the “Authority”), a separate legal entity established pursuant to the laws of the State of Colorado, for the value received, hereby promises to pay, but solely and only from, and contingent upon receipt of, the sources hereinafter described, the principal sum stated above (or such lesser amount as may be shown as advanced hereunder as set forth in Schedule “A” attached hereto) together with interest at the rate stated above, which interest shall accrue on said principal sum from and after the date hereof to the maturity date hereof, in lawful money of the United States of America to the registered owner named above on the maturity date stated above unless this Note shall be prepaid in full, in which case on such payment date.

In any case where the date of maturity for payment of interest and principal on this Note or the date fixed for prepayment hereof shall be a Saturday or Sunday, a legal holiday or a day on which banking institutions in the city or town of payment are authorized by law to close, then payment of interest and principal or prepayment price shall be made on the immediately following business day with the same force and effect as if made on the date of maturity or the date fixed for prepayment. Prior to the Maturity Date, and at such time as the Authority has available funds, this Note may be prepaid, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued on the principal amount prepaid, up to and including the date of prepayment. Any and all prepayments shall first be applied to unpaid accrued interest, then to the principal amount outstanding on this Note. This Note will be paid in full from the sources hereinafter described prior to the payment of any other obligation of the Authority that may have a claim on such revenues and would otherwise be available for the payment of this Note as further described herein, other than current operation and maintenance expenses and other budgeted general fund expenditures of the Authority, and as further provided and limited herein.

This Note is executed, issued and delivered to REI pursuant to that certain Improvement Acquisition, Advance and Reimbursement Agreement entered into between the Authority and REI, dated \_\_\_\_\_, 2022 (the “Agreement”), the terms of which are hereby incorporated by reference, to evidence the repayment obligation of the Authority with respect to certain indebtedness owed to REI.

Pursuant to the Agreement, the Authority is obligated to repay both the principal amount of this Note and any and all interest accrued thereon, from the revenue sources and in the manner specified in the Agreement, contingent upon the receipt of such funds from said revenue sources, subject to any restrictions provided in the Establishment Agreement; and further *provided, that any such repayment shall be subject to the annual appropriation of funds by the Authority and shall be subject and subordinate to the terms and conditions of bonds issued by the District No. 2 and any refundings thereof, and the provisions of any bond resolution, indenture, pledge agreement, loan document and/or any other document related thereto.*

Failure by the Authority to repay REI as a result of insufficient funds shall not constitute a default hereunder, nor subject the Authority to any claims and/or causes of action by REI, including mechanic's liens, arising out of the Authority's nonperformance of its payment obligation. Failure by the Authority to make a payment of principal or interest due on the Note shall not cause or permit acceleration thereof; rather, the Note shall continue to bear interest at the rate and manner specified herein.

Upon acceptance of any Certified Authority Eligible Costs (as defined in the Agreement) by the Authority and upon receipt of each advance received by the Authority, the Authority shall indicate on Schedule "A" of this Note: (i) the amount of Certified Authority Eligible Costs accepted by the Authority or funds advanced received by the Authority; (ii) the date of the advance or accepted Certified Authority Eligible Costs; (iii) the total funds accepted and advanced to date; and (iv) the total unpaid accrued interest due thereon. Any payments made on the Note by the Authority shall also be evidenced on Schedule "A" attached hereto.

Neither the Board of Directors of the Authority, nor any person executing this Note, shall be personally liable hereon or be subject to any personal liability or accountability by reason of the issuance hereof.

This Note is issued pursuant to and in full compliance with the Constitution and laws of the State of Colorado. All issues arising hereunder shall be governed by the laws of Colorado.

**THIS NOTE IS A SPECIAL, LIMITED OBLIGATION OF THE AUTHORITY AND SHALL BE PAYABLE SOLELY FROM CERTAIN REVENUES SPECIFIED IN THE IMPROVEMENT ACQUISITION, ADVANCE AND REIMBURSEMENT AGREEMENT. THIS NOTE SHALL NOT CONSTITUTE A DEBT OR OBLIGATION OF THE STATE OF COLORADO OR WELD COUNTY, COLORADO. REI SHALL HAVE NO RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE STATE OF COLORADO OR WELD COUNTY TO PAY THIS NOTE OR THE INTEREST THEREON, NOR TO ENFORCE PAYMENT OF THE SAME AGAINST THE PROPERTY OF THE STATE OF COLORADO OR WELD COUNTY, NOR SHALL THIS NOTE CONSTITUTE A CHARGE, LIEN OR ENCUMBRANCE, LEGAL OR EQUITABLE, UPON ANY PROPERTY OF THE STATE OF COLORADO OR WELD COUNTY.**

**BY ITS ACCEPTANCE HEREOF, REI ACKNOWLEDGES THAT THE AUTHORITY AND ITS OFFICERS, ATTORNEYS, EMPLOYEES OR AGENTS**

**NEITHER MAKE, NOR HAVE MADE, ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE PROPER TREATMENT FOR FEDERAL, STATE AND/OR LOCAL INCOME TAX PURPOSES OF THE INTEREST PAYABLE HEREUNDER.**

The Authority waives demand, presentment, and notice of dishonor and protest with respect to any payment due hereunder. No waiver of any payment or other right under this Note shall operate as a waiver of any other payment or right, including right of offset. If REI enforces this Note upon default, the Authority shall pay or reimburse REI for reasonable expenses incurred in the collection hereof or in the realization of any security hereof, including reasonable attorney's fees.

Notwithstanding any provision herein, or in any instrument now or hereafter securing the obligation of the Authority specified herein, the total liability for payments in the nature of interest shall not exceed the limit now imposed by the usury laws of the State of Colorado.

This Note shall not be transferable, negotiable, or otherwise payable to any party other than REI.

If, for any reason, this Note is determined to be invalid or unenforceable (except in the case of fraud by REI in connection therewith), the Authority shall issue a new promissory note to REI that is legally enforceable. Said new promissory note shall evidence the Authority's obligation to repay all amounts due hereunder.

It is hereby certified, recited and declared that all conditions, acts and things required to exist or occur by the Constitution or statutes of the State of Colorado, currently exist and either occurred prior to, or in connection with, the issuance of this Note.

By signing in the space provided below, the Authority hereby acknowledges and agrees that this Note shall be irrevocable for all purposes and shall be binding upon the Authority, subject to the provisions herein and the provisions of the Agreement. This Note may not be terminated orally, but only by payments in full or by a written discharge signed by the owner and holder of this Note. Notwithstanding the foregoing, REI acknowledges that the Authority's obligations hereunder shall terminate on the Maturity Date, even if any portion of the principal sum remains unpaid and outstanding.

(Signatures Begin on Next Page.)

IN WITNESS WHEREOF, the Authority has caused this Note to be executed in its name and on its behalf by its President, with an imprint of its seal affixed hereon.

**BEEBE DRAW FARMS AUTHORITY**

(S E A L)

**EXHIBIT FORM – DO NOT SIGN**

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

Its: \_\_\_\_\_

SCHEDULE A

**EXHIBIT B**  
(To Resolution)

**SUBORDINATE PROMISSORY NOTE**



PRINCIPAL AMOUNT: Up to \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

INTEREST RATE: Prime interest rate (as reported on the date of issuance by *The Wall Street Journal*) plus 3% up to a maximum Total Interest Rate of 8.5%, simple interest

DATED: \_\_\_\_\_, 2022

REGISTERED OWNER: REI LLC (“REI”)

MATURITY DATE: \_\_\_\_\_, 2062

Beebe Draw Farms Authority (the “Authority”), a separate legal entity established pursuant to the laws of the State of Colorado, for the value received, hereby promises to pay, but solely and only from, and contingent upon receipt of, the sources hereinafter described, the principal sum stated above (or such lesser amount as may be shown as advanced hereunder as set forth in Schedule “A” attached hereto) together with interest at the rate stated above, which interest shall accrue on said principal sum from and after the date hereof to the maturity date hereof, in lawful money of the United States of America to the registered owner named above on the maturity date stated above unless this Note shall be prepaid in full, in which case on such payment date.

In any case where the date of maturity for payment of interest and principal on this Note or the date fixed for prepayment hereof shall be a Saturday or Sunday, a legal holiday or a day on which banking institutions in the city or town of payment are authorized by law to close, then payment of interest and principal or prepayment price shall be made on the immediately following business day with the same force and effect as if made on the date of maturity or the date fixed for prepayment. Prior to the Maturity Date, and at such time as the Authority has available funds, this Note may be prepaid, in whole or in part, at any time without redemption premium or other penalty, but with interest accrued on the principal amount prepaid, up to and including the date of prepayment. Any and all prepayments shall first be applied to unpaid accrued interest, then to the principal amount outstanding on this Note. This Note will be paid in full from the sources hereinafter described prior to the payment of any other obligation of the Authority that may have a claim on such revenues and would otherwise be available for the payment of this Note as further described herein, other than current operation and maintenance expenses and other budgeted general fund expenditures of the Authority, and as further provided and limited herein.

This Note is executed, issued and delivered to REI pursuant to that certain Improvement Acquisition, Advance and Reimbursement Agreement entered into between the Authority and REI, dated \_\_\_\_\_, 2022 (the “Agreement”), the terms of which are hereby incorporated by reference, to evidence the repayment obligation of the Authority with respect to certain indebtedness owed to REI.

Pursuant to the Agreement, the Authority is obligated to repay both the principal amount of this Note and any and all interest accrued thereon, from the revenue sources and in the manner specified in the Agreement, contingent upon the receipt of such funds from said revenue sources, subject to any restrictions provided in the Establishment Agreement; and further *provided, that*

*any such repayment shall be subject to the annual appropriation of funds by the Authority and shall be subject and subordinate to the terms and conditions of bonds issued by the District No. 2 and any refundings thereof, and the provisions of any bond resolution, indenture, pledge agreement, loan document and/or any other document related thereto.*

Failure by the Authority to repay REI as a result of insufficient funds shall not constitute a default hereunder, nor subject the Authority to any claims and/or causes of action by REI, including mechanic's liens, arising out of the Authority's nonperformance of its payment obligation. Failure by the Authority to make a payment of principal or interest due on the Note shall not cause or permit acceleration thereof; rather, the Note shall continue to bear interest at the rate and manner specified herein.

Upon acceptance of any Certified Authority Eligible Costs (as defined in the Agreement) by the Authority and upon receipt of each advance received by the Authority, the Authority shall indicate on Schedule "A" of this Note: (i) the amount of Certified Authority Eligible Costs accepted by the Authority or funds advanced received by the Authority; (ii) the date of the advance or accepted Certified Authority Eligible Costs; (iii) the total funds accepted and advanced to date; and (iv) the total unpaid accrued interest due thereon. Any payments made on the Note by the Authority shall also be evidenced on Schedule "A" attached hereto.

Neither the Board of Directors of the Authority, nor any person executing this Note, shall be personally liable hereon or be subject to any personal liability or accountability by reason of the issuance hereof.

This Note is issued pursuant to and in full compliance with the Constitution and laws of the State of Colorado. All issues arising hereunder shall be governed by the laws of Colorado.

**THIS NOTE IS A SPECIAL, LIMITED OBLIGATION OF THE AUTHORITY AND SHALL BE PAYABLE SOLELY FROM CERTAIN REVENUES SPECIFIED IN THE IMPROVEMENT ACQUISITION, ADVANCE AND REIMBURSEMENT AGREEMENT. THIS NOTE SHALL NOT CONSTITUTE A DEBT OR OBLIGATION OF THE STATE OF COLORADO OR WELD COUNTY, COLORADO. REI SHALL HAVE NO RIGHT TO COMPEL THE EXERCISE OF THE TAXING POWER OF THE STATE OF COLORADO OR WELD COUNTY TO PAY THIS NOTE OR THE INTEREST THEREON, NOR TO ENFORCE PAYMENT OF THE SAME AGAINST THE PROPERTY OF THE STATE OF COLORADO OR WELD COUNTY, NOR SHALL THIS NOTE CONSTITUTE A CHARGE, LIEN OR ENCUMBRANCE, LEGAL OR EQUITABLE, UPON ANY PROPERTY OF THE STATE OF COLORADO OR WELD COUNTY.**

**BY ITS ACCEPTANCE HEREOF, REI ACKNOWLEDGES THAT THE AUTHORITY AND ITS OFFICERS, ATTORNEYS, EMPLOYEES OR AGENTS NEITHER MAKE, NOR HAVE MADE, ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE PROPER TREATMENT FOR FEDERAL, STATE AND/OR LOCAL INCOME TAX PURPOSES OF THE INTEREST PAYABLE HEREUNDER.**

The Authority waives demand, presentment, and notice of dishonor and protest with respect to any payment due hereunder. No waiver of any payment or other right under this Note shall operate as a waiver of any other payment or right, including right of offset. If REI enforces this Note upon default, the Authority shall pay or reimburse REI for reasonable expenses incurred in the collection hereof or in the realization of any security hereof, including reasonable attorney's fees.

Notwithstanding any provision herein, or in any instrument now or hereafter securing the obligation of the Authority specified herein, the total liability for payments in the nature of interest shall not exceed the limit now imposed by the usury laws of the State of Colorado.

This Note shall not be transferable, negotiable, or otherwise payable to any party other than REI.

If, for any reason, this Note is determined to be invalid or unenforceable (except in the case of fraud by REI in connection therewith), the Authority shall issue a new promissory note to REI that is legally enforceable. Said new promissory note shall evidence the Authority's obligation to repay all amounts due hereunder.

It is hereby certified, recited and declared that all conditions, acts and things required to exist or occur by the Constitution or statutes of the State of Colorado, currently exist and either occurred prior to, or in connection with, the issuance of this Note.

By signing in the space provided below, the Authority hereby acknowledges and agrees that this Note shall be irrevocable for all purposes and shall be binding upon the Authority, subject to the provisions herein and the provisions of the Agreement. This Note may not be terminated orally, but only by payments in full or by a written discharge signed by the owner and holder of this Note. Notwithstanding the foregoing, REI acknowledges that the Authority's obligations hereunder shall terminate on the Maturity Date, even if any portion of the principal sum remains unpaid and outstanding.

(Signatures Begin on Next Page.)

IN WITNESS WHEREOF, the Authority has caused this Note to be executed in its name and on its behalf by its President, with an imprint of its seal affixed hereon.

(S E A L)

**BEEBE DRAW FARMS AUTHORITY**

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

Its: President

SCHEDULE A