



BOARD OF TRUSTEES
August 23, 2022
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Regular Meeting Agenda

Individuals wishing to make public comments must attend the meeting in person or may submit comments by sending an email to euckerkk@wellingtoncolorado.gov. The email must be received by 4:00 p.m. on the day of the meeting. The comments will be provided to the Trustees and added as an addendum to the packet. Emailed comments will not be read during the meeting.

The Zoom information below is for online viewing and listening only.

<https://us06web.zoom.us/j/83709912724?pwd=d0xGZHpXVGpKUfNBaUICSEnwNE4zdZ09>

Webinar ID: 837 0991 2724

Passcode: 079794

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A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Amendments to Agenda
4. Conflict of Interest

B. COMMUNITY PARTICIPATION

1. Public Comment

C. CONSENT AGENDA

1. Minutes of the August 9, 2022 Regular Board of Trustees meeting

D. ACTION ITEMS

1. Public Hearing: Rezone Request from LI - Light Industrial to C-3 - Mixed Use Commercial on Lot 7, Wellington Business Center
 - Presentation: Cody Bird, Planning Director
2. Ordinance No. 14-2022: An Ordinance Concerning a Rezone Request from LI - Light Industrial to C-3 - Mixed Use Commercial District on Lot 7, Wellington Business Center
 - Presentation: Cody Bird, Planning Director
3. Federal Grant Requirements: Amended Purchasing Policy
 - Presentation: Kelly Houghteling, Deputy Town Administrator
4. Resolution No. 31-2022 Authorizing the Purchase of Property From the North Poudre Irrigation Company for the Town of Wellington Water Treatment Plant
 - Presentation: Meagan Smith, Public Works Deputy Director
5. Resolution No. 30-2022: A Resolution Declining Full Participation in the Colorado State-Run Paid Family and Medical Leave Insurance Program
 - Presentation: Stephanie Anderson, Human Resources Manager

E. REPORTS

1. Town Attorney
2. Town Administrator
3. Staff Communications
 - a. Water and Wastewater Monthly Report for July 2022
4. Board Reports

F. ADJOURN

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.



Board of Trustees Meeting

Date: August 23, 2022
Subject: Minutes of the August 9, 2022 Regular Board of Trustees meeting

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. 08.09.22 BOT Minutes - DRAFT



BOARD OF TRUSTEES

August 9, 2022

6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

MINUTES

A video recording of this meeting is available on the Town of Wellington's YouTube page at <https://www.youtube.com/channel/UCPgBl-EYjaSam4hF3mkoFNA>

A. CALL TO ORDER

Mayor Chaussee called the meeting to order at 6:30 p.m.

1. Pledge of Allegiance

Mayor Chaussee asked that all rise for the pledge of allegiance.

2. Roll Call

Mayor Calar Chaussee

Mayor Pro Tem Ashley Macdonald

Trustee Jon Gaiter

Trustee Brian Mason

Trustee Rebekka Kinney

Trustee Shirrell Tietz

Trustee David Wiegand

Also Present:

Patti Garcia, Town Administrator

Dan Sapienza, March, Olive and Sapienza, LLC, Town Attorney

Krystal Eucker, Town Clerk

Sergeant Cherry, Larimer County Sheriff's Office

Hallie Sheldon, Management Analyst

Cody Bird, Planning Director

Meagan Smith, Public Works Deputy Director

Nathan Ewert, Town Engineer

Charity Campfield, Finance Director

David Meyer, Town Engineer

3. Amendments to Agenda

Mayor Chaussee asked if there were any amendments to the agenda; there were no amendments.

4. Conflict of Interest

Mayor Chaussee asked if there were any conflicts of interest on this evening's agenda; there were no conflicts of interest.

B. COMMUNITY PARTICIPATION

1. Public Comment

The meeting was opened for public comment; Karen Eifert, Phyllis Mortensen, Christine Gaiter, Heather Sadina, Sherri Rodriguez, Tom Niichel, Clayton Graves, Lauren Riesfield, Dawn Peacock, John Maulsby, Linea Warden, Lisa Chollet, Briana Hunter, Lowrey Moyer, Jonnie Genova, Kass Kohlmann, Kent Allan, Chad Zedina, Cam Tietz, Jesy Andreen, Lisa Christopherson, Rosemary Niichel, Christine Tsujimoto, Melissa Whitehouse provided public comments.

C. CONSENT AGENDA

1. Minutes from the July 26, 2022 Board of Trustees regular meeting

Trustee Tietz moved to approve the consent agenda; Trustee Wiegand seconded the motion.

Roll call on the vote resulted as follows:

Yays – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee

Nays – None

Motion carried.

D. ACTION ITEMS

1. Resolution No. 28-2022 - A Resolution Adopting the 2022-2024 Strategic Plan

Hallie Sheldon, Senior Management Analyst, presented the draft Strategic Plan for comments from the Board of Trustees. The Board discussed the various elements of the draft Plan with support of what was being presented. Discussion items included giving staff items that are specific, including goals that are measurable and achievable.

The meeting was opened for public comment; Melissa Whitehouse provided comment.

Mayor Pro Tem Macdonald moved to approve Resolution No. 28-2022, A Resolution Adopting the 2022-2024 Strategic Plan; Trustee Kinney seconded the motion.

The Board of Trustees engaged in deliberation with a decision to include the completion of the Water Treatment Plant and Wastewater Treatment Plant on time and under budget.

Trustee Gaiter moved to amend the draft Strategic Plan to include the completion of the Water Treatment Plant and Wastewater Treatment Plant; Trustee Kinney seconded the motion. A Resolution Adopting the 2022-2024 Strategic Plan; Trustee Kinney seconded the motion.

Roll call on the vote resulted as follows:

Yays – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee

Nays – None

Motion carried.

Mayor Pro Tem Macdonald moved to approve Resolution No. 28-2022, A Resolution Adopting the 2022-2024 Strategic Plan as amended; Trustee Kinney seconded the motion.

Roll call on the vote resulted as follows:

Yays – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee

Nays – None

Motion carried.

2. Resolution No. 29-2022 - A Resolution of the Board of Trustees Appointing a Town Clerk

Patti Garcia, Town Administrator, reported that Krystal Eucker had resigned and that the state statutes require an appointment of a Town Clerk. It was being recommended that Ms. Garcia be appointed as Town Clerk until a successor had been hired.

Trustee Kinney moved to approve Resolution No. 29-2022, A Resolution of the Board of Trustees Appointing and Town Clerk.

The meeting was opened for public comment to which there was none.

Roll call on the vote resulted as follows:

Yays – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee

Nays – None

Motion carried.

3. Ordinance No. 14-2022 - An Ordinance Concerning Utility Billing Procedures

Patti Garcia, Town Administrator, reported on the ordinance noting that there are ongoing updates to the utility billing system and process and requested that the ordinance be postponed indefinitely.

Trustee Gaiter moved to postpone Ordinance No. 14-2022, An Ordinance Concerning Utility Billing Procedures indefinitely; Trustee Tietz seconded the motion.

The meeting was opened for public comment to which there was none.

Roll call on the vote resulted as follows:

Yays – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee

Nays – None

Motion carried.

E. REPORTS

1. Town Attorney

a. Board of Trustees Rules of Procedures

Mr. Sapienza reviewed the framework for the rules and procedures for the Board of Trustees. He will work on a draft to send out to the Trustees that they can provide comments on.

2. Town Administrator

a. Board of Trustees Planning Calendar

3. Staff Communications

a. Larimer County Sheriff's Office Monthly Report - June 2022

b. Water and Wastewater Monthly Reporting

c. Colorado Open Records Request (CORA) Report

4. Board Reports

F. EXECUTIVE SESSION

1. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to Section 24-6-402(4)(e), C.R.S. – regarding negotiations with North Poudre Irrigation Company. As required by C.R.S. §24-6-402(2)(d.5)(II)(A) and (II) (E) the executive session proceedings will be electronically recorded and the record will be preserved for 90 days through November 7, 2022.

Trustee Gaiter moved to go into Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to Section 24-6-402(4)(e), C.R.S. – regarding negotiations with North Poudre Irrigation Company; Trustee Mason seconded the motion.

Roll call on the vote resulted as follows:

Yays – Gaiter, Kinney, Mason, Tietz, Wiegand, Macdonald, Chaussee

Nays – None

Motion carried.

The Board of Trustees entered into Executive Session at 9:17 pm.

The Board of Trustees returned to the Regular Meeting at 9:53 pm.

G. ADJOURN

On a motion duly made, the meeting was adjourned at 9:53 pm.

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.

Board of Trustees Meeting

Date: August 23, 2022
Subject: Public Hearing: Rezone Request from LI - Light Industrial to C-3 - Mixed Use Commercial on Lot 7, Wellington Business Center

- **Presentation: Cody Bird, Planning Director**

BACKGROUND / DISCUSSION

- The owner of Lot 7, Wellington Business Center is requesting the zoning be changed from LI – Light Industrial District to C-3 – Mixed Use Commercial District.
- The property proposed to be rezoned is one platted lot approximately 6.9 acres in size (location map attached).
- The owner desires to rezone the property to C-3 – Mixed Use Commercial District to allow a broader range of business uses for a multi-tenant commercial development.
- The property (Lot 7, Wellington Business Center) was approved for a replat and rezone in 2015. Ordinance No. 3-2015 was approved by the Board of Trustees to establish the plat of Wellington Business Center, and zoned only Lot 7 of the plat for LI – Light Industrial (ordinance attached for reference).
 1. The LI – Light Industrial zoning was approved for a specific manufacturing use proposed at the time of the rezone. Since that time, the specific manufacturing use has not been completed.
 2. The Official Zoning Map of the Town identifies the property as C-3 zoning. The Zoning Map was not updated after the 2015 ordinance approval; however, the ordinance is in force and effect for the LI – Light Industrial zoning.
 3. The Official Zoning Map will need to be updated no matter the outcome of this particular rezone request.
- Rezoning a specific tract of land is a quasi-judicial proceeding and requires a public hearing. The procedure for conducting a public hearing is attached.
 1. If any conflicts of interest exist, Board Members will need to recuse themselves from the meeting during the agenda item.
 2. Quasi-judicial proceedings require disclosure of any *ex parte* communications. *Ex parte* communications are any communications or information obtained outside of the public hearing that could influence how Board members vote on the agenda item. Disclosure of any *ex parte* communications is required so all Board members have access to the same information in making their decisions.
- Zone change requests require public hearings by the Planning Commission and Board of Trustees:
 1. Notice of the public hearings was published in the Fort Collins Coloradoan as prescribed by State law and Town Municipal Code.
 2. Signs advertising the public hearings have been continuously displayed on the property.
 3. Notices were mailed to surrounding property owners as prescribed by State law and Town Municipal Code.

- The Planning Commission held a public hearing on August 1, 2022 to consider the rezone request. The staff report presented to the Planning Commission is included with this report and contains factors the Planning Commission and Board of Trustees consider when evaluating a zone change request.
- Following the public hearing, the Planning Commission voted unanimously to forward a recommendation to the Board of Trustees to approve a rezone to C-3 – Mixed Use Commercial District for Lot 7, Wellington Business Center.
- The findings of fact used by the Planning Commission as a basis for its recommendation are included with this report.
- The action for this agenda item is to conduct a public hearing to receive information describing the request, hear from the applicant and Town staff, receive the recommendation of the Planning Commission, and hear public testimony.
- Following the close of the public hearing, the Board of Trustees has a separate item on the agenda to take action on the rezone request.

STAFF RECOMMENDATION

- Conduct a public hearing to consider the request for a change of zoning district classification from LI – Light Industrial District to C-3 – Mixed Use Commercial District for Lot 7, Wellington Business Center.

ATTACHMENTS

1. Public Hearing Procedures
2. Location Map
3. Zoning Map
4. Planning Commission Findings for Approval - 8/1/2022
5. Staff Report to Planning Commission - 8/1/2022
6. Ordinance No. 3-2015 Plat Approval and Zoning

Public Hearing Procedures

1. Conflicts of Interest (if any)
2. Disclose *Ex Parte* Communications (if any)
3. Town Staff introduction/presentation
4. Applicant presentation
5. Board may ask general questions (i.e. to help understand the request or the regulations)
6. Public Hearing
 - a. Open Public Hearing
 - b. Public Testimony
 - c. Close Public Hearing
7. Applicant closing comments
8. Staff closing comments
9. Board Deliberates
10. Action by the Board

LOCATION MAP
Lot 7, Wellington Business Center



Lot 7, Wellington Business Center



Planning Commission Recommendation

Public Hearing: Rezone
Date: August 1, 2022
Time: 6:30pm
Place: Wilson Leeper Center
3800 Wilson Avenue, Wellington, CO, 80549

Applicant: FRS Enterprises, LLC (owner)

Current Zoning: LI – Light Industrial District
Proposed Zoning: C-3 – Mixed-Use Commercial District

Property Location: West of I-25 Frontage Road, South of Water Lily Dr.,
Wellington, CO, 80549

Legal Description: Lot 7, Wellington Business Center, Town of Wellington, County of
Larimer, State of Colorado

Planning Commission Recommendation:

- Forward a recommendation to the Board of Trustees to approve the rezone to C-3 – Mixed Use Commercial District zoning for Lot 7, Wellington Business Center, based on the findings of fact.

Planning Commission's Findings of Fact:

- The rezone is consistent with the Comprehensive Plan and the intent stated in the Land Use Code because the Future Land Use Map element identifies the area as "Commercial."
- The rezone is consistent with goals and strategies of the Comprehensive Plan for diversifying the Town's economic base, balancing residential and commercial land uses, and developing a supportive business environment for small businesses.
- The rezone to C-3 is supported based on compatibility of surrounding properties and surrounding zone districts.
- The rezone to C-3 will not result in adverse impacts to surrounding properties and will reduce the impact of large trucks that would otherwise be expected if the existing LI zoning remained.
- The rezone to C-3 is supported to allow different permitted uses based on the length of time the property has remained vacant as zoned LI – Light Industrial.
- The rezone is supported based upon conformity with the goals of the Comprehensive Plan and conformity with the Town Board of Trustee's Strategic Plan for Development and Land Use.



Planning Commission Meeting

Date: August 1, 2022
Submitted By: Cody Bird, Planning Director
Subject: Public Hearing: Rezone Lot 7, Wellington Business Center from LI - Light Industrial District to C-3 - Mixed Use Commercial District

EXECUTIVE SUMMARY

General Location:

- West of I-25 Frontage Road, South of Water Lily Dr.

Applicant/Agent:

- Applicant: FRS Properties, LLC

Reason for request:

- Allow for more business uses allowed in C-3 zoning to accommodate tenant spaces

Background Information:

- The applicant is requesting to change the zoning district classification of the property from LI – Light Industrial District to C-3 – Mixed Use Commercial District.
- The property proposed to be rezoned is one platted lot approximately 6.9 acres in size (location map attached).
- The owner desires to rezone the property to C-3 – Mixed Use Commercial to allow a broader range of business uses for a multi-tenant commercial development.
- The property (Lot 7, Wellington Business Center) was approved for a replat and rezone in 2015. Ordinance No. 3-2015 was approved by the Board of Trustees to establish the plat of Wellington Business Center, and zoned only Lot 7 of the plat for LI – Light Industrial.
 1. The LI – Light Industrial zoning was approved for a specific manufacturing use proposed at the time of the rezone. Since that time, the specific manufacturing use has not been completed.
 2. The Official Zoning Map of the Town identifies the property as C-3 zoning. The Zoning Map was not updated after the 2015 ordinance approval; however, the ordinance is in force and effect for the LI – Light Industrial zoning.
 3. The Official Zoning Map will need to be updated no matter the outcome of this particular rezone request.
- Zone change requests require public hearings by the Planning Commission and Board of Trustees:
 1. Notice of the public hearings was published in the Coloradoan as prescribed by State law and the Town's Land Use Code.
 2. Two signs advertising the public hearings have been continuously displayed on the property.



3. Notices were mailed to surrounding property owners as prescribed by State law and the Town's Land Use Code.
- At the time of this writing, Town staff has not received any written or verbal comments concerning this rezone request.

BACKGROUND / DISCUSSION

The below findings for approval are intended to provide a guideline for matters which may be considered when approving or disapproving a rezoning request. The Planning Commission may find that not all factors will be relevant to this rezone request. Matters that are determined by the Planning Commission to be important will be the basis for the Planning Commission's recommendation to the Board of Trustees. In order to properly make a recommendation to the Town Board of Trustees, the Planning Commission should make specific and substantiated findings supporting its recommendation.

FINDINGS FOR APPROVAL:

Below are the findings the Planning Commission should consider when considering a rezone and staff's opinion of each finding follows (*in italics*).

A. The rezone is consistent with the Comprehensive Plan and the intent stated in the Land Use Code.

- *The Future Land Use Map component of the Comprehensive Plan identifies Lot 7, Wellington Business Center as "Commercial."*
 1. *The "Commercial" designation is identified as being located in concentrated areas and along I-25 and SH 1. Areas are intended to include a variety of businesses that provide employment opportunities and support the retail and service needs of the community.*
 2. *Potential uses identified in the "Commercial" areas include various retail and services ranging from shopping areas, to gyms, hospitality, lodging, entertainment, medical and social services.*
 3. *Rezoning the property to C-3 – Mixed Use Commercial would allow a broader range of retail and service uses than the current LI – Light Industrial zoning allows.*
- *The following Goals and Strategies identified in the Comprehensive Plan support the approval of the rezone to C-3 Mixed Use Commercial.*
 1. *Thriving Economy Goal #1: Diversify the Town's Economic Base*
 - *TE 1.1. Ensure land uses and supporting infrastructure and utilities are available to provide opportunities for needed services and home businesses to establish their businesses in Wellington.*
 2. *Thriving Economic Goal #2: Balance Commercial, Industrial, and Residential Land Uses to Ensure a Variety of Convenient Amenities and Appropriate Infrastructure.*
 - *TE 2.2. Ensure land use standards accommodate a variety of businesses so small local businesses, big box, and chain stores have available options.*
 3. *Thriving Economy Goal #4: Develop a Supportive Business Environment that Aids in Creating a Thriving Economy.*
 - *TE 4.1. Balance residential with commercial land uses to promote local job opportunities and needed services for residents.*
- *The intent of a rezone as stated in the Land Use Code is to make adjustments to the official zoning map that are necessary as a result of a change in conditions or public policy, or to advance the general health, safety, welfare and morals of the Town. A rezone is not intended to relieve particular hardships, nor confer special privileges or rights to any person or party.*



B. The rezone is consistent with the stated intent of the proposed zoning district.

- *The intent of the proposed C-3 – Mixed Use Commercial District is as follows:*
 1. *The Mixed-Use Commercial District is intended to be a setting for development of a wide range of community and regional retail uses, offices and personal and business services, and it is intended to accommodate a wide range of other uses, including multi-family housing and mixed-use dwelling units. The C-3 District should integrate various commercial and multi-family uses while transitioning from the highway to adjacent lower density neighborhoods. The intent of mixed-use areas is to cluster residential and non-residential uses in a compact, walkable setting. These areas provide ease of movement through both motorized and non-motorized transportation options offering convenient access for locals and visitors alike.*
 2. *While some Mixed-Use Commercial District areas may continue to meet the need for auto-related and other auto-oriented uses, it is the Town's intent that the C-3 District emphasize safe and convenient personal mobility in many forms, with planning and design that accommodate pedestrians. Further, the C-3 District is intended to function with, rather than compete with, the Downtown District.*
 3. *The highway corridor is a visible commercial area of the community. Attention to the architectural standards outlined in Section 5.09 is required for approval.*
- *The property is adjacent to the I-25 frontage road, an arterial roadway that provides adequate vehicular access to the site with some improvements anticipated. The site has visibility from I-25.*
- *Properties immediately surrounding the subject property are zoned C-3 – Mixed Use Commercial. Developed C-3 – Mixed Use Commercial properties provide space for a variety of retail and service needs (gym, chiropractor office, contractor offices, retail and warehousing, and others).*
- *The C-3 – Mixed Use Commercial District provides a transition from the highway to the lower density R-2 Residential Low-Density subdivision to the west.*
- *Development of the property will require site plan review and approval by the Planning Commission. Architecture, pedestrian and vehicular access, landscape standards and other standards will all be evaluated.*

C. The rezone will not result in adverse impacts to the natural environment (including air, water, noise, stormwater management, wildlife, and vegetation) or such impacts will be mitigated.

- *The requested rezone is not anticipated to result in adverse impacts to the natural environment that cannot be appropriately mitigated.*
 1. *Uses allowed in the requested C-3 – Mixed Use Commercial District are not generally uses that generate a high degree of noise, dust, odors, pollution or other factors that impact the environment.*
 2. *Development of the site will require site plan review approval and will evaluate factors including vehicle and pedestrian access, stormwater and drainage, landscaping requirements, light and photometric plans and other criteria. Any adverse impacts anticipated from development must be mitigated and demonstrated on the site plans before development approval.*
 3. *Certain uses have the potential to generate air quality concerns. Businesses are required to demonstrate compliance with Colorado Air Quality standards at the time of building permit application and at the time a business license is requested from the Town.*
 4. *Impacts to wildlife is not anticipated to be a significant concern at this location.*



D. The rezone of the subject property will not result in material adverse impacts to the surrounding properties.

- Existing zoning and land uses adjacent to the proposed rezoning area are as follows:

Surrounding Zoning and Land Uses

Direction	Zoning	Land Use
North	C-3 – Mixed Use Commercial District	Retail, service, office and warehouse uses
East	N/A	Interstate 25
South	P – Public District	Stormwater detention facility (12.5 acres in size)
West	C-3 – Mixed Use Commercial District R-2 – Residential Low Density	Temporary stormwater detention facility Temporary fenced contractor storage yard Single-family detached residential subdivision

- The requested rezone to C-3 – Mixed Use Commercial would be consistent with existing adjacent commercial uses.
- The LI – Light Industrial zoning existing allows for some uses that could be found to be incompatible with the adjacent existing uses.
 - Motor vehicle storage, auction, dry cleaning facility, contractor and contractor storage, light industrial and manufacturing, mini-storage facility, and wholesale distribution/warehousing and storage are allowed or conditional uses in the LI – Light Industrial District.
- The requested C-3 – Mixed Use Commercial District allows a wide range of business uses that are intended to attract and/or be conveniently accessed by vehicles from the interstate and highways. The property is located with access to the I-25 frontage road where vehicular traffic is expected. Access to local and residential streets is limited to reduce the volume of commercial traffic driving through residential neighborhoods.

E. Facilities and services (roads, transportation, water, gas, electricity, police, fire protection, and sewage and waste disposal) are available to serve the subject property while maintaining adequate levels of service to existing development.

- Municipal water and sewer infrastructure are currently available near the site and are capable of being extended to accommodate uses permitted within the C-3 – Mixed Use Commercial District.
- Frontage road improvements, turn lanes, and pedestrian sidewalk connections are anticipated to be needed and can be evaluated as part of the site development plan and approval process.
- Natural gas, electric, telecommunications and waste disposal services are private service providers that will be extended or services arranged as part of the site development and construction process.



- *Police and fire protection are already provided to serve the site. Rezoning to C-3 – Mixed Use Commercial is not anticipated to create any additional burden that cannot be accommodated with existing resources.*
- *Parks, library and senior services are not expected to experience a significant increase in use as a result of the rezoning.*
- *Changing the zoning to allow a wider range of retail and service uses could increase opportunities for expanding the town's commercial tax base which can in turn support overall town fiscal health.*

F. The rezone is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas (e.g., the Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).

- *Prior Town approval of Ordinance No. 3-2015 to allow LI – Light Industrial District zoning for Lot 7, Wellington Business Center may be found to be inconsistent with the surrounding C-3 zoning and close proximity to the R-2 Residential Low-Density District.*
- *Other prior Town approvals for C-3 zoning have considered vehicular traffic impacts closely and found that increased traffic impacts on residential streets to be a significant consideration. The proposed rezone on Lot 7, Wellington Business Center would have limited expected impacts of increasing vehicular traffic on residential streets.*
- *There are not currently any specific area plans or corridor plans for the commercial areas surrounding Lot 7, Wellington Business Center.*
- *The 2015 Parks and Trails Master Plan identifies Tract F, Columbine Estates as an undeveloped open space.*
 1. *There no current plans to make changes to Tract F (a 12.5-acre stormwater detention facility that provides required stormwater needs for the surrounding developments).*
 2. *An update of the Parks and Trails Master Plan is contemplated to be undertaken in fiscal years 2022-2023.*
 3. *Public access to Tract F is currently limited. Public trail or sidewalk access along Tract F is a future consideration that will need to be evaluated with future development proposals.*
- *The proposed rezone to C-3 – Mixed Use Commercial is consistent with the Future Land Use component of the Comprehensive Plan and goals and strategies of the “Thriving Economy” recommendations of the Comprehensive Plan more closely identified in Finding A above.*

STAFF RECOMMENDATION

- *Town staff suggests that the C-3 – Mixed Use Commercial District is an appropriate zoning for Lot 7, Wellington Business Center based on the preceding findings.*
- *Below are possible motion options for the Planning Commission to consider:*
 1. *Move to forward a recommendation to the Board of Trustees to approve the change of zoning district classification for Lot 7, Wellington Business Center from LI – Light Industrial District to C-3 – Mixed Use Commercial District based on the findings for approval.*
 2. *Move to forward a recommendation to the Board of Trustees to retain the LI – Light Industrial District for Lot 7, Wellington Business Center based on the findings for approval.*



3. Move to continue the public hearing for the request to change the zoning district classification for Lot 7, Wellington Business Center from LI – Light Industrial District to C-3 – Mixed Use Commercial District to the next regular meeting of the Planning Commission to be held September 12, 2022 at 6:30pm at the Wilson Leeper Center, 3800 Wilson Ave., Wellington, Colorado.

ATTACHMENTS

1. Location Map
2. Zoning Map
3. Ordinance No. 3-2015

ORDINANCE 3-2015

AN ORDINANCE RELATING TO PLAT APPROVAL AND ZONING FOR WELLINGTON BUSINESS CENTER, BEING A REPLAT OF OUTLOTS D, E1 & E2, COLUMBINE ESTATES MINOR SUBDIVISION LOCATED IN THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 8 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF WELLINGTON, COUNTY OF LARIMER, STATE OF COLORADO

WHEREAS, Integrity Land Group LLC, is requesting final plat approval to replat Outlots D, E-1 and E-2 of Columbine Estates into 8 lots.

WHEREAS, the property is currently zoned C-3 Highway Commercial. Lots 1-6 to be office/warehouse/ business condo spaces as uses by right in the Highway Commercial District, Lot 7 at the southeast corner to be rezoned to Light Industrial for manufactured home fabrication; and

WHEREAS, the notices have been given and the public hearings required by the Wellington Municipal Code have been held; and

WHEREAS, the Planning Commission by motion on February 2, 2015 recommended conditional approval of the plat; and,

WHEREAS, the Board of Trustees of the Town of Wellington has found the application to be in substantial compliance with the requirements of the Wellington Municipal Code

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO:

SECTION 1: The replat of Outlots D, E1 and E2 Columbine Estates Minor Subdivision, Town of Wellington, County of Larimer, State of Colorado, is hereby approved as a Minor Subdivision in accordance with the Wellington Municipal Code, except as may be specifically modified by this ordinance.

SECTION 2: Lots 1 through 6 and Lot 8 are zoned C-3 Highway Commercial and Lot 7 is zoned Light Industrial.

SECTION 3: Prior to recording the plat:

- 1) Amending Street Names on Plat to comply with Larimer County naming criteria.
- 2) Submittal of business owners association covenants, in a form acceptable to the Town Attorney, covering maintenance for common areas and privately maintained streets.
- 3) Amend Plat easement and dedication language as required by Town Attorney

SECTION 3: Prior to building permits or any ground breaking for this property, the following items shall be accomplished:

- 2
- 1) A Memorandum of Agreement for Public Improvements signed by the Town and Developer along with Security for all public infrastructure

SECTION 3: Repealer. The Board of Trustees hereby declares that should any section, paragraph, sentence, word or other portion of this Ordinance or the rules and regulations adopted herein be declared invalid for any reason, such invalidity shall not affect any other portion of this Ordinance or said rules and regulations, and the Board of Trustees hereby declares that it would have passed all other portions of this Ordinance and adopted all other portions of said rules and regulations, independent of the elimination here from of any such portion which may be declared invalid.

SECTION 4: Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this ordinance is necessary for the preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.

SECTION 5: Penalty. Any persons, firm or corporation violating this Ordinance or any provisions of applicable state law, is guilty of a violation of this ordinance and, upon conviction thereof, shall be punished by a fine of not more than ONE THOUSAND (\$1,000) DOLLARS, or by imprisonment for not more than ONE (1) YEAR, or both such fine and imprisonment. Each day during which such violation continues, shall be deemed a separate offense.

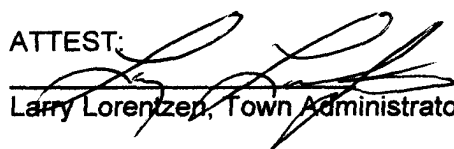
SECTION 6: Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours. Furthermore, the Mayor's signature shall be affixed to the plat and attested by the Town Clerk.

PASSED AND ADOPTED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON AND ORDERED TO BECOME PUBLISHED THIS 24TH DAY OF FEBRUARY, 2015 AND ORDERED TO BECOME EFFECTIVE 30 DAYS FROM THE DATE OF PUBLICATION.



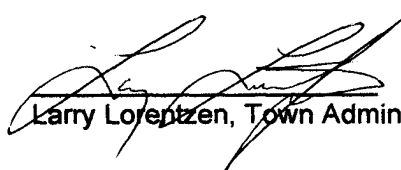
Jack Brinkhoff, Mayor

ATTEST:



Larry Lorentzen, Town Administrator/Clerk

PUBLISHED BY TITLE THE 2nd DAY OF March, 2015 IN "THE COLORADOAN".



Larry Lorentzen, Town Administrator/Clerk

Board of Trustees Meeting

Date: August 23, 2022
Subject: Ordinance No. 14-2022: An Ordinance Concerning a Rezone Request from LI - Light Industrial to C-3 - Mixed Use Commercial District on Lot 7, Wellington Business Center

- **Presentation: Cody Bird, Planning Director**

BACKGROUND / DISCUSSION

- This agenda item is for the official action of the Board of Trustees on a zone change request from LI – Light Industrial District to C-3 – Mixed Use Commercial District for Lot 7, Wellington Business Center. Please refer to background materials, attachments and staff report included with the public hearing agenda item.
- When considering a rezone request, the Board of Trustees should make specific and substantiated findings to support its decision to either approve or disapprove the rezone request. Findings are factors or matters that are considered by the Board in evaluating the rezone request, and findings determined by the Board to be important will be the basis for the Board’s approval or disapproval.
- The following are rezoning findings for approval evaluated by Town staff and the Planning Commission:
 - A. **The rezone is consistent with the Comprehensive Plan and the intent stated in the Land Use Code.**
 - B. **The rezone is consistent with the stated intent of the proposed zoning district.**
 - C. **The rezone will not result in adverse impacts to the natural environment (including air, water, noise, stormwater management, wildlife, and vegetation) or such impacts will be mitigated.**
 - D. **The rezone of the subject property will not result in material adverse impacts to the surrounding properties.**
 - E. **Facilities and services (roads, transportation, water, gas, electricity, police, fire protection, and sewage and waste disposal) are available to serve the subject property while maintaining adequate levels of service to existing development.**
 - F. **The rezone is consistent with any other prior approvals and official plans and policies created under the guidance of that plan for those areas (e.g., the Comprehensive Plan, specific area plans like a Downtown Corridor Study, etc.).**
- The Planning Commission conducted a public hearing on the requested rezone on August 1, 2022. Following the public hearing, the Planning Commission forwarded a recommendation to the Board of Trustees to approve the C-3 – Mixed Use Commercial District zoning for Lot 7, Wellington Business Center. The Planning Commission’s recommendation and findings for approval are attached.
- The Board of Trustees may choose to adopt the Planning Commission’s findings, may modify the Planning Commission’s findings, or may adopt its own findings.

- Approval of a rezone requires adoption of an ordinance. The Board of Trustees may choose to adopt an ordinance granting the requested C-3 – Mixed Use Commercial District zoning. An ordinance approving the requested C-3 – Mixed Use Commercial District zoning is included with this report.
- To appropriately take action on a rezone request, the Board of Trustees should move to:
 1. Adopt findings for approval/disapproval;
 2. Approve or deny the rezone request; and
 3. Take action or postpone Ordinance No. 14-2022.

STAFF RECOMMENDATION

- Staff has identified the following motion options for Trustee consideration:
 1. Move to adopt Ordinance No. 14-2022 approving C-3 – Mixed Use Commercial District zoning for Lot 7, Wellington Business Center based upon the Board’s findings for approval and updating the official maps of the Town.
 2. Move to remand the rezone case to the Planning Commission for further consideration of (insert specific topics for the Planning Commission to consider and provide a recommendation) .
 3. Move to continue consideration of Ordinance No. 14-2022 to a regular/special meeting of the Board of Trustees to be held _____ (month) _____ (day), 2022 at _____ (time) at the Wilson Leeper Center, 3800 Wilson Ave., Wellington, Colorado.
 4. Move to deny Ordinance No. 14-2022 approving C-3 – Mixed Use Commercial District zoning for Lot 7, Wellington Business Center based upon the Board’s findings.

ATTACHMENTS

1. Planning Commission Findings for Approval - 812022
2. Ordinance 14-2022

Planning Commission Recommendation

Public Hearing: Rezone
Date: August 1, 2022
Time: 6:30pm
Place: Wilson Leeper Center
3800 Wilson Avenue, Wellington, CO, 80549

Applicant: FRS Enterprises, LLC (owner)

Current Zoning: LI – Light Industrial District
Proposed Zoning: C-3 – Mixed-Use Commercial District

Property Location: West of I-25 Frontage Road, South of Water Lily Dr.,
Wellington, CO, 80549

Legal Description: Lot 7, Wellington Business Center, Town of Wellington, County of
Larimer, State of Colorado

Planning Commission Recommendation:

- Forward a recommendation to the Board of Trustees to approve the rezone to C-3 – Mixed Use Commercial District zoning for Lot 7, Wellington Business Center, based on the findings of fact.

Planning Commission's Findings of Fact:

- The rezone is consistent with the Comprehensive Plan and the intent stated in the Land Use Code because the Future Land Use Map element identifies the area as "Commercial."
- The rezone is consistent with goals and strategies of the Comprehensive Plan for diversifying the Town's economic base, balancing residential and commercial land uses, and developing a supportive business environment for small businesses.
- The rezone to C-3 is supported based on compatibility of surrounding properties and surrounding zone districts.
- The rezone to C-3 will not result in adverse impacts to surrounding properties and will reduce the impact of large trucks that would otherwise be expected if the existing LI zoning remained.
- The rezone to C-3 is supported to allow different permitted uses based on the length of time the property has remained vacant as zoned LI – Light Industrial.
- The rezone is supported based upon conformity with the goals of the Comprehensive Plan and conformity with the Town Board of Trustee's Strategic Plan for Development and Land Use.

TOWN OF WELLINGTON

ORDINANCE NO. 14-2022

AN ORDINANCE REZONING REAL PROPERTY LOCATED WITHIN THE TOWN OF WELLINGTON, COUNTY OF LARIMER, STATE OF COLORADO FROM LI – LIGHT INDUSTRIAL DISTRICT TO C-3 MIXED USE COMMERCIAL DISTRICT AND AMENDING THE OFFICIAL ZONING MAP OR MAPS OF THE TOWN TO REFLECT SUCH AMENDMENT.

WHEREAS, Owner FRS Enterprises, LLC, 3925 Water Lily Drive, Wellington, CO 80549, has requested to rezone Lot 7, Wellington Business Center, Town of Wellington, County of Larimer, State of Colorado from LI – Light Industrial District to C-3 Mixed Use Commercial District; and

WHEREAS, the notices have been given and the public hearings required by the Wellington Municipal Code have been held; and

WHEREAS, the Planning Commission by motion and vote on August 1, 2022 recommended approval of the rezone to C-3 Mixed Use Commercial District based on specific findings of fact; and

WHEREAS, the Board of Trustees of the Town of Wellington has found the application to be in substantial compliance with the requirements of the Wellington Municipal Code; and

WHEREAS, it has been determined by the Board of Trustees of the Town of Wellington, following a public hearing on the matter, that the request to rezone the described property to C-3 Mixed Use Commercial District should be granted.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, AS FOLLOWS:

1. Having received the recommendation of the Town Planning Commission and the Town Board of Trustees having acted, following notice and hearing thereon as provided by law and pursuant to the Municipal Code of the Town of Wellington, Colorado, the zoning of the following described real property is hereby amended from LI – Light Industrial District to C-3 – Mixed Use Commercial District:

Lot 7, Wellington Business Center, Town of Wellington, County of Larimer, State of Colorado.

2. The official zoning map of the Town of Wellington, Colorado is hereby amended in accordance with Section 1 of this Ordinance.
3. Necessity. In the opinion of the Board of Trustees of the Town of Wellington, this ordinance is necessary for the preservation and protection of the health, safety, welfare and property of the inhabitants and owners of property in the Town of Wellington.

4. Certification. The Town Clerk shall certify to the passage of this ordinance and make not less than three (3) copies of the adopted ordinance available for inspection by the public during regular business hours and shall record at least one certified copy of the ordinance with the Clerk and Recorder of Larimer County.

PASSED AND ADOPTED by the Board of Trustees of the Town of Wellington, Colorado and ordered published this ____ day of _____, 2022 and ordered to become effective 30 days from the date of publication.

TOWN OF WELLINGTON, COLORADO

By: _____
Calar Chaussee, Mayor

ATTEST:

Patti Garcia, Town Clerk

Board of Trustees Meeting

Date: August 23, 2022
Subject: Federal Grant Requirements: Amended Purchasing Policy

- **Presentation: Kelly Houghteling, Deputy Town Administrator**

BACKGROUND / DISCUSSION

On March 7, 2022, the Town Staff participated in a site visit with the Colorado Department of Public Safety, Division of Homeland Security & Emergency Management (DHSEM). The reason for the site visit was not to perform an audit, but rather to conduct a monitoring review of the Town's federally funded grant program, the related processes/procedures, and the quality of documentation being maintained to support program activities. This site visit was in response to the federally funded Stormwater Master Plan underway by Town staff.

The goal of the review was to help us prepare for and respond to future audits and/or reviews performed by the Federal government and/or independent entities. There are four guidance observations that need corrective action. The first two listed below (Personally Identifiable Information & Whistleblower Policy) are still being drafted and will be amended through our Employee Handbook/Personnel Policies. The next two, (Exclusion Status of Vendors & Affirmative Contracting), are included in the revised Purchasing Policy for Board of Trustees consideration.

Below is a summary of the correction action plans required:

1. Establish a formal Personally Identifiable Information (PII) policy to ensure the least amount of exposure to fraud and confidential information, as well as what to do in case of a breach.
2. The Town should develop and implement mechanisms for reporting fraud and other misdeeds, and communicate these mechanisms to all employees.
3. When soliciting contractors for grant-funded projects, the Town should ensure that affirmative steps are taken to assure small, minority-owned, women-owned, and labor area surplus firms are used when possible by adding language to their procurement policy and detailing how consideration was given in practice to these firms for each procurement opportunity as detailed in the Code of Federal Regulations. Additionally, the Town should document their consideration of these respective entities in the grant file to evidence compliance with the regulation. While not required to verify licensure for each contractor, leading practices recommend that policies and procedures include steps to verify that contractors are licensed in the applicable city and state and document the verification.
4. It is recommended that organizations verify SAM.gov for "Exclusion" status of contractors to avoid issues with reimbursable grant costs. Verification needs to be documented.

Attached is the revised Purchasing Policy and includes the two new sections required to stay in compliance for federally funded grant programs.

DRAFT POLICY LANGUAGE

Verification of SAM.gov Exclusion Status of Contractors

- A. To protect the public interest, the Town ensures the integrity of programs by conducting business only with responsible persons.



B. Town staff shall check the Governmentwide System for Award Management Exclusions (SAM Exclusions) to determine whether a person is excluded. The General Services Administration (GSA) maintains the SAM Exclusions. When a Federal agency takes an action to exclude a person under the nonprocurement or procurement debarment and suspension system, the agency enters the information about the excluded person into the SAM Exclusions.

C. Town staff will verify on SAM.gov for the "Exclusion" status of all contractors and will keep a documented record of such findings.

Affirmative Contracting

The Town shall follow affirmative steps to assure that small, minority or women-owned business enterprises are used when possible, **on grant-funded projects**. These steps include the following. (2 CFR 200.321)

- i. Place qualified small, minority and women-owned business enterprises on solicitation lists where solicitation lists exist for the needed goods or services;
- ii. Assure that small, minority and women-owned business enterprises are solicited whenever they are potential sources;
- iii. Divide or modify work requirements, when reasonable, into smaller tasks or quantities to permit maximum participation by small, minority and women-owned business enterprises;
- iv. Establish delivery or performance schedules as appropriate, that will encourage participation by small, minority and women-owned business enterprise;
- v. Use resources such as the Small Business Administration to conduct outreach; and
- vi. Require the prime contractor, if subcontracts are used, to take similar affirmative steps to use small, minority or women-owned business enterprises (reference contracts).

STAFF RECOMMENDATION

Board of Trustees Options:

- Move to approve the draft language in the revised Purchasing Policy
- Move to amend the draft language to the Purchasing Policy.
- Delay consideration of draft language until a date certain.

ATTACHMENTS

1. Revised Purchasing Policy_Updated August 15 2022
2. 04. Site Visit Final Results Letter - Response Accepted - Town of Wellington (2)

Town of Wellington

Purchasing Policy

Effective – August 28, 2018

Most Recent Revision – 4/13/2021

Updated – August 23, 2022

TABLE OF CONTENTS

INTRODUCTION	1
GENERAL RESTRICTIONS AND GUIDELINES.....	2
SUMMARY OF PURCHASING CRITERIA.....	6
DEFINITIONS.....	7
SIGNATURE AUTHORIZATION POLICY	11
TRAVEL POLICY	12
PURCHASING CARD POLICY	18
PURCHASE ORDER POLICY.....	22
CHECK REQUEST.....	26
DEBARMENT OR SUSPENSION.....	27
COMPETITIVE BIDDING POLICY	28
CAPITAL IMPROVEMENT CONTRACTS POLICY	30
INDEPENDENT CONTRACTOR POLICY.....	32

INTRODUCTION

I. General

This Purchasing Policy is intended to ensure adequate and uniform control of the Town of Wellington's purchasing and payment activities. Principles and policies incorporated into this Policy are in accordance with Government Financial Officers Association best practices and applicable State of Colorado Law.

All parties involved in the negotiation, performance or administration of procurement and/or contracts for the Town shall act in good faith. All procurements should be made for the purpose of meeting the Town's current budget goals.

Information in this policy will be reviewed and updated by the Finance Department as necessary so that the maximum use and benefit may be derived in accordance with its intended purpose. Revisions to the purchasing criteria and bidding procedures will be presented to the Board of Trustees as deemed appropriate.

This Policy encompasses all purchasing activity conducted on behalf of the Town by Town staff. Any questions on any purchasing or payments situation should be directed to the Finance Department for assistance.

II. Goals and Objectives

The fundamental objective of this Purchasing Policy is to provide operating departments within the Town with the goods and services they need in the right quantity and quality, in a timely fashion, as efficiently as possible, and at the lowest overall cost.

Therefore, the goals of this Policy include:

- A. A process streamlined enough to keep pace with new technology and procedures
- B. Adequate controls which are not at the expense of efficiency
- C. A minimum of paperwork
- D. An emphasis on quality and results

III. Forms

All forms associated with this policy are located on the Town's website or available from the Finance Department.

GENERAL RESTRICTIONS AND GUIDELINES

I. General

All purchases shall be made in accordance with the policies prescribed in this Purchasing Policy. Any agreement made contrary to these policies shall not be binding to the Town.

II. Code of Conduct

A. Every person engaged in purchasing for the Town shall act to acquire materials and services at the lowest reasonable price, in the proper quality, to reliably accomplish the service intended.

B. Officials, employees, or agents of the Town shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, vendors, or potential contractors or vendors.

C. No official, employee, or agent of the Town shall participate in any purchasing decision which affects the individual's personal financial interest or the interest of the individual's immediate family or of any corporation, partnership, or association of which the individual is a partner, member, creditor, or stockholder.

D. No contractor, vendor, or potential contractor or vendor shall bribe, coerce, or attempt to bribe, coerce, or otherwise improperly influence an official, member, employee, or agent of the Town.

E. Officials, employees, or agents of the Town shall not attempt to circumvent the intent of these purchasing policies by placing multiple orders with a single vendor, or orders on consecutive days, or by other practices that avoid triggering a specific purchasing procedure.

F. Violations of these purchasing policies shall be examined first by the Town Administrator or the Finance Director, who shall determine appropriate action to be taken and shall report to the Board of Trustees.

III. General Provisions/Restrictions

A. No personal purchases may be made using the Town's funds. Purchasing venues provided within this policy may be utilized only in the interest of the Town.

B. Only Town employees, with supervisor's authorization, may purchase utilizing Town funds.

C. Purchases must be charged to the proper account, regardless of budget availability in the appropriate budget line item.

D. Employees are encouraged to obtain bids from Wellington merchants complying with the Town's Sales and Use Tax Code and who are qualified to provide the requested goods or services. When all award factors are deemed to be equal, the bid shall be awarded to the Wellington merchant.

E. For small purchases not requiring bids, when comparable products or reasonable alternatives are readily available from Wellington merchants complying with the Town's Sales and Use Tax Code, the purchase shall be made from the Wellington merchant.

F. Alcohol may not be purchased with Town funds unless the Town Administrator provides prior approval.

G. Sales tax is not to be charged on any purchase. The Town's tax-exempt numbers should be given to the vendor before the sale is completed. The Town's tax-exempt certificate is available from the Finance Department.

H. When purchases are within the Director or Division Manager's authority, any bid information shall be maintained by the purchasing Department. If additional authorization is required, any required bid information shall be attached to the documentation requiring approval (i.e. Purchase Order, check request).

I. No multi-year financing obligations (including rentals of equipment or space) may be committed without the review and concurrence of the Finance Director and the Town Administrator.

J. A SUMMARY OF PURCHASING CRITERIA table which will be reviewed and modified by the Board of Trustees regularly is included as part of this Purchasing Policy.

K. Requests to open merchant charge accounts will be authorized by the Department Head, the Finance Director and the Town Administrator. The process to open the accounts, including completing the credit application and vendor setup, will be administered by the Finance Department.

IV. Emergency Procurement

Notwithstanding any other provision of this policy, the Town Administrator or designee may make or authorize others to make emergency procurement when there exists a threat to public health, welfare, or safety under emergency conditions. A written determination of the basis for emergency and for the purchase or selection of the vendor or contractor shall be included with the purchase documentation (invoice, Purchase Order, check request).

V. Sole Source

A. Occasionally it is necessary to purchase supplies, services or construction items without going to bid, or that only one firm is in a better position to provide. Examples of

potential sole source purchases/services include: state bid, engineering or other professional or consulting services, items for resale, matching existing equipment, custom items, paint, prime lumber (except for large quantities), new technology services or equipment, on site repairs (such as heating, air, plumbing, phone) and utilities.

B. Sole source purchases shall be subject to the dollar thresholds and signature authority and Board of Trustees' approval requirements contained in the Summary of Purchasing Criteria limitations. Written justification and approval for any sole source purchase shall be attached to the documentation submitted to the Finance Department (Purchase Order, contract, approved sole source form or invoice).

Guidelines:

- A sole source purchase is a method of acquisition. It is not to be used to avoid competition.
- A sole source justification is required for every purchase over the Direct Buy Limit (\$10,000) unless the purchase is being made from an existing contract, the supplier is specifically named in the grant, or the purchase is being competitively solicited.
- Sole source justifications must be approved by a Procurement Services Buyer prior to an order being placed.
- Price cannot be used as a factor in determining if a sole source exists because it indicates the existence of a competitive marketplace.

Justification Criteria:

The following list of criteria may be used in determining if a single or sole source situation exists:

1. Only one manufacturer makes the item meeting salient specifications; that manufacturer only sells direct/exclusively through one regional/national representative;
2. Item required must be identical to equipment already in use by the end user, to ensure compatibility of equipment, and that item is only available from one source.
3. Collaborative project- Supplier is named where the identical equipment is required for compatibility and interoperability.
4. Maintenance or repair calls by the original equipment manufacturer (OEM) are required for a piece of equipment, and the manufacturer does not have multiple agents to perform these services.
5. Replacement or spare parts are required from the OEM, and the OEM does not have distributors for those parts.
6. Patented items or copyrighted materials, which are only available from the patent or copyright holder.

7. Unique expertise, background in recognized field of endeavor, the result of which may depend primarily on the individual's invention, imagination, or talent. Consultant has advanced or specialized knowledge, or expertise gained over an extensive period of time in a specialized field of experience.

Note: An item being a “sole brand” or a “sole manufacturer” does not automatically qualify to be a “sole source”. Many manufacturers sell their products through distributors. Therefore, even if a purchase is identified as a valid “sole brand” or “sole manufacturer”, the requester should verify whether the manufacturer has multiple distributors. If the manufacturer does have multiple distributors, competition should be sought among the distributors.

VI. Cooperative Purchasing

On approval of the Town Administrator or designee, the Town may join other governmental bodies, including but not limited to, the State of Colorado and other local governments in making cooperative purchases in the best interest of this Town, notwithstanding other provisions of this Policy.

VII. Negotiating Price

Unless specifically stated otherwise within a bid or RFP document, the Town Administrator, Director or designee may negotiate the price for any given product or service.

SUMMARY OF PURCHASING CRITERIA

Thresholds:

Purchasing Card (P-Card)	up to \$1,000
Blanket Purchase Order	above \$10,000
Purchase Requisition	If above individual P-Card limit

Signature Authority Guidelines:

Engineers	up to \$5,000
Assistant Directors	up to \$5,000
Division Managers	up to \$5,000
Purchasing Agents	up to \$5,000
Directors	up to \$25,000
Town Administrator	up to \$30,000

Bidding Thresholds:

Buyer's best judgment	\$0 - \$5,000
Two written quotes	\$5,000.01 - \$25,000

Three written quotes:

Services or intangible/tangible property purchases	\$25,000 and above
Capital improvements	\$10,000.01 - \$250,000

Sealed competitive bidding:

Capital improvements	\$250,000.01 and above
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Board of Trustees approval is required for purchases and contract awards as follows:

Appropriated (budgeted) items above \$30,000.

Non-Appropriated (non-budgeted) items above \$10,000.

Purchases on Board approved contracts are exempt within the contract amount.

DEFINITIONS

Accounts Payable

The function in the Finance Department processing payments for the Town.

Allocation

Town of Wellington account number to be charged for the purchase.

Bid Package

Documentation prepared and distributed by the Town in the solicitation of bids.

Blanket Purchase Order

A blanket purchase order is a long-term agreement between an organization and a supplier to deliver goods or services with a set price on a recurring basis over a specified time period. Blanket purchase orders should be used:

- Blanket purchase orders should never be written for orders where the price is not guaranteed, the quality of the product is unreliable, or the vendor cannot be trusted.
- When quantities of the same goods or services are needed throughout a time period, typically one year.
- When unit cost can be well-defined and details can be specified.
- When a single vendor is capable of delivering throughout the length of the contract.
- When ordering in quantity facilitates more favorable contract terms, such as bulk discounts.
- When staggered deliveries minimize stocking risk and costs.
- When purchase price is above individual P-Card limits otherwise a purchase requisition is required.

Board of Trustees

The legislative and governing body of the Town.

Capital Improvement

A fixed public improvement, including, but not limited to: streets, alleys, sidewalks, water or wastewater facilities, flood control facilities, traffic control devices, street lighting, parks, public structures, and landscaping.

Capital Improvement Contract

A Town contract for Capital Improvements.

Change Order

A Change Purchase Order is a Purchase Order initiated directing a vendor or contractor to make a change to the original Purchase Order or Contract in either amount, delivery, scope or items purchased.

Construction

The process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property or within an appropriate easement.

Consulting Services

Services provided by individuals possessing specialized educational qualifications, practical expertise or professional certification, including but limited to Consulting Services where the final product is predominantly oral or written advice or information.

Cooperative Purchasing

Procurement conducted by, or on behalf of, more than one governmental body.

Department

A designated administrative or operating department of the Town. Departments currently include: Town Administration, Finance, Library, Planning, Public Works, Streets, Water, Sewer, Storm Drainage, Parks and Recreation.

Director

A Town Employee reporting to the Town Administrator with multiple function accountability and staff. Current Directors are Assistant Town Administrator, Public Works Director, Economic Development Director and Finance Director.

Division Manager

A Town Employee reporting to the Town Administrator with single function accountability and staff. Current Division Managers are the Town Planner, Economic Development Director and Director of the Library.

Emergency Conditions

A situation in which any department's operations may be severely hampered or a situation in which the preservation of life, health, safety or property may be at risk as determined by the Department Director, Finance Director and the Town Administrator.

Governmental Body

Any department, division, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of this Town.

Intangible Purchases

Non-physical items of value such as insurance, leases, securities or water rights.

Invitation for Bids

All documents, whether attached or incorporated by reference, utilized for soliciting bids.

Non-Capital Purchases

Services, supplies, and intangible property. Also includes tangible property under \$5,000.

Professional Services

Services of a specialized nature, including, but not limited to: architecture, engineering, legal, accounting, surveying, land title services, environmental/scientific services, information technology, hiring screening process (drug testing, psych testing, etc.), equipment repair and maintenance, etc.

Purchase Order

A request to purchase goods or services typically provided to the vendor as a confirmation of the Town's commitment to purchase.

Purchase Requisition

The form used to initiate award of Purchase Order or any other type of Sub-award including but not limited to Leases, Construction Contracts, and Consulting Agreements.

Request for Proposals (RFP)

A process used to acquire supplies and services that involve the review of written proposals and the use of negotiations with the most qualified bidder(s). This process may also include the use of a Request for Information (RFI) as a preliminary step to the RFP process in an attempt to gather information and pre-qualify prospective bidders.

Services

The furnishing of labor, time, or effort not involving the delivery of specific end product other than management, reports, recommendations or repairs. No tangible product is provided.

Signature Authorization Summary

The list maintained by each Department and the Finance Department of Departmental designated staff authorized to approve Town expenditures. The Finance Department shall keep a current master list of each Department's Signature Authorization Summary. The list shall include the full signatures of each authorized individual and the amount of signature authorization granted to the individual.

Sole Source

Only one supplier (source), to the best of the requester's knowledge and belief, based upon thorough research, (i.e. conducting a market survey), is capable of delivering the required product or service. Similar types of goods and services may exist, but only one supplier, for reasons of expertise, and/or standardization, quality, compatibility with existing equipment, specifications, or availability, is the only source that is acceptable to meet a specific need.

Tangible Property

Personal property and materials, including without limitation supplies, equipment, vehicles, parts, printing and consumable supplies

Town

The Town of Wellington, Colorado, with a primary business location of 3735 Cleveland Avenue, P.O. Box 127, Wellington, CO 80549.

Town Administrator

The Town Administrator who serves as the chief executive officer of the Town.

Wellington Merchant

A business having a permanent physical location within the limits of the Town of Wellington.

SIGNATURE AUTHORIZATION POLICY

I. General

Signature authority is granted on an individual basis. All signature authority is approved by the Town Administrator after review and approval by the delegating Director or Division Manager and the Finance Director.

II. Procedures

- A. A confirmed Signature Authorization shall be submitted to the Finance Department upon initial request.
- B. The Finance Department shall be responsible for deleting signature authority for terminated employees. Should authority need to be added or modified, the applicable Department shall be responsible for notifying the Finance Department.
- C. All changes and additions to the Signature Authorization must be submitted in writing and must include the following information:
 - Name of employee
 - Title
 - Authorization amount
 - Effective Date
 - Employee signature and initials
 - Signature of Employee delegating authorization
- D. Unless signature authorization has been delegated, no employee shall sign on behalf of another otherwise authorized employee. Written notification of delegation must be sent to Finance by the delegating employee with amounts.

TRAVEL POLICY

I. General

This travel policy applies to all officials, employees or agents of the Town travel for Town-related business and mileage reimbursements.

II. Approval Required

Employees shall obtain approval for travel on Town business as follows:

- A. Travel within Colorado with no overnight stay: For travel within the State of Colorado, but outside the Fort Collins Metro Area, not requiring an overnight stay, employees should obtain authorization from the employee's supervisor, whenever possible. Employees should utilize Purchasing Cards where possible for necessary purchases (excluding fuel and meals).
- B. Travel within Colorado where overnight stay required: For travel requiring an overnight stay within the State of Colorado, Department Head authorization and a completed Travel Authorization Form is required in advance of travel. In the rare instance where it is not practical to complete the Travel Authorization Form in advance of travel, written approval is required (e.g. email or memo). A Travel Authorization Form shall be completed upon return from travel.
- C. Travel outside the State of Colorado: For all out-of-state travel, Town Administrator approval and a completed Travel Authorization Form is required in advance of travel.

III. Travel Authorization Form

- A. The purpose of the Travel Authorization Form is to estimate and accumulate the total cost of the trip.
- B. The Travel Authorization Form shall be filled out completely, approved in accordance with the procedures established above, and turned in to the Finance Department. The form will be used to generate any reimbursement(s).

IV. Receipts

Receipts for purchases that require reimbursement should be turned into the Finance Department for approval, referencing the previously approved Travel Authorization Form.

V. Purchasing Card

- A. Purchasing Cards should be used whenever possible and practical for lodging, airfare, ground transportation, and tolls, excluding meals and fuel.
- B. For situations where use of the Purchasing Card was not practical or possible, allowable expenses paid by the traveler will be reimbursed.
- C. For out-of-state travel, note that airlines, hotels, and other vendors may not honor the Town's tax-exempt status.

VI. Airfare

- A. In all cases, but within reason, the most cost effective and efficient manner of travel should be sought. Direct flights shall be considered the standard, even though flights with connections and/or layovers are often less expensive. In general, the Town will reimburse the cost of one checked bag, however, employees are encouraged to utilize carry-on luggage whenever possible. Situations requiring more than one checked bag, including presentation materials require Director or Town Administrator approval.
- B. For out-of-state travel where the employee requests and approval are obtained to use alternative transportation (including train or automobile), the Town may elect to reimburse the employee for only the most cost-effective method of travel. Exceptions require Finance Director or Town Administrator approval.

VII. Parking/Airport Parking/Airport Travel

In all cases, but within reason, costs for parking should be kept to a minimum.

- A. Hotel Parking: Self-parking shall be utilized, if available. Valet parking is allowed if it is the only option available. Unless otherwise approved by the Director or Town Administrator the employee shall pay the difference for additional costs of covered parking or valet service when other options are readily available.
- B. Airport Parking: Employees should use their P-card for economy parking fees.
- C. Airport Travel: Airport shuttle is encouraged when possible.

VIII. Mileage Reimbursement

Amount per mile of mileage reimbursement is set at the current Internal Revenue Service's allowable rate per mile. Please contact the Finance Department for the current allowable rate or current rates are available at <https://www.irs.gov/tax-professionals/standard-mileage-rates>.

IX. Per Diem

Meal Per Diem: A meal per diem is allowed for travel requiring an overnight stay. Contact the Finance Department or check online (<https://www.gsa.gov/travel/plan-book/per-diem-rates/per-diem-rates-lookup>) to determine the rate allowable for the Town where you are traveling. The per diem amount should be pro-rated for partial travel days and meals provided by the seminar/conference (if applicable). If actual costs are more than the per diem amount, the employee is responsible for the additional amount. If actual costs are less than the per diem amount, the employee may keep the balance. No receipts are required when using per diem.

X. Compensation for Hours Worked

Contact Human Resources with any questions regarding compensation for hours worked during travel for non-exempt employees.

XI. Internet Connection Charges

If internet connectivity is needed for work related purposes while traveling and the hotel and/or conference charges for internet service, contact IT to check out a cellular USB stick if one is available. If necessary, the Town will cover the cost of any Internet connection charges incurred while traveling when the primary purpose of the connection is work related.

Travel Pre-Authorization Form

Employee Name: _____

Title: _____ Department: _____

Departure Date: _____ Return Date: _____

Training Location: _____

Training Description: _____

Registration Fee: _____

Total Nights of Lodging: _____ Cost per Day: _____

Total Days of Rental Car: _____ Cost per Day: _____

Airfare Cost (Round Trip): _____

Ground Transportation Fee: _____

Parking Fee per Day: _____ Total Days: _____

Estimated Mileage (.58 per mile): _____ Total Miles Round Trip: _____

Estimated Amount for Tolls: _____

Estimated Per Diem Total (see Per Diem link on page 2): _____

Estimated Grand Total: _____

Employee Signature: _____ Date: _____

Manager Signature: _____ Date: _____

**Town Administrator Signature Required for all out of state travel.*

Town Administrator Signature: _____

Travel Pre-Authorization Form (Page 2)

Notes:

P-Cards are NOT allowed for gas/food purchases.

Each employee who has an overnight stay will receive per Diem.

Itemized receipts are needed. Please turn in all receipts with reimbursement form.

Mileage Rates: <https://www.irs.gov/newsroom/irs-issues-standard-mileage-rates-for-2019>

Per Diem Rates: <https://www.gsa.gov/travel/plan-book/per-diem-rates>

Travel Reimbursement Form

Employee Name: _____

Title: _____ Department: _____

Departure Date: _____ Return Date: _____

Training Location: _____

Training Description: _____

Total Mileage (.58 per mile): _____ Total Miles Round Trip: _____

Total Amount for Tolls: _____

Did the Hotel/Conference provide meals? If so, please provide what dates and if it was breakfast/lunch/dinner. _____

Employee Signature: _____ Date: _____

Manager Signature: _____ Date: _____

Notes:

P-Cards/Travel Cards are NOT allowed for gas/food purchases.

Each employee who has an overnight stay will receive per Diem.

Mileage Rates: <https://www.irs.gov/newsroom/irs-issues-standard-mileage-rates-for-2019>

Per Diem Rates: <https://www.gsa.gov/travel/plan-book/per-diem-rates>

Finance Department Only:

Total Mileage: _____

First Day Per Diem: _____ Last Day Per Diem: _____ Full Day Per Diem: _____

Total Reimbursement: _____

PURCHASING CARD POLICY

Overview

The Purchasing Card program is intended to streamline and simplify the Purchasing and Accounts Payable functions by eliminating waste and low value activities. The Purchasing Card is a tool that reduces transaction costs, facilitates timely acquisition of materials and supplies, automates data flow for accounting purposes and offers flexible controls to help ensure proper usage. Because the Town receives an annual rebate based on the dollar volume of purchases made through the Purchasing Card Program, P-Cards shall be used whenever possible and practical when procuring goods and services on behalf of the Town.

The Purchasing Card Program is designed as an alternative to a variety of processes including petty cash, check requests and low dollar purchase orders. The Purchasing Card Program is not intended to avoid or bypass appropriate procurement or payment procedures. Rather, the Program complements the existing processes available. The card is a credit card that is issued by First National Bank of Omaha (FNBO). Some minimal record keeping is essential to ensure the successful use of the Purchasing Card. This is not an extraordinary requirement; standard payment policies require retention of receipts, etc.

This Cardholder Guide provides information about the process, the types of purchases that can and cannot be made, records that must be maintained and reconciled for each cycle, and a variety of other program information.

You are committing public funds each time you use your Purchasing Card. This is a responsibility that should not be taken lightly. Remember that you are the person responsible for all charges made to the card which has been issued to you. Intentional misuse or fraudulent abuse may result in disciplinary action up to and including dismissal and legal action.

The card will have no impact on your personal credit rating. Although the card lists an individual's name, the card is issued to the Town of Wellington.

Obtaining A Card

After you have read this Cardholder Guide and understand the procedures outlined, you must sign the **Purchasing Card Program Cardholder Agreement Form.**

Only employees of the Town of Wellington are eligible to receive a Purchasing Card. Contractors or temporary employees are not eligible. The cardholder is responsible for the security of their card(s) and the transactions made against the card(s). Each user will be required to sign the Commercial Card Cardholder Agreement as part of the Commercial Card application. Employees must be authorized by the Supervisor and Director based upon both the need for a Purchasing Card and the signature limits. Authorization levels are documented and approved on the Signature Authorization Form.

When you receive your Purchasing Card, immediately sign the back of the card and always keep it in a secure place. Although each card is issued in your name, it is the property of the Town of Wellington and is only to be used for Town purchases as defined in this guide.

Commercial Card Restrictions

The Commercial Card is not to be used for personal purchases, alcohol, tobacco, or cash transactions such as money orders or cash advances. Each card has a monthly total limit which will deny further transactions in that month.

Under no circumstances should a transaction be split into two separate receipts to bypass this dollar limit. This amount is determined by your supervisor, the Finance Director and the Town Administrator. If for some reason it becomes necessary to increase the limit, a change form can be processed by the Program Administrator with written approval of your supervisor, the Finance Director and the Town Administrator.

The following P-Card uses are not authorized:

- Purchases over your signature authority limit. Dividing an order to satisfy this limit is not allowed.
- Fuel for personal vehicles. Reimbursement for mileage shall be made on the Travel Authorization Form at the current IRS reimbursement rate.
- Fuel for Town Vehicles. Fuel Cards are provided for fueling Town owned vehicles.
- Using another employee's P-Card. An employee may not use another employee's P-Card to make a purchase, regardless of whether or not they have been authorized to make P-Card purchases.

Using your Card

You must have a receipt of all items purchased.

If the purchase is via phone or fax, ask the supplier to include the receipt with the goods when the product is shipped to you or email the confirmation to you. **This receipt is the only original documentation.** Your name and "Card" must appear on the packing slip and external shipping label. The external shipping label must be to the Town of Wellington building – not your home. The supplier will require your Purchase Card number, expiration date and the "ship to" address. It is important that your name and "Card" appear on the invoice. Companies that are frequently used by the Town already have the Town of Wellington Accounts Payable Department in their contact information and will likely forward the invoice there. AP will forward to you – if your name and Card appear on the face of the invoice; if it does not, the department will have not the necessary information as to where to direct the invoice when it arrives.

It is required that you retain all receipts/packing slips for your purchases.

Tax

The Town purchasing policy states that Colorado sales tax should not be paid on purchases. Contact the Accounts Payable (AP) department if you have questions about which purchases are subject to tax. To assure that taxes are not applied to your purchases, state to the supplier/vendor that the Town of Wellington is tax-exempt. The tax I.D. number is embossed on the purchase card. A tax-exempt certificate, issued by the State of Colorado, can be obtained from the AP department for documentation if necessary. The card user is responsible for ensuring that sales tax is not applied. If sales tax is charged you agree to reimburse the Town for the cost of the sales tax within 10 calendar days. If reimbursement is

not received, you agree by signing the Cardholder Agreement to a payroll reduction for the amount of the sales tax charged.

Reconciling Your Account

At a minimum of twice per month, the cardholder must log into the FNBO system to approve their transactions, provide an explanation of the purchase and assign an account code. A printout of the Transaction Summary page must be signed as proof of reconciliation. Then it must be attached to your receipts and sent to your supervisor for final approval. Each account must be reconciled and sent to your supervisor by the 10th of the subsequent month.

Resolving Errors and Disputes

In the case of an error, first contact the supplier and try to reach an agreement. Most disputes can be resolved between you and the supplier directly. If you are unable to reach an agreement with the supplier you may dispute the charge using FNBO's dispute form that is located on the Transaction Detail page. All disputes must be submitted within 30 days of the transaction date.

Paying the Bill

The Purchase Card is a Town payment arrangement. Account balances will be paid in full each month by a direct charge to the Town of Wellington bank account. Your purchases will be charged directly to the account code that you select during the reconciliation process.

Lost or Stolen Cards

The Purchase Card should be secured, just as you would secure your personal credit cards. If your card is lost or stolen, immediately contact FNBO at 1-800-819-4249 and then notify your Program Administrator.

Refusal of Card or Account

Should you be declined at the point of sale for any reason, please contact your Program Administrator.

Departmental Changes

If you resign your position, you are required to immediately return your card to Town Hall.

Purchase Card Audit Activity

Your card activity is subject to random audits. The random audits are to help ensure adherence to the Program's policies and procedures.

PURCHASING CARD PROGRAM CARDHOLDER AGREEMENT

By participating in the Town of Wellington Purchasing Card Program as a Cardholder, you assume responsibilities pertaining to the operation and administration of the Purchasing Card Program. These responsibilities include but are not limited to the following:

1. The Town of Wellington Purchasing Card is to be used for Town of Wellington business expenditures only. The Purchasing Card may only be used under the parameters and procedures established for the Purchasing Card Program which are detailed in the Purchasing Card Policies and Procedures. The Town of Wellington Purchasing Card **may not** be used for any personal purchases or cash transactions.
2. The Purchasing Card will be issued in your name. By accepting the Card, you assume responsibility for the Card and will be responsible for all charges made with the Card. The Card is not transferable and may not be used by anyone other than you, the Cardholder.
3. The Town of Wellington Purchasing Card must be maintained with the highest level of security. If the Card is lost or stolen, or if you suspect the Card or Account Number has been compromised, you agree to immediately notify the bank and the Town of Wellington Purchasing Card Program Administrator.
4. All charges will be billed and paid directly by the Town of Wellington. While you are not responsible for making payments, you are responsible for the verification and reconciliation of all account activity. If you do not follow the procedures, your card and cardholder privileges will be revoked.
5. Cardholder Accounts are subject to periodic internal control review and audits designed to protect the interests of the Town of Wellington. By accepting the Card, you agree to comply with these reviews and audits.
6. Parameters and procedures related to the Purchasing Card Program may be updated or changed at any time. The Town of Wellington will promptly notify you of these changes.

You agree to surrender and cease use of the Card upon termination of employment. You may also be asked to surrender the Card at any time deemed necessary by the Town of Wellington. Misuse or fraudulent use of the Card may result in disciplinary actions and may be grounds for dismissal, civil and criminal legal action.

Employee Acknowledgement:

By signing below, I acknowledge that I have read both the Purchasing Policy and the Cardholder Agreement and agree to the terms and conditions of these documents. I certify that as a participating Cardholder of the Town of Wellington Purchasing Card Program, I understand and assume the responsibilities listed above.

Employee Signature

Title

Name (Print)

Date

PURCHASE ORDER POLICY

I. General

A Purchase Order is required to purchase goods or services of \$10,000 or more. The term Purchase Order is used generically throughout this policy to include all service/maintenance agreements, construction agreements and any other types of agreements in excess of \$10,000.

All Purchase Orders shall have all necessary approvals before the requested goods or services are received and Town funds obligated. The need for a Purchase Order may be waived only with the approval of the Finance Director or Town Administrator.

II. Objectives

The primary reasons for issuing a Purchase Order are as follows:

- 1) To facilitate prior approval for large dollar purchases
- 2) To ensure adequate funds and to encumber funds on the accounting system
- 3) To ensure adequate product specification for vendors
- 4) To facilitate vendor requirements.

III. Procedures

- A. A Purchase Order over \$10,000 is initiated by a Purchase Requisition. At the time of Capital Improvement Contract Award, or prior to the purchase of goods or services that total \$10,000 or more, a Purchase Requisition must be completed, authorized and submitted to the Finance Department.
 1. All Purchase Requisitions must include the following:
 - a. Requisition Date
 - b. Item to be purchased (including item #, quantity, description)
 - c. Account number to be charged
 - d. Amount - projected cost of purchase
 - e. Authorized signature
 - f. Informal or formal bid documentation should be attached to request over \$10,000.
 2. Should a vendor require a Purchase Order for an item less than \$10,000 and purchase exceeds the P-card limit, a Purchase Requisition may be submitted, and a Purchase Order will be generated.
- B. All purchase requisitions will be entered by the requesting department. Once the requisitions are approved, they are then delivered to the finance department and a purchase order will be generated.
- C. Once the Purchase Requisition has been entered, a copy of the Purchase Order will be printed for the requester. Should additional copies be required, the Finance Department can

print additional copies. The original purchase requisition containing adequate authorization shall be retained by the Finance Department for audit and internal control purposes.

- D. If the Department needs to modify the original Purchase Order, a Change Purchase Order (Change Order) should be sent to the Finance Department. All Change Orders should reference the Purchase Order number which they are modifying. Once received by the Finance Department, the Purchase Order will be modified on the system.
1. If the Change Order does not modify the dollar amount of the purchase and does not significantly change the purpose of the original order, no additional authorization is required.
 2. If the Change Order increases the dollar amount above the signature authority threshold of the original requester, additional authorization will be required.
 3. Freight charges can be difficult to estimate, and actual shipping costs may exceed estimated amount on the purchase order. This would not cause additional authorization.
 3. If the Change Order modifies the account number, no additional authorization is required if the original signer(s) had signature authority for the account to be charged.
 4. If the Board of Trustees approved the original contract or Purchase Order and the Change Order, or the cumulative amount of multiple Change Orders the Board of Trustees shall approve the Change Order(s).
 - a. If the nature of the Change Order is such that: the project involves infrastructure that cannot be put back into service otherwise, or that stopping the project awaiting Board of Trustees approval would cause significant cost increases, the Town Administrator may authorize the Change Order. Town Board of Trustees shall be informed no later than the next Trustee meeting.
- E. All invoices if mailed should be directed to:
Town of Wellington
Attention: Accounts Payable
PO Box 127
Wellington, CO 80549
E-mail: APinvoices@wellingtoncolorado.gov
- F. If, upon receipt of goods or services, the vendor provides an invoice for the item purchased, the requester or other receiving employee should sign the invoice, indicating receipt of goods or services, and return the invoice to Accounts Payable. No additional approvals are required at the time, only verification of receipt of goods.

- G. If the invoice you are forwarding to Accounts Payable represents the final receipt on a Purchase Order, the signer should indicate final payment so any remaining balance on the Purchase Order may be unencumbered.
- H. If the goods or services received are in different quantities or types from the Purchase Order, and additional goods or services are forthcoming, the balances of the Purchase Order will remain encumbered until indication of final receipt is forwarded to Accounts Payable.



Purchase Order Change Form

Purchase Order Number: _____ Original Purchase Order Date: _____

Original Purchase Order Total: _____ Requisition Number: _____

Vendor Name: _____ Vendor Number: _____

Department: _____

Reason for Change: _____

Type of Change (Please check one):

_____ Change Account Number

Is this for all line items? Yes / No If no, specify line number: _____

Original GL Number: _____

Revised GL Number: _____

_____ Increase Purchase Order

Quantity: _____ Amount: _____

Line Numbers: _____

_____ Cancel Purchase Order

Total Amount to be Cancelled: _____

_____ Cancel Purchase Order Line(s)

Amount: _____ Line Numbers: _____

If this is a change to a contract, please indicate the Board Approval date: _____

Employee Signature: _____ Date: _____

Finance Approval: _____ Date: _____

CHECK REQUEST

I. General

A Check Request is a non-Purchase Order payment that does not meet the criteria of the Purchasing Card. Checks will be issued during normal accounts payable schedules which are generally every two weeks. This time may be adjusted for holidays or other scheduling changes. Out of cycle check requests must meet the definition of emergency conditions because of the additional expense and workflow disruption to create out of cycle check runs.

II. Procedures

- A. If the desired purchase is above individual's P-card limit, a purchase requisition is required.
- B. Appropriate Bidding Procedures should be followed and attached to the check request as applicable.
- C. The original vendor's invoice must be turned into Accounts Payable with the following information readily identified:
 - 1. Purchase Order #
 - 2. Vendor Number
 - 3. Dollar Amount
 - 4. Account Number
 - 5. Description
 - 6. Authorized By
 - 7. Approval Date
- D. There are certain vendors that the Town remits payment from statements rather than individual invoices. Examples are phone and utility companies, and hardware and parts stores. In these situations, invoices/receipts shall be forwarded to Accounts Payable within three business days of the purchase and shall include, at a minimum, the information required in Section II. C. 3-7 above.
- E. Check requests should be submitted to Accounts Payable in sufficient time to allow payments to be made by vendor due dates. Any finance charges incurred from delinquent payments will be charged to the responsible Department.

DEBARMENT OR SUSPENSION

I. General

The Town Administrator is authorized to debar or suspend a vendor or contractor for cause.

II. Guidelines

- A. No vendor or contractor shall be debarred or suspended until an opinion regarding the same has been obtained from the Town Attorney and until procedures recommended by the Town Attorney have been followed.
- B. The period for debarment shall be determined by the Town Administrator on a case by case basis.
- C. Reasons for debarment or suspension include but may not be limited to the following:
 - 1. Commission of fraud or a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such a contract or subcontract.
 - 2. Conviction or indictment under a state or federal statute of embezzlement, theft, forgery, bribery, falsification, or destruction of records, or receiving stolen property.
 - 3. Conviction or indictment under a state or federal antitrust statute.
 - 4. Failure or default without good cause to perform in accordance with the terms of any contract or unsatisfactory performance of any contract.
 - 5. Debarment, disqualification or suspension by another government entity for any reason.

III. Verification of SAM.gov Exclusion Status of Contractors

- A. To protect the public interest, the Town ensures the integrity of programs by conducting business only with responsible persons.
- B. Town staff shall check the Governmentwide System for Award Management Exclusions (SAM Exclusions) to determine whether a person is excluded. The General Services Administration (GSA) maintains the SAM Exclusions. When a Federal agency takes an action to exclude a person under the nonprocurement or procurement debarment and suspension system, the agency enters the information about the excluded person into the SAM Exclusions.
- 5.C. Town staff will verify on SAM.gov for the “Exclusion” status of all contractors and will keep a documented record of such findings.

COMPETITIVE BIDDING POLICY

I. General

Competitive bids (formal or informal) are required for dollar limit purchases identified in the Summary of Purchasing Criteria found on page 5 of this Purchasing Policy. All bid specifications shall seek to promote overall economy for the purposes intended and encourage competition in satisfying the Town's needs and shall not be unduly restrictive so as to limit competition.

Depending on the nature of the product or service, bids are not necessarily awarded based on price alone. In situations where the low bid is not accepted, a written description of the other factors considered and the basis for the award shall be included with the bid information.

For purchases within the Director's authorization, bid information shall be maintained by the Department. For purchases requiring additional authorization, a summary of the bid information shall be attached to the documentation requiring approval.

II. Bidder's List

Departments are encouraged, but not required, to maintain bidder's lists. Whenever possible, the Colorado State Price Agreement Listing (State Bid) should be consulted. All formal bids shall be advertised on the Town's web site, and vendors should be encouraged to subscribe to the notification service provided on the site. Public notice may also include publication in the Town's legal newspaper or a newspaper of general circulation.

III. Types of Bids

- A. SOLICITATION OF QUOTE: A SOLICITATION is an informal quote obtained from a supplier or contractor in an informal manner (including verbally or electronically). For repetitive purchases, it is not necessary to obtain bids with each purchase. However, a bid process shall be conducted at least once every 2 years.
- B. INVITATION FOR BID (IFB): An IFB is a solicitation of formal bids. A "formal" bid is a solicitation that may require advertising, bonds, and sealed bids. The Director or designee is responsible for the Bid Package and vendor eligibility. The specifications, delivery requirements, plans, drawings, and other items must be determined and finalized prior to the Bid Package being provided. Eligibility may be determined from a pre-qualification process, general advertising of project, or any other method deemed appropriate.
- C. REQUESTS FOR PROPOSAL (RFP): An RFP is a solicitation for goods or services designed for an award based upon criteria other than price alone. It is most often used for items or services that are hard to quantify or describe because it allows the proposer to suggest the item or service that might best suit the Town's needs. Examples where an RFP may be appropriate include design services, professional services, janitorial services and specialized equipment purchases. The RFP should contain the following as a minimum: 1) the type of goods or scope of services and where appropriate detailed specifications; 2) the required time

schedule; 3) general requirements; 4) conditions and provisions; 5) location, date and time for submittal of the proposal; 6) evaluation criteria to be used for selection and award; 7) reservation of the right to waive formalities or informalities, reject any or all bids, accept proposal deemed most advantageous to the best interest of the Town.

- D. PRE-QUALIFICATION: The Department Head or designee may determine if a pre-qualification (RFQ – REQUEST FOR QUALIFICATION) process is appropriate and determine the criteria. Criteria may include but are not limited to the following: construction experience, experience specific to the work specified, construction track record, government experience, and financial stability. The Department Head and/or project manager will review the qualifications and information to determine the acceptability of responding bidders.

IV. Bid Evaluation

IV. Bids shall be evaluated based on the requirements set forth in the Bid Package, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total for life cycle costs. The Bid Package sets forth the evaluation criteria to be used. No criteria may be used in bid evaluation that is not set forth in the Bid Package.

VIII. Affirmative Contracting

The Town shall follow affirmative steps to assure that small, minority or women-owned business enterprises are used when possible, on grant-funded projects. These steps include the following. (2 CFR 200.321)

- i. Place qualified small, minority and women-owned business enterprises on solicitation lists where solicitation lists exist for the needed goods or services;
- ii. Assure that small, minority and women-owned business enterprises are solicited whenever they are potential sources;
- iii. Divide or modify work requirements, when reasonable, into smaller tasks or quantities to permit maximum participation by small, minority and women-owned business enterprises;
- iv. Establish delivery or performance schedules as appropriate, that will encourage participation by small, minority and women-owned business enterprise;
- v. Use resources such as the Small Business Administration to conduct outreach; and
- vi. Require the prime contractor, if subcontracts are used, to take similar affirmative steps to use small, minority or women-owned business enterprises (reference contracts).

V. Award

The contract shall be awarded with reasonable promptness to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Bid Package, unless the Town Administrator or his designee shall determine that the public interest will be better served by accepting a different bid. When the award is not given to the lowest bidder, a complete statement of the reasons for placing the order with another bidder shall be made available to all bidders upon request.

VI. Cancellation of Invitation for Bids

An invitation for bids or any other solicitation may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of the Town. The reasons therefore shall be put in writing and made part of the contract file.

CAPITAL IMPROVEMENT CONTRACTS POLICY

I. General

The Capital Improvement Contracts Policy applies to any Capital Improvement Contract that the Town enters into. In general, the Town Administrator or the Mayor shall sign a contract for the Town (contractual authority) that obligates Town funds, although Directors or designees may sign contracts within their authorization limits. A Town Project Manager (or Town contact person) MUST be designated for each Capital Improvement project and specified within the contract. This individual will be accountable for all aspects of proper contract administration surrounding the construction in progress.

Refer also to the Competitive Bidding Policy for information on the bidding process.

Each Department and its personnel are responsible for the effective planning for its Capital Improvement projects.

II. Contract Performance and Payment Bonds

- A. When a capital improvement contract is awarded, unless the Town Administrator or designee deems otherwise, the following bonds or security shall be delivered to the Town and shall become binding on the parties upon the execution of the contract:

1. Bid security in an amount equal to five (5) percent of the total amount of bid shall be required for all competitive sealed bidding for Capital Improvement Contracts. Bid security shall be a bond provided by a surety company authorized to do business in this state, or the equivalent in certified funds, or otherwise supplied in a form satisfactory to the Town.

When the invitation for bid requires security, noncompliance requires that the bid be rejected.

2. A performance bond, satisfactory to the Town, executed by a surety company authorized to do business in this state, or otherwise secured in a manner satisfactory to the Town, in an amount equal to one hundred (100) percent of the price specified in the contract; and
3. A payment bond, satisfactory to the Town, executed by a surety company authorized to do business in this state, or otherwise secured in a manner satisfactory to the Town for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract, in an amount equal to one hundred (100) percent of the price specified in the contract.

- B. Nothing in this section shall be construed to limit the authority of the Town to require a bond or other security in addition to the bonding requirements as stated above.

III. Retainage

The contract shall include provisions for retainage of contract sums as prescribed by state law and may include provisions for retainage in contracts not covered by state law.

IV. Damage or Delay

The Town may, by contract, require the contractor to waive, release, or extinguish its rights to recover costs or damages, or obtain an equitable adjustment for delays in performing such contract if such delay is caused, in whole or in part, by the acts or omissions of the Town or its agents. If the contract provides that, an extension of time for completion of the work is the contractor's remedy for such delay. Such clause is valid and enforceable, any provision of state law to the contrary notwithstanding.

V. Final Payment

The last payment on a Capital Improvement Contract, in an amount of ten thousand dollars (\$10,000) or more, will not be made until at least ten days after notice of intention to pay is published at least twice in a newspaper of general circulation in the Town and after the Town has received a release of statements of claim or liens. Proof of publication should be submitted to Accounts Payable. Claims against the contract shall be filed as prescribed by state law.

INDEPENDENT CONTRACTOR POLICY

I. General

The Town's Director of Human Resources or designee shall make the determination whether an individual is an independent contractor, as compared to an employee, and shall approve any contract arrangements.

An individual is generally considered to be an independent contractor if the employer has the right to control or direct only the result of the work and not the means and methods of accomplishing it. Examples may include a software programmer, recreation instructor and electrician. Compare with the Internal Revenue Code Test (www.irs.gov/newsroom/understanding-employee-vs-contractor-designation).

The determination needs to be made on a case by case basis.

II. Procedures

The procedures outlined herein are set forth to assure conformity of the independent contractor policy. It is the responsibility of the Department and its personnel to comply with all provisions set forth with this independent contractor policy.

- A. Steps in contracting with independent contractors include:
 - 1. Identification of need.
 - 2. Determination of status with Director of Human Resources.
 - 3. Negotiation of contract.
 - 4. Professional Service Agreement filed with Human Resources.
 - 5. IRS Form W-9 filed with Accounts Payable.
- B. Once the Director of Human Resources' approval to contract with an independent contractor is received, terms need to be negotiated with that contractor. Each independent contractor must be given a copy of the W-9 and must be made aware of the deadlines for payment processing through Accounts Payable.
- C. A Professional Service Agreement must be completed, signed, and forwarded to Human Resources. Human Resources will obtain the Town Administrator's signature. The original is kept in a file in Accounts Payable, with a copy returned to the originating Department, who is responsible to provide the contractor with a copy. IRS Form W-9 must be completed, signed, and forwarded to Accounts Payable. Payment will not be processed unless the W-9 has been received.
- D. The Professional Service Agreement is available in the Finance Department, and should not be modified, unless approved by the Town Administration or designee.



COLORADO

Division of Homeland Security & Emergency Management

Department of Public Safety

June 24, 2022

Town of Wellington
3735 Cleveland Ave
PO Box 127
Wellington, CO 80549

Re: DHSEM Monitoring Site Visit Final Results - Approved - Implementation Follow Up Required

Dear Town of Wellington

On behalf of the Colorado Department of Public Safety, Division of Homeland Security & Emergency Management (DHSEM), we would like to thank you for your cooperation with the monitoring visit on March 7, 2022. The reason for the site visit was not to perform an audit, but rather to conduct a monitoring review of your federally funded grant programs (administered by DHSEM), the related processes/procedures, and the quality of documentation being maintained to support program activities. Our goal of this review was to help you prepare for and respond to future audits and/or reviews performed by the Federal government and/or independent entities.

Our monitoring visit was required by the Office of Management and Budget (OMB) Title 2 of the Code of Federal Regulations § 200.331(e), as applicable, which states that DHSEM, as a pass-through entity of federal funding, is responsible for performing on-site reviews of your program operations to ensure proper accountability and compliance with program requirements and achievement of performance goals.

We have reviewed your response to the recommendation(s) specified in our *Site Visit Letter* sent on **May 10, 2022**. **The results of our review indicate your corrective action plan appropriately addresses the recommendation(s).** We will follow up on August 30, 2022 and October 30, 2022 as indicated in your corrective action plan for a Personally Identifiable Information and Whistleblower policy (due August 30, 2022). As well as an updated Purchasing Policy (due October 30, 2022).

If you should have any questions regarding this letter, please contact the Subrecipient Monitoring Team at CDPS_SRM@state.co.us or contact Justine Willman at 720.595.6119.

We thank you again for your cooperation and will continue to provide assistance to ensure that your entity and the State continue to comply with all federal grant requirements. Please keep a copy of this letter with your grant documentation.

Sincerely,

M. Justine Willman
Grant Compliance Manager

Attachment 2: Summary of Observations

Thank you for providing responses to the guidance observations. Your organization's corrective action plans are accepted. Please see below for additional notes.

Guidance Observation #1	
Area of Review:	A.1/A.5 General/Entity-Level Standards
Applicable Programs:	FMA
Observations:	During our site visit with the Town of Wellington (Town), it was discussed that within the Personnel Policy, Section 10, it advises employees to take precautions to ensure that unauthorized users do not gain access to Town computer systems. However, it does not specifically state what constitutes Personally Identifiable Information (PII) nor what actions to take in the event of a breach. We received the Red Flag Policy, and upon review, it does not define PII or what actions to take in the event of a breach.
Compliance Requirement:	2 CFR 200.303(e) The non-Federal entity must take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.
Risks:	Failure to have a Protection of Personally Identifiable Information (PII) policy could lead to fraud exposure and/or a breach of security for confidential information.
Recommendations:	Establish a formal Personally Identifiable Information (PII) policy to ensure the least amount of exposure to fraud and confidential information, as well as what to do in case of a breach.
Subrecipient's Response & Corrective Action Plan:	The Town will add a formal Personally Identifiable Information (PII) policy to its Personnel Policy by 8/30/2022. Kelly Houghteling, Deputy Town Administrator, and Stephanie Anderson, HR Manager, are the responsible individuals.
Follow Up Required:	DHSEM approves your corrective action plan and looks forward to reviewing your Personally Identifiable Information policy after 8/30/2022. Management Corrective Action Plan Accepted If, however, the executed action plan does not adequately address the finding(s), you are required to notify DHSEM of further corrective action plans. Through future monitoring activities, DHSEM may perform a follow-up review to test the implementation and/or operating effectiveness of the corrective action(s) outlined in the management response above.

Guidance Observation #2	
Area of Review:	A.6 General/Entity-Level Standards
Applicable Programs:	FMA

Observations:	During our site visit with the Town, it was discussed that they are missing a whistleblower policy/process. They have a general inquiry form that would go over general questions, concerns and feedback. However, phone number and name are required to complete the form.
Compliance Requirement:	2 CFR 200.113 Mandatory Disclosures. The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. 2 CFR 200.331 (6) (b) All pass-through entities must evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.
Risks:	Failure to develop mechanisms for reporting fraud increases the risk of fraud going unreported, generating additional financial and legal risk for the subrecipient. Failure to make the required disclosures can result in any of the remedies described in 2 CFR 200.338 (Remedies for noncompliance, including suspension or debarment).
Recommendations:	The Town should develop and implement mechanisms for reporting fraud and other misdeeds, and communicate these mechanisms to all employees.
Subrecipient's Response & Corrective Action Plan:	The Town will add a "Whistleblower" Policy/Process to its Purchasing Policies and/or Personnel Policy, as appropriate, by 8/30/2022. Kelly Houghteling, Deputy Town Administrator, and Stephanie Anderson, HR Manager, are the responsible individuals.
Follow Up Required:	DHSEM approves your corrective action plan and looks forward to reviewing your Whistleblower policy after 8/30/2022. Management Corrective Action Plan Accepted If, however, the executed action plan does not adequately address the finding(s), you are required to notify DHSEM of further corrective action plans. Through future monitoring activities, DHSEM may perform a follow-up review to test the implementation and/or operating effectiveness of the corrective action(s) outlined in the management response above.

Guidance Observation #3	
Area of Review:	G.3 Procurement
Applicable Programs:	FMA
Observations:	During our site visit with the Town, we discussed that within the Purchasing Policy, the Town does not take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when going out to bid.
Compliance Requirement:	2 CFR 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

	(a) The Non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. (b) Affirmative steps must include: (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.
Risks:	Inclusion of small, minority, and women-owned firms in the procurement process is required under Federal grants. Failure to consider these organizations for grant-funded projects may result in disallowed costs or de-obligated funding and may affect the subrecipient's eligibility for future grants.
Recommendations:	When soliciting contractors for grant-funded projects, the Town should ensure that affirmative steps are taken to assure small, minority-owned, women-owned, and labor area surplus firms are used when possible by adding language to their procurement policy and detailing how consideration was given in practice to these firms for each procurement opportunity as detailed in the Code of Federal Regulations. Additionally, the Town should document their consideration of these respective entities in the grant file to evidence compliance with the regulation. While not required to verify licensure for each contractor, leading practices recommend that policies and procedures include steps to verify that contractors are licensed in the applicable city and state and document the verification.
Subrecipient's Response & Corrective Action Plan:	The Town of Wellington will update its Purchasing Policy by 10/30/2022 to ensure when using Federal grants, the inclusion of small, minority, and women-owned firms in the procurement process. Kelly Houghteling, Deputy Town Administrator, and Vik Runkle, Interim Finance Director, are the responsible individuals.
Follow Up Required:	DHSEM approves your corrective action plan and looks forward to reviewing your updated Purchasing policy after 10/30/2022. Management Corrective Action Plan Accepted If, however, the executed action plan does not adequately address the finding(s), you are required to notify DHSEM of further corrective action plans. Through future monitoring activities, DHSEM may perform a follow-up review to test the implementation and/or operating effectiveness of the corrective action(s) outlined in the management response above.

Guidance Observation #4	
Area of Review:	G.4 Procurement
Applicable Programs:	FMA

Observations:	During the site visit it was discussed that the Town's Purchasing Policy does not include a SAM.gov check. Therefore, the contractor, ICON, was not verified to have an "exclusion" status.
Compliance Requirement:	2 CFR 180.125 (a) To protect the public interest, the Federal Government ensures the integrity of Federal programs by conducting business only with responsible persons. (b) A Federal agency uses the nonprocurement debarment and suspension system to exclude from Federal programs persons who are not presently responsible. (c) An exclusion is a serious action that a Federal agency may take only to protect the public interest. A Federal agency may not exclude a person or commodity for the purposes of punishment. 2 CFR 180.130 With the exceptions stated in §§180.135, 315, and 420, a person who is excluded by any Federal agency may not: (a) Be a participant in a Federal agency transaction that is a covered transaction; or (b) Act as a principal of a person participating in one of those covered transactions. 2 CFR 180.155 Check the Governmentwide System for Award Management Exclusions (SAM Exclusions) to determine whether a person is excluded. The General Services Administration (GSA) maintains the SAM Exclusions and makes it available, as detailed in Subpart E of this part. When a Federal agency takes an action to exclude a person under the nonprocurement or procurement debarment and suspension system, the agency enters the information about the excluded person into the SAM Exclusions.
Risks:	Failure to verify contractor status in SAM.gov could lead to issues with performance and quality of service.
Recommendations:	<i>It is recommended that organizations verify SAM.gov for "Exclusion" status of contractors to avoid issues with reimbursable grant costs. Verification needs to be documented.</i>
Subrecipient's Response & Corrective Action Plan:	The Town of Wellington will update its Purchasing Policy by 10/30/2022 to ensure staff verifies SAM.gov for "Exclusion" status of contractors and keep a copy of the documentation. Kelly Houghteling, Deputy Town Administrator, and Vik Runkle, Interim Finance Director, are the responsible individuals.
Follow Up Required:	DHSEM approves your corrective action plan and looks forward to reviewing your updated Purchasing policy after 10/30/2022. Management Corrective Action Plan Accepted If, however, the executed action plan does not adequately address the finding(s), you are required to notify DHSEM of further corrective action plans. Through future monitoring activities, DHSEM may perform a follow-up review to test the implementation and/or operating effectiveness of the corrective action(s) outlined in the management response above.

Board of Trustees Meeting

Date: August 23, 2022
Subject: Resolution No. 31-2022 Authorizing the Purchase of Property From the North Poudre Irrigation Company for the Town of Wellington Water Treatment Plant
Presentation: Meagan Smith, Public Works Deputy Director

BACKGROUND / DISCUSSION

Executive Summary

Staff is presenting a proposed contract for purchase of 10.5 acres of land from North Poudre Irrigation Company (NPIC) in exchange of four shares of NPIC. The purchase includes an amendment to the 1983 Agreement (2022 Amendment) between the Town of Wellington (Town) and NPIC. The land purchase includes the site of the existing Water Treatment Plant (WTP), additional area to the west of the existing plant to allow for the plant expansion, and the site of the raw water intake facility. Other inclusions to the purchase contract are two pipeline easements. The 2022 Amendment reduces the existing 7% fee in the 1983 Agreement included as “reimbursement and compensation to North Poudre for administrative expense, rental of ground and contingencies” to a 1.5% fee for reimbursement of administrative costs only.

NOTE: As of close of business on Friday, August 19, 2022, staff continues to work on the final contract and amendment language. The materials will be provided as soon as possible in an updated packet.

Background

Through the planning process for the current water treatment plant expansion project, the Town identified the need for additional land. The Town currently leases a total of 8.58 acres from NPIC at the southwest corner of N CR 11 and E CR 68, the site of our existing WTP and the water treatment plant expansion project, through two separate agreements. Upon closing on the land purchase, both property leases will terminate.

The first lease for 5.23 acres is included as part of a 1983 Agreement between the Town and NPIC, and a 2000 amendment to that Agreement. Among other terms, this Agreement outlines the lease of the 5.23 acres, provisions to provide the Town with raw water supplies, and identifies a 30-foot easement for the benefit of NPIC along the north portion of the existing lease area, to provide access west of the WTP.

The Town approached NPIC in the Spring of 2021 to discuss a proposed expansion area to the 5.23 acres included in the 1983 Agreement. Through this discussion, NPIC and the Town decided to move forward with the Town purchasing the 5.23 acres and the proposed expansion area. The Town solicited and received an appraisal of the proposed purchase area in July 2021. NPIC formally entered negotiations with the Town in September 2021.

To begin construction for the water treatment plant expansion on-time, the Town secured a second property lease from NPIC in May 2022 for the proposed expansion area of approximately 3.35 acres. This lease secured construction access for the expansion project and includes a provision for the Town to build a gravel access road on NPIC property along the south edge of the WTP in exchange for NPIC to abandon a 30-foot easement along the north side of the property. This provision remains enforceable after the end of the lease.



Through negotiations, the Town is proposing the following terms:

- NPIC will deed two parcels to the Town totaling 10.5 acres
- The Town will transfer four shares of NPIC stock to NPIC
- The Town will acquire two pipeline easements from NPIC; one from the raw water intake facility to main WTP and one for the intake pipes from the raw water intake facility into Reservoir #3
- The 7% fee in the Agreement will be reduced to 1.5%
- NPIC will abandon the access easement along the north side of the WTP
- The Town will build a gravel access road on NPIC property along the south edge of the WTP

Reducing the 7% fee to 1.5% will result in a significant annual cost savings for the Town. Had the reduced 1.5% fee been in place for 2020, the Town would have saved approximately \$73,000 in our annual water lease costs.

In parallel with the negotiation process, the Town completed the necessary land surveys and worked with NPIC to develop and submit the minor land division application package to Larimer County to divide out the two parcels the Town will purchase. The application was submitted to Larimer County on July 15, 2022. On August 15, 2022, the Town received notification from the County that the application is in the review stage of processing.

Upon approval of the purchase contract by the Board of Trustees, Staff will present the proposed purchase contract and 2022 Amendment to NPIC for consideration by its Board of Directors at their next regular meeting scheduled for Wednesday, September 14, 2022.

If approved by all parties, the closing date for the land purchase will be set based on timing of completion of the minor land division process. Additional documents to be executed at closing include final execution of the 2022 Amendment to the 1983 Agreement, execution of deeds for two parcels of land, and execution of two easements.

STAFF RECOMMENDATION

Motion options:

Move to approve Resolution No. 31-2022 Authorizing the Purchase of Property from the North Poudre Irrigation Company for the Town of Wellington Water Treatment Plant

Move to approve Resolution No.31-2022 with amendments as the Board of Trustees deems appropriate

Move to postpone consideration of Resolution No. 31-2022 and provide guidance to staff as to requested modifications

Move to deny Resolution No. 31-2022

ATTACHMENTS

1. RESOLUTION 31-2022 Purchase
2. Purchase and Sale Agreement
3. Exhibit A - 1983 Agreement
4. Exhibit B - MLD Plat North Poudre Reservoir No. 3
5. Exhibit C - Amendment to 1983 Agreement



6. 2022 Property Lease NPIC-Town of Wellington

TOWN OF WELLINGTON

RESOLUTION NO. 31-2022

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, AUTHORIZING THE PURCHASE OF PROPERTY FROM THE NORTH POUDE IRRIGATION COMPANY FOR THE WATER TREATMENT PLANT

WHEREAS, North Poudre is the owner and operator of the North Poudre Irrigation Company Reservoir #3 and certain lands adjacent thereto; and

WHEREAS, pursuant to an agreement entered into by and between the Town of Wellington and North Poudre dated August 25, 1983, Wellington has under lease from North Poudre a certain parcel of land adjacent to the Reservoir for purposes of operation of the Town of Wellington water treatment plant;

WHEREAS, under the terms of the 1983 Agreement, the Parties agreed that Wellington would pay seven percent (7%) assessment on the annual water payments owed by Wellington for administrative expense, rental and contingencies;

WHEREAS, the Town of Wellington is expanding its water treatment plant and has entered into a lease, dated May 2022, with North Poudre for an additional portion of land;

WHEREAS, Wellington desires to terminate the leases with North Poudre and instead of leasing to purchase the leased parcels;

WHEREAS, the Town of Wellington additionally desires to amend the 1983 agreement to reflect the new ownership of the land and to modify the percentage assessment paid on water for administration, rent, and contingencies;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, THAT:

1. The Board of Trustees approves the proposed Purchase and Sale Agreement for the property required for the Town of Wellington Water Treatment Plant near Reservoir #3, including a North Parcel where the plant sits, a South Parcel housing additional pumping equipment, an easement connecting the two parcels, and an easement into the reservoir for water intake.
2. The Board of Trustees approves the proposed 2022 Amendment of the 1983 Agreement to reflect the new property ownership and to reduce the seven percent (7%) fee for administration, rent, and contingencies to one and one half percent (1.5%).
3. In consideration for the above proposals, the Board of Trustees authorizes the transfer to North Poudre of four (4) shares of North Poudre Irrigation Company stock owned by the Town of Wellington.
4. The Board of Trustees authorizes the Town of Wellington to pay all reasonable fees and costs associated with the land transfer, including but not limited to costs for land subdivision by Larimer County.
5. The Board of Trustees authorizes the Mayor to execute the proposed Purchase and Sale Agreement in its current form, or if additional modification is required, in a substantially

similar form including all material terms as discussed herein, with approval by the Town Attorney.

6. The Board of Trustees authorizes the Mayor to execute all other documents, upon approval by the Town Attorney, to complete and close on the proposed transaction detailed in the Purchase and Sale Agreement, including but not limited to the 2022 Amendment of the 1983 Agreement between North Poudre and the Town of Wellington, easement agreements, and other agreements.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted by the Board of Trustees this 23rd day of August, 2022.

TOWN OF WELLINGTON, COLORADO

Calar Chaussee, Mayor

ATTEST:

Patti Garcia, Town Administrator/ Clerk

**AGREEMENT FOR PURCHASE AND SALE OF WATER TREATMENT PLANT
PARCELS AT NORTH POUDRE RESERVOIR #3.**

This Agreement (the “Agreement”) is made and entered into this ____ day of _____, 2022 by and between The North Poudre Irrigation Company (“North Poudre”), a Colorado nonprofit corporation whose address is P.O. Box 100, Wellington, CO 80549 and the Town of Wellington, Colorado (“Wellington”), a Colorado statutory municipality whose address is P.O. Box 127, Wellington CO 80549 regarding the North Poudre Reservoir #3, which is generally located in Sections Eighteen (18) and Nineteen (19), in Township Nine North (T9N), Range Sixty-Eight West (R68W) of the 6th P.M., County of Larimer, State of Colorado. North Poudre and Wellington are sometimes collectively referred to herein as the “Parties”.

WHEREAS, North Poudre is the owner and operator of the North Poudre Irrigation Company Reservoir #3 (“Reservoir”) and certain lands adjacent thereto; and

WHEREAS, pursuant to an agreement entered into by and between the Parties hereto dated August 25, 1983 (“the 1983 Agreement”) and subsequent amendment thereof dated October 4, 2000 (2000 Amendment”), collectively the 1983 Agreement and the 2000 Amendment are referred to herein as the “WTP Agreement”), attached hereto as **Exhibit “A”**. Among other provisions in the 1983 Agreement regarding supply of water, Wellington has under lease from North Poudre a certain parcel of land adjacent to the Reservoir (“Lease Parcel”) for purposes of construction and maintenance of a water treatment plant (“WTP”). The Lease Parcel is described as 5.23 acres

WHEREAS, In addition to the Lease Parcel, the following easements were designated:

1. A 20-foot wide easement for pipelines to the WTP (“Pipeline Easement”) in favor of Wellington along CR 11, with a segment include to extend the pipeline at the southern end into the Reservoir. The Pipeline Easement is described as .72 acres, more or less.
2. A 30-foot wide permanent access easement in favor of North Poudre (“North Poudre Access Easement”). The North Poudre Access Easement is described as .28 acres.

WHEREAS, the Lease Parcel, Pipeline Easement and North Poudre Access Easement are each particularly described by legal description in an attachment to the 1983 Agreement; and

WHEREAS, the 1983 Agreement also provided for Wellington’s right to install and use a below-ground pump, and to extend the pipeline from the pump site into the Reservoir for intake of water from the Reservoir to be pumped into the WTP; and

WHEREAS, on August 23, 1983, Wellington obtained a Special Use permit for the construction and operation of the WTP from Larimer County; and

WHEREAS, by amendment to the 1983 Agreement dated October 4, 2000, the Parties signed an amendment whereby Wellington was permitted to increase the size of the WTP within the existing Lease Parcel subject to Larimer County approvals. See, **Exhibit “A”**; and

WHEREAS, under the terms of the 1983 Agreement, the Parties agreed that Wellington would pay seven percent (7%) assessment on the annual water payments owed by Wellington for administrative expense, rental and contingencies (“Fee”); and

WHEREAS, Wellington desires to terminate the lease in the WTP Agreement (Lease) and instead of leasing to purchase the following parcels and easements for purposes of expanding the WTP:

1. A parcel encompassing the Lease Parcel and additional land, said parcel to be approximately 8.97 acres (“North Parcel”)
2. A parcel encompassing the pump site, said parcel to be approximately 1.54 acres (“South Parcel”)
3. A permanent 20-foot wide easement for pipelines connecting the North Parcel and South Parcel mirroring the current Pipeline Easement in favor of Wellington along CR 11 (“Connecting Pipeline Easement”)
4. A permanent 60-foot wide easement for pipelines extending into Reservoir #3 from the South Parcel (“Reservoir Pipeline Easement.”)

WHEREAS, North Poudre desires to sell, and upon sale terminate the Lease, subject to the terms and conditions of this Agreement.

NOW THEREFORE, the Parties agree as follows:

1. The foregoing recitals are incorporated herein as if fully set forth.
2. North Poudre and Wellington agree to cooperate with each other in finalizing and effecting a conveyance of the **North Parcel** and the **South Parcel** and execution of agreements for the permanent use of the **Connecting Pipeline Easement** and the **Reservoir Pipeline Easement** (collectively, “**Sale Property**”).
3. As consideration for the Sale Property, Wellington shall transfer to North Poudre **Four Unencumbered Shares of North Poudre Irrigation Water Stock**.
4. The conveyance of the Sale Property is for the WTP uses and shall not include mineral or water rights of any kind.
5. North Poudre agrees that the **North Poudre Access Easement** will be abandoned, contingent on completion of an access road south of the **North Parcel** by Wellington pursuant to Section 3.1 of the Lease Agreement executed between the Parties on or about May 16, 2022.
6. The conveyance will require the prior approval of Larimer County and related planning department procedures. As the Sale Property lots are presently not legal, salable lots, they must be created and approved by Larimer County through the MLD process. The Parties will cooperate with each other to commence and finalize the MLD process such that the North Parcel and South Parcels shall be legally created and described for transfer to

Wellington, with the remaining parcel to be owned by North Poudre to be approximately 263.34 acres.

7. The Sale Property is preliminarily described on attached **Exhibit “B”**, “Preliminary Minor Land Division (MLD) Plat”, the completed and final version of which shall be approved by both Parties.
8. All expenses for the required MLD process, including but not limited application fees, surveys, and preparation of legal descriptions for the North Parcel and the South Parcel shall be at the sole expense of Wellington. The MLD plat shall be approved by North Poudre as the landowner, which approval shall not be unreasonably withheld. NIPC will prepare the MLD parcel deeds.
9. Closing on the sale and conveyance of the Sale Property is subject to
 - a. the Parties’ mutual execution of an amendment of the WTP Agreement at closing in substantial form as attached hereto, but not incorporated herein, **Exhibit “C” (“Amendment”)**.
 - b. the Parties’ mutual execution of an Agreement for Right of First Refusal at closing in substantial form as attached hereto, but not incorporated herein, **Exhibit “D” (“Right of First Refusal”)**, which Right of First Refusal shall be recorded, either as a separate agreement or incorporated into the conveyance Deed.
10. The Closing shall be mutually set by the Parties upon Larimer County final approval of the MLD, written notice of which shall be provided to North Poudre by Wellington. Unless otherwise set by the Parties in writing, closing shall occur the latter of June 1, 2022 or fourteen (14) days after final approval of the MLD.
11. This Agreement shall not be recorded by any Party.
12. The Parties acknowledge that, prior to signing each Party has had the opportunity to review and comment upon the development of this Agreement upon the consultation of independent legal counsel of their choice, and freely and voluntarily enter into this Agreement. Accordingly, each party shall be deemed to have equally participated in the drafting of this Agreement.
13. This Agreement and the Exhibits hereto constitute the final (except where noted herein as preliminary), and complete expression of the Parties’ agreements herein and no oral modification shall be recognized. Except as otherwise stated herein, Exhibits referenced in this Agreement shall be deemed attached and incorporated into this Agreement. This Agreement shall not be modified except by written agreement of the Parties.

14. None of the terms, conditions, or covenants set forth in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party to this Agreement. Any person other than the parties to this Agreement who or which receive services or benefits under this Agreement shall be construed to be an incidental beneficiary only.
15. The terms of this Agreement shall not merge into the deed or other conveyance documents and shall inure to the benefit of, and be binding upon, the Parties, and their respective successors and assigns; provided, however that nothing contained in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized in this Agreement.
16. The invalidity or unenforceability of any of the provisions of the Agreement shall not affect any other provision of this Agreement which shall thereafter be construed in all respects as if such invalid or unenforceable provision were omitted. The Waiver by any party to this Agreement, or a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.
17. This Agreement may be executed separately by each party and counterparts or copies, and when each party has executed a copy thereto, such copies taken together shall be deemed to be the full and complete contract between the parties.
18. This Agreement shall be governed by the laws of the State of Colorado. Venue for any dispute under this Agreement shall be in the Larimer County District Court

TOWN OF WELLINGTON:

TOWN OF WELLINGTON
A Colorado statutory municipality

By _____ on the _____ day of _____, 2022.
Calar Chaussee, Mayor

ATTEST:

Patti Garcia, Town Clerk

NORTH POUDRE:

THE North Poudre IRRIGATION COMPANY,
a Colorado nonprofit corporation

By _____ on the _____ day of _____, 2022.
Loren Maxey, President

AGREEMENT

It is agreed between The North Poudre Irrigation Company, referred to as "North Poudre" in this Agreement, and the Town of Wellington, Colorado, referred to as "Wellington," for good and valuable consideration as follows:

1. Background and purpose of this Agreement:

The Town is to design and construct a water treatment facility at North Poudre Reservoir No. 3, located approximately 4 miles north and west of Wellington. This reservoir is a North Poudre reservoir and is located in Section 19, Township 9, Range 68 in Larimer County, Colorado. Water from the facilities of the Northern Colorado Water Conservancy District cannot be stored in Reservoir No. 3 but this District takes the position its facilities indirectly make water available which otherwise would not have been available. The Northern Colorado Water Conservancy District expects to be compensated for any water used at the domestic or industrial rate charged by the District and based on the use. Wellington intends to improve its water supply system, which is presently from wells, by making improvements and provisions to provide for additional future water supply.

Previous efforts to reach an agreement with East Larimer County Water District for a supply of domestic water were not successful.

The residents of the Town of Wellington have twice voted in favor of an improved water system. The Board of Trustees believes it should carry out the wishes of the majority of the residents.

The North Poudre Irrigation Company has had its office in Wellington, Colorado, for many years, and Wellington is generally in the heartland of The North Poudre Irrigation Company's water delivery system. This system includes reservoirs and ditches.

The parties, for many years, have worked well with one another. Both will receive benefits from this Agreement. Wellington plans to make an absolute exchange of stock it owns in The North Poudre Irrigation Company and has used only for irrigation water, in return for North Poudre planning and arranging for annual or seasonal transfers of water which the Town will use for domestic purposes.

2. Transfer of existing water stock from Wellington to North Poudre: Wellington agrees, before construction begins, to transfer to North Poudre the ownership of 53 shares of stock in The North Poudre Irrigation Company, free and clear of liens and encumbrances. Wellington may have the benefit of any water or rental income for 1983 from such shares.

North Poudre agrees, subject to the other terms and conditions of this Agreement, to arrange for annual or seasonal transfers, as necessary, to make available for withdrawal by the Town of Wellington 275 acre feet of water annually from Reservoir No. 3.

This amount has been computed and arrived at by giving credit for approximately 5.25 acre feet per share of North Poudre stock, multiplying that amount times 53 shares but rounding the number off at 275 acre feet. This 275 acre feet is not subject to any further adjustment.

Wellington, as part of the consideration for the 275 acre feet, shall pay an annual amount equal to the total yearly assessment per share on the 53 shares of stock transferred to The North Poudre Irrigation Company. The Town shall each year also pay an amount equal to 7 percent times the total annual assessment as reimbursement and compensation to North Poudre for administrative expense, rental of ground and contingencies payable in advance for each assessment year. For example, if the assessment is \$100.00 per share on North Poudre stock, a total of \$5,300.00 on 53 shares, then \$371.00 shall be paid for administrative expense, rental of ground and contingency items at the time the first installment is due. The Town shall also pay to North Poudre any charges for domestic or industrial use imposed by the Northern Colorado Water Conservancy District for the delivery of the 275 acre feet and any other deliveries made under this Agreement. Payment shall be made before the charges are delinquent. Charges are delinquent thirty (30) days after The North Poudre Irrigation Company is billed by the Northern Colorado Water Conservancy District. These billings are expected to be received approximately December 1st of each year. The Town's payments to North Poudre shall be made in time to meet the date payment is due to the Northern Colorado Water Conservancy District.

These charges due North Poudre shall be estimated by North Poudre on or before September 1st of each year so the Town can budget for the next year. Charges due because of Northern Colorado Water Conservancy District's charges shall be based on an estimate with final amount based on actual amount charged.

Money owed to North Poudre in lieu of the assessments on the North Poudre stock but in a like amount shall be paid on a quarterly basis and are due within 15 days from date of billing. If not paid when due, there shall be a late charge equal to the amount of interest then in effect and owed by any North Poudre stockholder for a delinquency on an assessment against shares of stock in The North Poudre Irrigation Company.

The transfer of 53 shares of stock in The North Poudre Irrigation Company to North Poudre ends all the Town's right in said stock, including voting rights. Voting rights and other rights for any other North Poudre stock owned by Wellington is not affected.

A representative of the Town shall have the right to attend the annual stockholder's meeting of The North Poudre Irrigation Company, and the Town shall be given notice of such meeting.

3. Potential use of an additional 225 acre feet:
North Poudre is willing to plan and make annual or seasonal transfers of water rights which can be used by Wellington for domestic purposes in the amount of an additional 225

acre feet of water annually. Except as hereafter provided, there will not be any additional charge for the making of these annual or seasonal transfers. The 225 acre feet, plus the 275 acre feet described in paragraph 2 for the North Poudre stock transferred, would make available an annual potential of 500 acre feet for the Town of Wellington.

This 225 acre feet represents water rights owned and controlled by North Poudre. No water rights have been transferred to North Poudre to form a basis for an annual or seasonal exchange. If any amount of this 225 acre feet of water transferred on an annual or seasonal basis is used, payment shall be made on a formula basis with the formula figures which relate to the market value of North Poudre stock; the applicable interest rate; the current assessment on North Poudre stock; and, the charges made by the Northern Colorado Water Conservancy District to be reviewed and adjusted annually if changes have occurred. In using the formula, it shall include any annual amount or charges being imposed by the Northern Colorado Water Conservancy District and above the irrigation rate charged to North Poudre which originally was set at \$1.50 a unit. These charges are presently \$6.25 an acre foot for domestic water, but the charges will include any amount which may be hereafter charged from time to time by the Northern Colorado Water Conservancy District for the delivery of domestic water and not included in the North Poudre assessment. Seven percent (7%) shall also be added as an allowance for administrative expenses, rental of grounds, and contingencies. The formula shall consider and include the average fair market value of North Poudre stock based on sale prices during the previous 12-month calendar year period, as determined by records which shall be kept by The North Poudre Irrigation Company. The computation shall include an interest rate factor initially using the interest rate being charged for farm and ranch loans as made by the Federal Land Bank Association, including, in computing that interest rate, the true or actual interest rate for money borrowed from that Association. Should there no longer be a Federal Land Bank Association or a direct successor, then an interest rate shall be used which shall fairly and reasonably represent the interest rate being charged on farm and ranch real estate loans. The intention of this formula is to provide a return to North Poudre based upon an amount per acre foot which would be equivalent to the acre foot costs of a person who acquires North Poudre stock by taking into account the fair market value of North Poudre stock, the assessments on it, the Northern Colorado Water Conservancy District charges for domestic water and any other charges by that District which would be chargeable to the Town, whether for domestic or industrial use, and the seven percent (7%) factor for administrative, rental, and contingencies.

An example of how this cost would be computed follows: Assume the fair market value of North Poudre stock is \$5,000.00. Assume the applicable interest rate is 15 percent (15%). Assume the Northern Colorado Water Conservancy District charge is \$6.25 per acre foot and the charge of 7% is made for administrative expenses, rental and contingencies. Using these assumptions, an example is attached as Exhibit "A" and incorporated by reference herein.

4. Option to reserve additional water supply subject to annual or seasonal transfers:

Wellington shall have up to May 1, 1985, approximately one year from the date it is expected the water treatment facility plant will be in operation, to give North Poudre written notice of its intention to have North Poudre reserve an additional 1500 acre feet of water beyond the 500 acre feet per annum provided for in Paragraphs 2 and 3. No compensation is owed to North Poudre for this one-year period of time.

The provision with regard to these option rights and the commitment are made to give the Town an opportunity to see what changes, if any, result from a change in the water supply for the Town, particularly to see what growth may result over the next few years. The charges are made because North Poudre needs to know what water will regularly be used from Reservoir No. 3, and believes reasonable compensation should be paid for additional water made available for the Town. The parties can, of course, make later written modification should they believe circumstances justify it, but there is no obligation so to do.

North Poudre shall be obligated to manage its system so it can make annual or seasonal transfers to make effective any option rights which are exercised.

After May 1, 1985, the Town shall have three years in which it may make a commitment for the additional 1,500 acre feet of water per year, or some portion thereof, by making the following payments for the commitment, and on the following terms and conditions: between May 1, 1985 and April 30, 1986, the Town may reserve all or a portion of the 1,500 acre feet for a charge payable to North Poudre in the amount of \$6.00 per acre foot per year. Between May 1, 1986 and April 30, 1987, the Town may reserve all or a portion of the 1,500 acre feet for a charge of \$8.00 per acre foot per year. Between May 1, 1987 and April 30, 1988, the Town may reserve all or a portion of the 1,500 acre feet for the sum of \$10.00 per acre foot per year. "Year" as here used means May 1st to April 30th.

The failure of the Town to exercise this option during the first or second year shall not preclude it from exercising the option during the third option year, but whenever an option is exercised for water, the price to be paid for the commitment to hold that quantity of water shall be at the price then in effect. The \$6.00, \$8.00 and \$10.00 per acre foot per year charge for the commitment, depending on the year in which it is exercised, is not then thereafter subject to increase or decrease, but the Town may reduce the amount of water being held for it. After 1988 all options end, except to reduce quantities.

If the Town elects to make a commitment during the option periods, and then decides to reduce the amount, it may do so by written notice to North Poudre prior to the year for which the reduction is to be made. Once reduced, the Town shall no longer owe for the commitment surrendered, but there shall be no refund for the amounts previously paid, and the rights to additional water is surrendered.

No commitment charge will be owed or due for water that is actually used under the commitment. Such water shall be paid for under the formula rates set forth in Paragraph 3 of this Agreement. However, the first 500 acre feet of water used annually shall be considered to be that used under the provisions made in Paragraphs 2 and 3, and the charge made for the commitment shall be avoided only when use exceeds 500 acre feet per year.

Some examples of what is intended under this paragraph now follow: if the Town desires to have an additional 400 acre feet of water reserved, it may do so by paying the sum of \$6.00 per acre foot per year during the period of time from May 1, 1985 to April 30, 1986, or a total of \$2,400.00 per year for the additional commitment for that 400 acre feet. If the Town elected to have a commitment of 400 acre feet per year and later decided to reduce the amount, the Town will no longer owe for the commitment surrendered. If, for example, the Town reduced the commitment from 400 acre feet per year to 200 acre feet per year, there is no right to later reinstate the commitment, and only 200 acre feet per year would thereafter be available. If the Town used 500 acre feet of water annually under the provisions of Paragraphs 2 and 3 of this Agreement, and then used 200 acre feet of a 400 acre foot per annum commitment, it would not owe the \$6.00 per acre foot per annum charge on the 200 acre feet actually used. The 200 acre feet would be paid for under the formula set forth in Paragraph 3 and illustrated by example. The Town would owe \$6.00 on the 200 acre feet committed but not taken, a total of \$1,200.00 for that year.

If the Town made no commitment in the year May 1, 1985 to April 30, 1986, it would have the option to pay \$8.00 per acre foot per year and reserve 1,500 acre feet or a lesser amount in the second year, or it could take some amount in the second year at the \$8.00 per acre foot figure and still reserve an additional amount of water up to 1,500 acre feet by paying \$10.00 per acre foot per year in the year May 1, 1986 to May 1, 1987.

The amount due North Poudre on any commitment shall be due on or before March 1 of each year for that year. The commitment is exercised by making timely payment for the amount of water involved. If not paid when due, it shall bear interest in an amount equal to that being charged delinquent North Poudre stockholders. If a delinquency continues 60 days after a notice of delinquency, all rights to any future commitment of water end automatically without notice. North Poudre will bill the Town for the amount owed under this provision of the Agreement.

5. Use of site for pumping plant included and conditions regarding this use: It is agreed that the expense of seven percent (7%) for administrative expense, rental, and contingencies includes what is agreed to be a reasonable allocation for the use of the plant site and access to it. It also includes the right of way to extend pipeline into the reservoir; the right of access to repair the lines; and, pump site below ground in the reservoir. The location of the site is not expected to exceed 5.23 acres, plus access. Access to this site shall be arranged by the Town from County Road No. 11. Sheets 1, 2, and 3 showing the site and

easements with legal descriptions are attached as furnished by Taranto, Stanton & Tagge, Engineers. The location shall be the sole responsibility of the Town to secure and insure and North Poudre shall have no responsibility for any loss or damage suffered by reason of such location, by any cause. The construction of the pumping and filter plant and the appurtenant facilities shall be coordinated with North Poudre and information furnished a reasonable time in advance.

Wellington has the sole obligation to make the withdrawal of water from the reservoir. Pumps shall be metered and Wellington shall keep all meters in good working order. North Poudre shall have the right to approve or disapprove the installation of any pipes or structures into the reservoir, but approval shall not be unreasonably withheld. Wellington shall also obtain the written approval of the State Engineer and furnish a copy to North Poudre before construction begins.

It is the Town's sole responsibility to furnish and pay for any power charges. The location of poles and lines shall meet with North Poudre's written approval and shall not interfere with other uses.

Construction on any improvements in the site shall be coordinated to hold to a minimum the loss of any water storage in Reservoir No. 3. The construction schedule shall be coordinated with North Poudre. Wellington has the sole discretion as to who receives service, and the charges therefore, but Wellington remains responsible for all obligations to North Poudre. No service shall be furnished outside the boundaries of the Northern Colorado Water Conservancy District or any lawful subdistrict in the Northern Colorado Water Conservancy District where it allows service.

Thirty (30) feet shall be left between the north side of the treatment plant and the section line between Sections 18 and 19, so there is at least a 30 foot easement between the treatment plant's north line and the line between Sections 18 and 19 for the use of North Poudre and its grantees.

Also, the Town agrees that waste water shall be carried to the east on the north side of the water treatment site, and then the waste water shall be channeled down the west side of the county road so it may be used on the balance of property North Poudre plans to retain on the south side of the 5.23 acres.

Wellington agrees that before construction is completed, a chain link fence shall be installed around the water treatment plant at its sole expense, and that a temporary fence not less than a legal fence shall be installed during construction to turn livestock away from the construction site and to keep livestock off the county road. Wellington shall be responsible for any and all damage for which there is legal liability during construction.

6. Water quality and pipeline maintenance:
Water which is stored in North Poudre Reservoir No. 3 is normally there under existing North Poudre decrees. Such water may come from such places as the north fork of the

Cache La Poudre River, seepage water, water from a natural draw known as Park Creek, water from the Monroe Gravity Canal, and from Boxelder Creek. Because North Poudre cannot control the quality of water which enters Reservoir No. 3 as it travels through the North Poudre system, nor can North Poudre control water which may otherwise reach the reservoir, it is the Town's sole responsibility to be satisfied as to the present and future quality of water in Reservoir No. 3, and to treat it in accordance with any legal requirements.

Based on engineering information furnished to the Town, it is believed to be desirable at times to take water from the North Poudre Waverly Main Ditch which supplies North Poudre Reservoir No. 3.

The Town plans to be able to take water by a gravity flow pipeline from the North Poudre Waverly Main Ditch to its water treatment plant, in addition to being able to take water from a pipeline out of North Poudre Reservoir No. 3. North Poudre will work with the Town and cooperate with it to make it possible for the Town to take water from the pipeline in the North Poudre Waverly Main Ditch. This does not require North Poudre to run water through the North Poudre Waverly Main Ditch at any special time. It is intended that the Town be able to take water from the pipeline in the North Poudre Waverly Main Ditch rather than Reservoir No. 3 if doing so would not unreasonably interfere with North Poudre's operations and water is being moved through the ditch.

The Town is solely responsible to maintain, repair and replace its water pipelines. North Poudre will not do anything to deliberately contaminate the water in the North Poudre Waverly Main Ditch or being stored in North Poudre Reservoir No. 3.

7. No carry-over rights in water stored: The Town shall not have the right to carry-over any water from one year to the next. Water which has not been used during the calendar year reverts to The North Poudre Irrigation Company without any compensation being owed therefore to Wellington.

8. Emergencies relating to the supply of water: It is the Town's sole responsibility to have a backup system to receive water in the event an emergency should happen where water is not available from Reservoir No. 3, including but not limited to the failure of the reservoir. The parties will cooperate with one another as may be reasonably necessary to coordinate a backup system, but it is Wellington's sole responsibility to construct and maintain it. North Poudre agrees to allow an alternate delivery from any point in the North Poudre system in the event of an emergency, except there will not be any delivery from Horsetooth Reservoir, and there shall not be any delivery from a point which would substantially interfere with other obligations of The North Poudre Irrigation Company.

9. Delivery of water and miscellaneous matters subject to bylaws and rules and regulations of The North Poudre Irrigation Company: It is expected that miscellaneous matters involving the delivery of water will have to be

worked out as the water project is completed and delivery put into effect. For example, procedures with the Northern Colorado Water Conservancy District which presently require reports on water use by November 1st and payment by December 1st of each year. The parties will cooperate with each other to work out necessary details and to supply information within the time required by the Northern Colorado Water Conservancy District.

The delivery of water shall be subject to reasonable bylaws, rules and regulations, and policies established by The North Poudre Irrigation Company, so long as they are not contrary to the terms of this Agreement.

10. North Poudre is not obligated to accept any additional water rights or stock: North Poudre is not obligated to accept the transfer to it of any additional North Poudre stock or any other stock or water rights. Should the Town acquire additional water rights, whether stock in North Poudre or units in the Northern Colorado Water Conservancy District, it would be necessary for the parties to agree as to how, and whether or not, they were integrated into this Agreement. North Poudre is not obligated to arrange for annual or seasonal transfers nor to allow delivery of any other water rights the Town might acquire out of Reservoir No. 3, whether the same are represented by shares of stock in The North Poudre Irrigation Company or units of the Northern Colorado Water Conservancy District.

11. Additional consideration for this Agreement: It is possible North Poudre might move some or all facilities to the area of Reservoir No. 3, including its office, garage and storage yard. It is agreed that North Poudre shall be entitled to one 3/4 inch tap to provide service if Wellington constructs a filter plant at Reservoir No. 3. The tap isn't saleable or transferrable. The tap is included as part of this Agreement with no charge therefor, but North Poudre shall pay the established lawful rate for any water service thereafter provided and used.

North Poudre suggests that a fire hydrant should be installed and an outlet for water hauling, with any use to be metered should facilities be installed. However, the Town isn't obligated to make any such installations.

12. Provisions regarding default by the Town of Wellington in any financial obligation: It is agreed that The North Poudre Irrigation Company shall have the first right to step in and protect against any default by the Town of Wellington which might result in the loss of the water filter and treatment plant and any appurtenances. North Poudre is not obligated to cure any default, but it is intended and agreed that North Poudre shall have the first rights to step in and acquire the ownership of the filter plant should same be in jeopardy for any reason by the default of Wellington. In such case, North Poudre shall continue the supply of water to existing residents of the Town but shall have the right to make reasonable charges consistent with the costs of delivery and any obligations it might have to pay or assume to continue the operation of the filter plant.

This provision is made because both parties recognize that it would be detrimental to Wellington and to North Poudre to have a third party acquire ownership in the water filter and treatment plant because of a default by the Town of Wellington.

If Wellington fails to make the payments to North Poudre that must be paid to meet the requirements of the Northern Colorado Water Conservancy District, Wellington shall be obligated to pay interest on all monies advanced by North Poudre at a rate equal to that in effect and owed by any North Poudre stockholder for delinquencies on assessments, in addition to all costs, expenses and reasonable attorney fees incurred by North Poudre paid or incurred in enforcing Wellington's obligations. Delivery of water may be discontinued upon Court order for failure to pay money due North Poudre. This provision with regard to default imposed by the Northern Colorado Water Conservancy District before payment by Wellington and any default would jeopardize North Poudre's water rights.

13. Conditions and duration of this Agreement:
Subject to North Poudre managing its system so it can make annual or seasonal transfers as required by the Northern Colorado Water Conservancy District, this Agreement contemplates that North Poudre has sufficient water to enable seasonal transfers of 275 acre feet of water annually for as long as the Town may require such waters, and North Poudre hereby makes such finding of availability for the 275 acre feet and for all other deliveries in accordance with the terms of this Agreement. This finding is not revocable without written consent of the Town.

The use of the plant site and access to it shall be for so long as is necessary to enable the Town to repay any funds advanced under current commitments by the Colorado Water Conservation Board and the United States of America-Farmers Home Administration. It is expected that this period of time will be 40 years. It is not intended, however, nor is it required by this Agreement that the Town must relocate the water filter plant, so long as the plant is providing service to the Town and the Town pays the charges owed North Poudre. The use of the plant site will be continued if the site is used to provide water to the Town and the charges owed are paid.

There is no right to expand or relocate the site without a new written agreement between the parties. However, North Poudre will not unreasonably refuse the location of a water treatment plant at a new site should the plant and site at Reservoir No. 3 be abandoned.

14. Disputes between the parties, voluntary arbitration:
Should a dispute arise that the parties are not able to settle by a good faith effort, then the dispute may be arbitrated under the Rules of Commercial Arbitration of the American Arbitration Association and any modifications thereof agreed to in writing by the parties. However, if either party indicates in writing that it is unwilling to arbitrate, then there shall not be arbitration and the dispute shall be subject to any other legal remedies then available.

It is agreed between the parties that both will make prompt, diligent, and bona fide efforts to resolve any matters not specifically recovered by this Agreement, or disputes that arise under it, by working and negotiating with one another before litigation is used. However, this clause does not impose any time period before litigation can be commenced.

15. Legal fees and representations: A portion of the legal fees for doing the initial draft of this Agreement were paid by North Poudre and the Town of Wellington. Hill & Hill, P.C., Attorneys at Law, in Fort Collins, Colorado, initially worked on the first draft of the Agreement for both parties because they knew the history of the matter and served as counsel for both the Town and North Poudre for many years.

The Town was advised to have independent counsel review the terms of this Agreement and the Town has done so. The Town received advice from John Frey of Fort Collins, Colorado, incorporated those suggestions in this Agreement to the extent the parties agreed, and believes the terms of this Agreement to be fair and reasonable.

North Poudre was also advised to have independent counsel review the agreement if it wished to do so.

16. Wellington to obtain all necessary permits: It is Wellington's sole responsibility to obtain any permits necessary from government agencies to build and operate its water filter and delivery plant.

17. Contingency: This Agreement is subject to the approval of the United States of America, the Colorado Water Conservation Board, the State Engineer for Colorado, and subject to the Town of Wellington being able to obtain the necessary financing to construct its water filter plant.

18. Existing pasture lease and condemnation: It is understood that a pasture lease is outstanding on the property where the water treatment site must be located and also involves the access thereto. North Poudre will work with the Town to see if a surrender of the lease may be obtained but it shall be the Town's sole responsibility to pay any expenses and any compensation it might choose to pay to have the lease canceled for the water treatment site and access. The Town shall be responsible to pay any charges incurred in condemnation. North Poudre will cooperate in any way it might be of assistance.

19. This Agreement is not assignable.

This Agreement shall be binding on and for the benefit of the parties, their successors, grantees and legal representatives.

DATED this 26 day of August, 1983.

TOWN OF WELLINGTON

By: Sandra Maxwell
Mayor

ATTEST:

Janice Jones
Town Clerk

THE NORTH POUDE IRRIGATION COMPANY

By Duane Aranci 8/26/83
President

ATTEST:

Ben Dumler
Secretary-Manager

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 26th day of August, 1983, by Sandra Maxwell, Mayor, and Janice Jones, Town Clerk, of the Town of Wellington.

My commission expires: 7-10-85

Margie L. Daubert
Notary Public

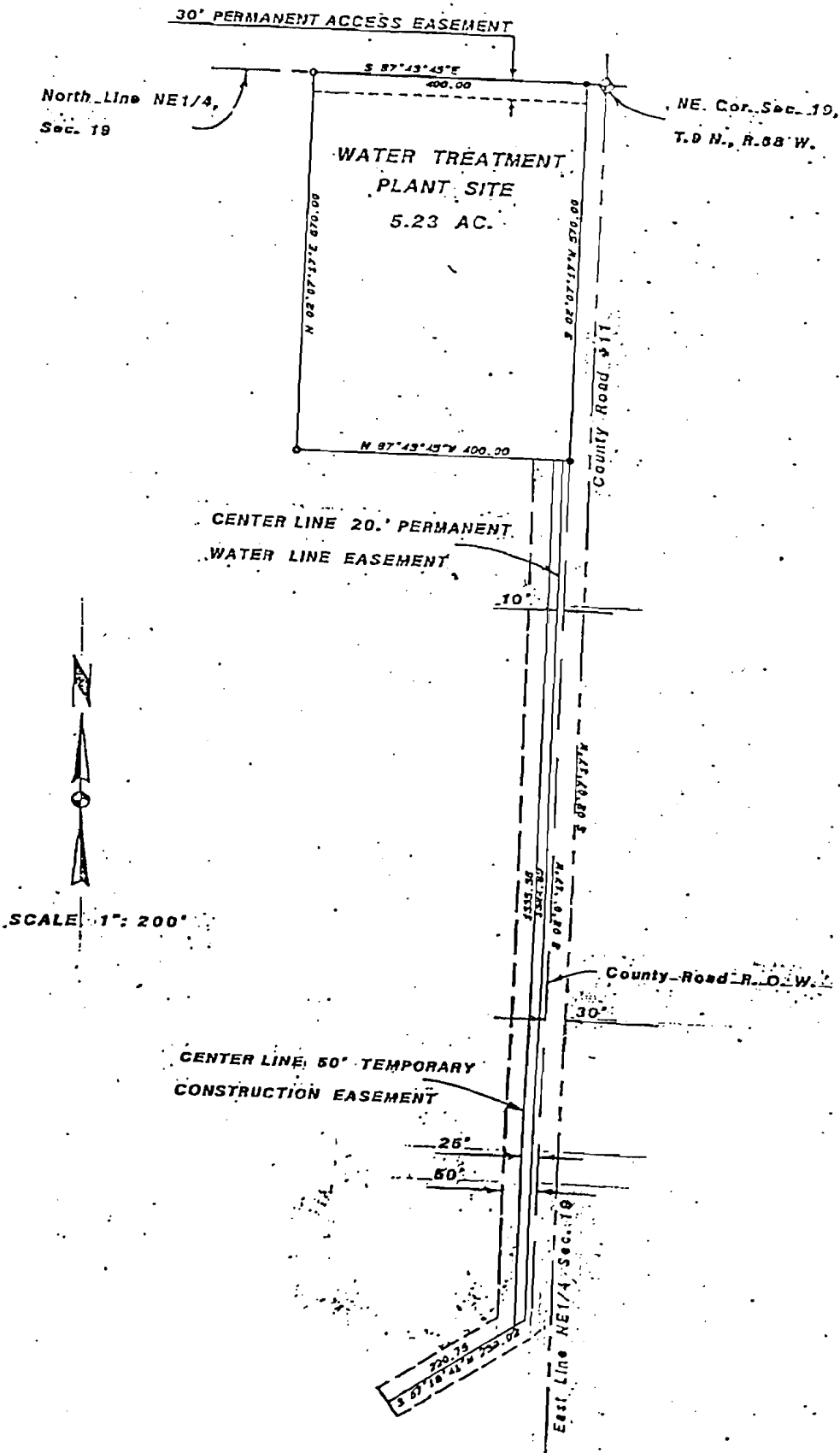
STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 26th day of August, 1983, by Duane Aranci, President, and Ben Dumler, Secretary-Manager, of The North Poudre Irrigation Company.

My commission expires: 7-10-85

Margie L. Daubert
Notary Public

WELLINGTON WATER TREATMENT PLANT SITE



LEGAL DESCRIPTION

^{Northeast}
A portion of the Northeast Quarter of Section 19, Township 9 North, Range 68 West of the Sixth Principal Meridian, Larimer County, Colorado being described as follows: Beginning at the Northeast corner of said Northeast Quarter and considering the Easterly line of said Northeast corner to bear South 02° 07' 17" West with all bearings contained herein relative thereto; thence Westerly along the Northerly line of said Northeast corner North 87° 43' 45" West, 30.00 feet to the Westerly right-of-way line of County Road No. 11 and the True Point of Beginning of this description; thence Southerly along said Westerly line South 02° 07' 17" West, 570.00 feet; thence departing said Westerly line North 87° 43' 45" West, 400.00 feet; thence North 02° 07' 17" East, 570.00 feet to the Northerly line of said Northeast Quarter; thence Easterly along said Northerly line South 87° 43' 45" East, 400.00 feet to the point of beginning of this description. The above described tract contains 5.23 acres.

LEGAL DESCRIPTION - 20 FOOT WIDE PERMANENT WATER EASEMENT

A tract of land lying 10 feet on both sides of the following described centerline located in the Northeast Quarter of Section 19, Township 9 North, Range 68 West of the Sixth Principal Meridian, Larimer County, Colorado being described as follows: Beginning at the Northeast corner of said Northeast Quarter and considering the Easterly line of said Northeast Quarter to bear South 02° 07' 17" West with all bearings contained herein relative thereto; thence Westerly along the Northerly line of said Northeast Quarter North 87° 43' 45" West, 30.00 feet to the Westerly right-of-way line of County Road No. 11; thence Southerly along said Westerly line South 02° 07' 17" West, 570.00 feet; thence departing said Westerly line North 87° 43' 45" West, 10.00 feet to the True Point of Beginning of this description; thence South 02° 07' 17" West, 1,324.89 feet; thence South 57° 18' 41" West, 239.02 feet to the point of terminus of this description. The above described tract contains 0.72 acres, more or less.

LEGAL DESCRIPTION - 50 FOOT WIDE TEMPORARY CONSTRUCTION EASEMENT

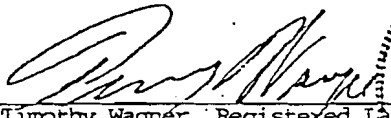
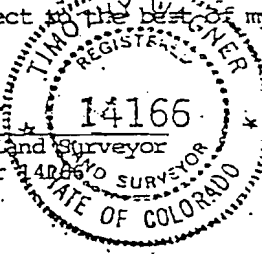
A tract of land lying 25 feet on both sides of the following described centerline located in the Northeast Quarter of Section 19, Township 9 North, Range 68 West of the Sixth Principal Meridian, Larimer County, Colorado being described as follows: Beginning at the Northeast corner of said Northeast Quarter and considering the Easterly line of said Northeast Quarter to bear South 02° 07' 17" West with all bearings contained herein relative thereto; thence Westerly along the Northerly line of said Northeast Quarter North 87° 43' 45" West, 30.00 feet to the Westerly right-of-way line of County Road No. 11; thence Southerly along said Westerly line South 02° 07' 17" West, 570.00 feet; thence departing said Westerly line North 87° 43' 45" West, 25.00 feet to the True Point of Beginning of this description; thence South 1,335.36 feet; thence South 57° 18' 41" West, 220.75 feet to the point of terminus of this description. The above described tract contains 1.79 acres, more or less.

LEGAL DESCRIPTION OF 10' WIDE PERMANENT ACCESS EASEMENT

A portion of the Northeast Quarter of Section 19, Township 9 North, Range 59 West of the 10th Principal Meridian, Larimer County, Colorado being described as follows: Beginning at the Northeast corner of said Northeast Quarter and considering the Easterly line of said Northeast corner to bear South 02° 07' 17" West with all bearings contained herein relative thereto; thence Westerly along the Northerly line of said Northeast corner North 87° 43' 45" West, 30.00 feet to the Westerly right-of-way line of County Road No. 11 and the True Point of Beginning of this description; thence Southerly along said Westerly line South 02° 07' 17" West, 30.00 feet; thence departing said Westerly line North 87° 43' 45" West, 400.00 feet; thence North 02° 07' 17" East, 30.00 feet to the Northerly line of said Northeast Quarter; thence Easterly along said Northerly line South 87° 43' 45" East, 400.00 feet to the point of beginning of this description. The above described tract contains 0.28 acres.

SURVEYOR'S CERTIFICATE

I, Timothy Wagner, do hereby certify that this plat and legal description were prepared by me or under my direct supervision from an actual field survey and is true and correct to the best of my knowledge.


Timothy Wagner, Registered Land Surveyor
Colorado Registration Number 14166
Date June 22, 1983


PROPOSED FORMULA

The following formula shall be used to determine the basic charge to be paid by the Town for all water used in excess of the 275 acre-feet:

$$C = \frac{(MV \times I/100) + A}{5.50 \text{ AF/Share}} \times 1.07 + (MR - IR)$$

Where:

C = Charge Per Acre-Foot
 MV = Market Value of a Share of North Poudre Stock
 I = Interest Rate
 A = Annual North Poudre Assessment Per Share
 MR = Conservancy District Municipal Assessment
 IR = Conservancy District Irrigation Rate

To convert the above charge per acre-foot to a charge per 1,000 gallons, divide by 326 (1,000 gallons per acre-foot).

The following is an example of how this formula is used to compute the charge assuming a fair market value of North Poudre stock of \$5,000, an interest rate of 15%, an annual assessment of \$100 per share a Northern Colorado Conservancy District municipal rate of \$6.25 per acre-foot and an irrigation rate of \$1.50 per acre-foot.

$$C = \frac{(\$5,000 \times \frac{15\%}{100} + \$100) \times 1.07}{5.50 \text{ Acre-Foot/Share}} + (\$6.25 - \$1.50)$$

$$C = \$170.11 \text{ Per Acre-Foot}$$

Converting to the cost per 1,000 gallons gives:

$$C = \frac{\$170.11}{326} = \$0.52 \text{ Per 1,000 gallons}$$

AMENDMENT TO AGREEMENT BETWEEN
NORTH POUFRE IRRIGATION COMPANY
AND THE TOWN OF WELLINGTON

F 128 9/26/00

This Amendment is executed this 26th day of October, 2000 between The North Poudre Irrigation Company, referred to as "North Poudre", and the Town of Wellington, Colorado, referred to as "Wellington". The purpose of this Amendment is to amend the agreement entered into between North Poudre and Wellington dated August 26, 1983, by which the parties agreed to the provision of water by North Poudre to Wellington (the "Agreement").

By the terms of the Agreement, including paragraph 5 thereof, North Poudre provided a site to Wellington for the construction of a plant. Wellington subsequently obtained approvals from the County Commissioners of Larimer County, Colorado for the construction of additional improvements, including a water pre-treatment plant, to be constructed in the vicinity of the existing plant site.

1. Paragraph 5 of the Agreement is amended to increase the size of the plant by adding the filter plant expansion and chemical plant. The Town may increase the size of the plant to include the area roughly depicted on the attached Exhibit A. Wellington shall have no obligation to pay any additional amounts as a result of the addition of the pretreatment facility, but shall have the same obligations as existed for the original site, including any fencing obligations.

Dated: 26th Sept., 2000.

TOWN OF WELLINGTON

By: George H Lutz
George Lutz, Mayor

Attest:

By: Gene M. Allen
Gene Allen, Town Clerk

THE NORTH POUFRE IRRIGATION COMPANY

By: Diane Arzoo
Diane Arzoo, President

Attest:

By: Sharon Seaworth
_____, Secretary/Manager

10-4-2000

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 26 day of ^{Sept}~~July~~, 2000 by George Lutz as Mayor of the Town of Wellington.

Witness my hand and official seal.

My commission expires: 9-25-2002

Cynthia Sullivan
Notary Public

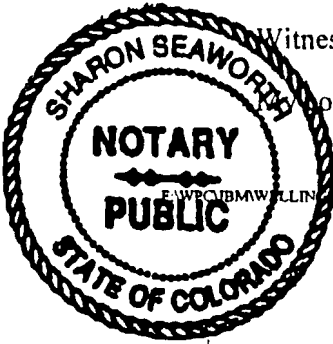
STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 4th day of ^{Oct.}~~July~~, 2000 by Duane Arance as President of The North Poudre Irrigation Company.

Witness my hand and official seal.

My commission expires: 11/30/2000

Sharon Seaworth
Notary Public



DRAFT

NORTH POUDRE RESERVOIR #3 MINOR LAND DIVISION

SECTION 18 & 19, TOWNSHIP 9 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN
TOWN OF WELLINGTON AND LARIMER COUNTY STATE OF COLORADO

LEGEND

SECTION CORNER

FOUND #4 REBAR WITH A YELLOW PLAS
STAMPED "CHARLES & JONES LS 22098"
FOUND #4 REBAR WITH A YELLOW PLAS
STAMPED "KS LS 38106"
FOUND #4 REBAR

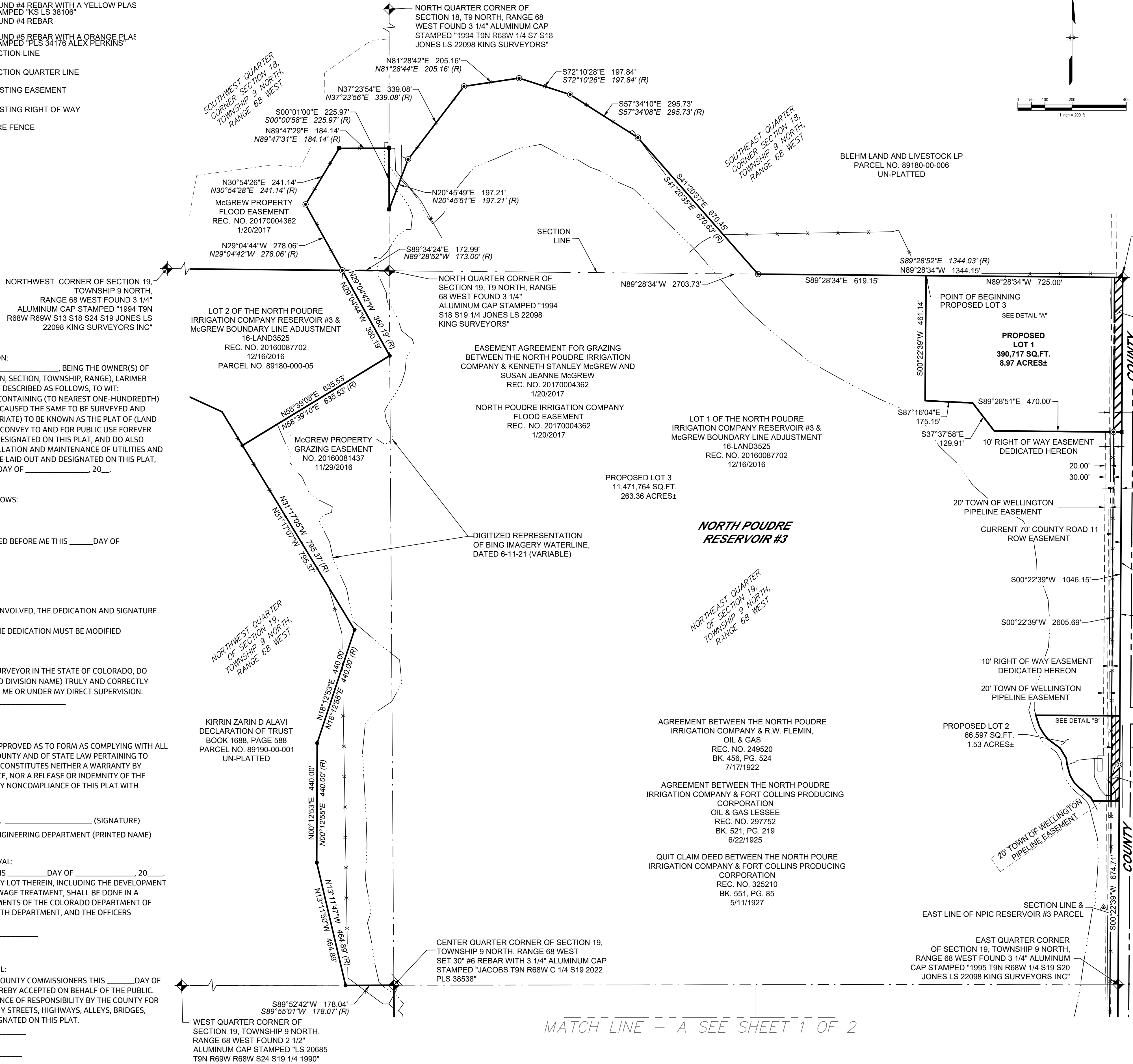
FOUND #5 REBAR WITH A ORANGE PLAS
STAMPED "PLS 34176 ALEX PERKINS"
SECTION LINE

SECTION QUARTER LINE

EXISTING EASEMENT

EXISTING RIGHT OF WAY

WIRE FENCE



1. CERTIFICATION OF OWNERSHIP AND DEDICATION:
KNOW ALL MEN BY THESE PRESENTS THAT _____, BEING THE OWNER(S) OF
THAT PART OF THE (DESCRIBED QUARTER-SECTION, SECTION, TOWNSHIP, RANGE), LARIMER
COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:
BEGINNING AT (COMPLETE LEGAL DESCRIPTION); CONTAINING (TO NEAREST ONE-HUNDREDTH)
ACRES MORE OR LESS; HAVE BY THESE PRESENTS CAUSED THE SAME TO BE SURVEYED AND
SUBDIVIDED INTO LOTS (AND BLOCKS AS APPROPRIATE) TO BE KNOWN AS THE PLAT OF (LAND
DIVISION NAME), AND DO HEREBY DEDICATE AND CONVEY TO AND FOR PUBLIC USE FOREVER
HEREAFTER THE STREETS AS ARE LAID OUT AND DESIGNATED ON THIS PLAT, AND DO ALSO
RESERVE PERPETUAL EASEMENTS FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES AND
FOR IRRIGATION AND DRAINAGE FACILITIES AS ARE LAID OUT AND DESIGNATED ON THIS PLAT,
WITNESS OUR HANDS AND SEALS THIS _____ DAY OF _____, 20____.

OWNER(S)
THE SIGNATURE(S) SHALL BE NOTARIZED AS FOLLOWS:
STATE OF)
) SS
COUNTY OF)
THE FOREGOING DEDICATION WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF
_____, 20____ BY
SEAL
NOTARY PUBLIC
MY COMMISSION EXPIRES

NOTES:
(A) WHERE A MORTGAGE OR LIENHOLDER ARE INVOLVED, THE DEDICATION AND SIGNATURE
BLOCK MUST BE MODIFIED ACCORDINGLY.
(B) WHERE PRIVATE STREETS ARE ALLOWED, THE DEDICATION MUST BE MODIFIED
ACCORDINGLY.

2. SURVEYOR'S CERTIFICATE:
I, (SURVEYOR'S NAME), A DULY LICENSED LAND SURVEYOR IN THE STATE OF COLORADO, DO
HEREBY CERTIFY THAT THIS PLAT OF (MINOR LAND DIVISION NAME) TRULY AND CORRECTLY
REPRESENTS THE RESULTS OF A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION.

SURVEYOR / SEAL

3. APPROVAL OF SURVEY PLAT
THIS PLAT HAS BEEN REVIEWED AND IS HEREBY APPROVED AS TO FORM AS COMPLYING WITH ALL
CURRENT SURVEY REQUIREMENTS OF LARIMER COUNTY AND OF STATE LAW PERTAINING TO
PLATTING AND MONUMENTATION. THIS APPROVAL CONSTITUTES NEITHER A WARRANTY BY
LARIMER COUNTY CONCERNING SUCH COMPLIANCE, NOR A RELEASE OR INDEMNITY OF THE
SUBDIVIDER AND HIS SURVEYOR CONCERNING ANY NONCOMPLIANCE OF THIS PLAT WITH
CURRENT SURVEY REQUIREMENTS.
DATE: _____

_____, COLORADO P.L.S. NO. _____ (SIGNATURE)
_____, LARIMER COUNTY ENGINEERING DEPARTMENT (PRINTED NAME)

4. LARIMER COUNTY HEALTH AUTHORITY APPROVAL:
BY THE LARIMER COUNTY HEALTH AUTHORITY THIS _____ DAY OF _____, 20____,
ALL CONSTRUCTION ON THIS SUBDIVISION, OR ANY LOT THEREIN, INCLUDING THE DEVELOPMENT
OF DOMESTIC WATER, AND THE PROVISION OF SEWAGE TREATMENT, SHALL BE DONE IN A
MANNER WHICH WILL MEET ALL OF THE REQUIREMENTS OF THE COLORADO DEPARTMENT OF
HEALTH, AND THE LARIMER COUNTY PUBLIC HEALTH DEPARTMENT, AND THE OFFICERS
AUTHORIZED TO ENFORCE SUCH REQUIREMENTS.

LARIMER COUNTY HEALTH AUTHORITY

5. BOARD OF COUNTY COMMISSIONERS APPROVAL:
APPROVED BY THE LARIMER COUNTY BOARD OF COUNTY COMMISSIONERS THIS _____ DAY OF
_____, 20____. ALL DEDICATIONS ARE HEREBY ACCEPTED ON BEHALF OF THE PUBLIC.
THIS APPROVAL DOES NOT CONSTITUTE ACCEPTANCE OF RESPONSIBILITY BY THE COUNTY FOR
CONSTRUCTION, REPAIR, OR MAINTENANCE OF ANY STREETS, HIGHWAYS, ALLEYS, BRIDGES,
RIGHTS-OF-WAY OR OTHER IMPROVEMENTS DESIGNATED ON THIS PLAT.

CHAIRMAN ATTEST

CLERK OF THE BOARD

SURVEY NOTES:

- A TITLE SEARCH WAS COMPLETED BY JACOBS ENGINEERING GROUP INC. TO
DETERMINE OWNERSHIP, RIGHTS OF WAY OR EASEMENTS OF RECORD. A CURRENT
TITLE POLICY, COMMITMENT OR REPORT WAS ISSUED BY H.C. PECK & ASSOCIATES,
INC. TO AID IN THE PREPARATION OF THIS SURVEY. THE TITLE COMMITMENT WAS
UNDERWRITTEN BY WESTCOR LAND TITLE INSURANCE COMPANY, ORDER NUMBER
08519A2020, DATED FEBRUARY 25, 2022 AT 4:00PM.
- NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION
BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST
DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN
THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE
CERTIFICATION SHOWN HEREON.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS, OR DEFACES ANY PUBLIC LAND
SURVEY MONUMENT OR LAND MONUMENT OR ACCESSORY, COMMITS A CLASS TWO
(2) MISDEMEANOR PURSUANT TO STATE STATUTE 18-4-508, C.R.S.
- UTILITIES SHOWN HEREON ARE APPROXIMATE AND WERE DERIVED FROM VISIBLE
FIELD INFORMATION. UTILITY LOCATES WERE PERFORMED BY JACOBS FOR MAPPING
PURPOSES AS PART OF THIS SURVEY. FOR THE LOCATION OF ANY UNDERGROUND
UTILITIES, CONTACT THE UTILITY NOTIFICATION CENTER OF COLORADO AND THE
APPROPRIATE UTILITY COMPANY PRIOR TO EXCAVATION AND/OR CONSTRUCTION.
- LINEAR UNITS FOR THIS SURVEY ARE U.S. SURVEY FEET. THIS SURVEY WAS
PERFORMED BETWEEN MARCH 3 AND MARCH 23, 2021.

SURVEYOR'S CERTIFICATION:

I, RYAN BRYSON, CERTIFY THAT THIS PROJECT WAS COMPLETED UNDER MY
DIRECT AND RESPONSIBLE CHARGE FROM AN ACTUAL SURVEY MADE UNDER MY
SUPERVISION; THAT THIS GROUND SURVEY WAS PERFORMED AT THE 95TH
PERCENT CONFIDENCE LEVEL TO MEET FEDERAL GEOGRAPHIC DATA COMMITTEE
STANDARDS; THAT THIS SURVEY WAS PERFORMED TO MEET THE REQUIREMENTS
FOR A TOPOGRAPHIC/PLANIMETRIC SURVEY AND THAT THE SURVEY WAS
PERFORMED BETWEEN MARCH 3 AND MARCH 23, 2021.

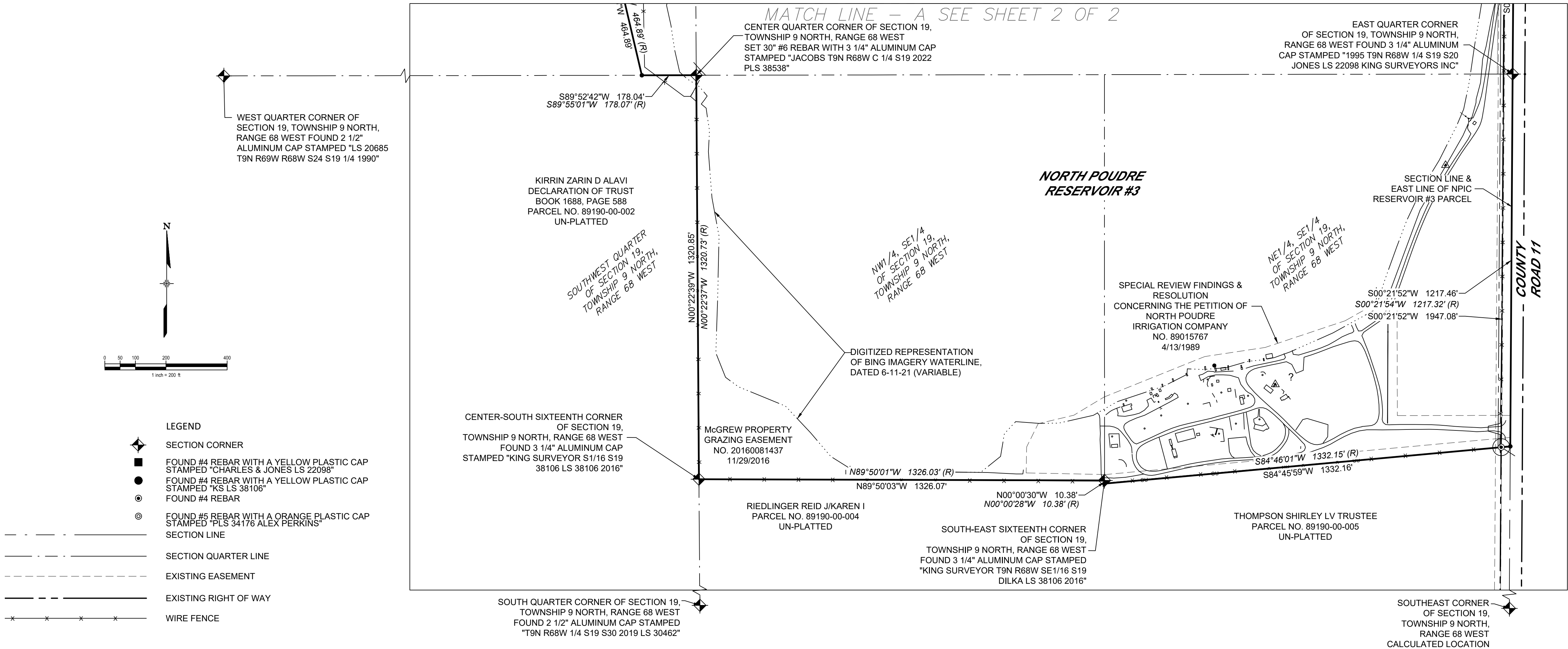
RYAN BRYSON, COLORADO PLS 38538
FOR AND ON BEHALF OF
JACOBS ENGINEERING GROUP INC.
6312 S FIDDLERS GREEN CIRCLE, SUITE 300N
GREENWOOD VILLAGE, CO 80111

JACOBS PROJECT NO. CLIENT PROJECT NO. REVISION DESCRIPTION DRAWN DATE SCALE 1" = 200'	WXX22902 6312 S FIDDLERS GREEN CIRCLE, SUITE 300N GREENWOOD VILLAGE, CO 80111 +1 (720) 286-2000 THIS MATERIAL AND ANY ASSOCIATED ELECTRONIC DATA WAS PREPARED BY JACOBS FOR THE PROJECT INDICATED. ANY REUSE OR MODIFICATION WITHOUT THE WRITTEN CONSENT OF JACOBS WILL BE AT THE USER'S RISK OF THE USER.	NORTH POUDRE RESERVOIR #3 MINOR LAND DIVISION TITLE TOWN OF WELLINGTON COUNTY OF LARIMER, STATE OF COLORADO REVISION B DRAWING NO. Wellington-MLD.dwg SHEET NO. 1 of 2
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DRAFT

NORTH POUDRE RESERVOIR #3 MINOR LAND DIVISION

SECTION 18 & 19, TOWNSHIP 9 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN
TOWN OF WELLINGTON AND LARIMER COUNTY STATE OF COLORADO



DESCRIPTION OF LOT 1:
A PARCEL OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 9 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPLE MERIDIAN, TOWN OF WELLINGTON, COUNTY OF LARIMER, STATE OF COLORADO, BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN PLAT RECORDED AT RECEPTION NO. 20160087702, ON 12/16/2016, IN THE LARIMER COUNTY CLERK AND RECORDER'S OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

POINT OF BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 19 (A FOUND 3.25" ALUMINUM CAP, DOWN 1.35' FROM SURFACE, STAMPED "1994 T9N R68W S18 S17 S19 S20 JONES LS#22098 KING SURVEYORS INC"), WHENCE THE EAST QUARTER CORNER OF SAID SECTION 19 (A FOUND 3.25" ALUMINUM CAP, DOWN 1.5' FROM SURFACE, STAMPED "1994 T9N R68W 1/4 S19 S20 JONES LS#22098 KING SURVEYORS INC") ASSUMED TO BEAR 50°22'39"W, A DISTANCE OF 2605.44';

THENCE CONTINUING 500°22'39"W PARALLEL WITH THE SAID EAST LINE OF SECTION 19, A DISTANCE OF 570.00 FEET;
THENCE N89°28'51"W, A DISTANCE OF 470.00 FEET;
THENCE N37°37'58"W, A DISTANCE OF 129.91 FEET;
THENCE N87°16'04"W, A DISTANCE OF 175.15 FEET;
THENCE N00°22'39"E PARALLEL WITH THE SAID EAST LINE OF SECTION 19, A DISTANCE OF 461.14 FEET;
THENCE S89°28'34"E COINCIDENT WITH SAID NORTH LINE OF SECTION 19, A DISTANCE OF 725.00 FEET TO THE POINT OF BEGINNING;
THE ABOVE DESCRIBED PARCEL CONTAINS 390,717 SQUARE FEET (8.97 ACRES), MORE OR LESS.

DESCRIPTION OF LOT 2:
A PARCEL OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 9 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPLE MERIDIAN, TOWN OF WELLINGTON, COUNTY OF LARIMER, STATE OF COLORADO, BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN PLAT RECORDED AT RECEPTION NO. 20160087702, ON 12/16/2016, IN THE LARIMER COUNTY CLERK AND RECORDER'S OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

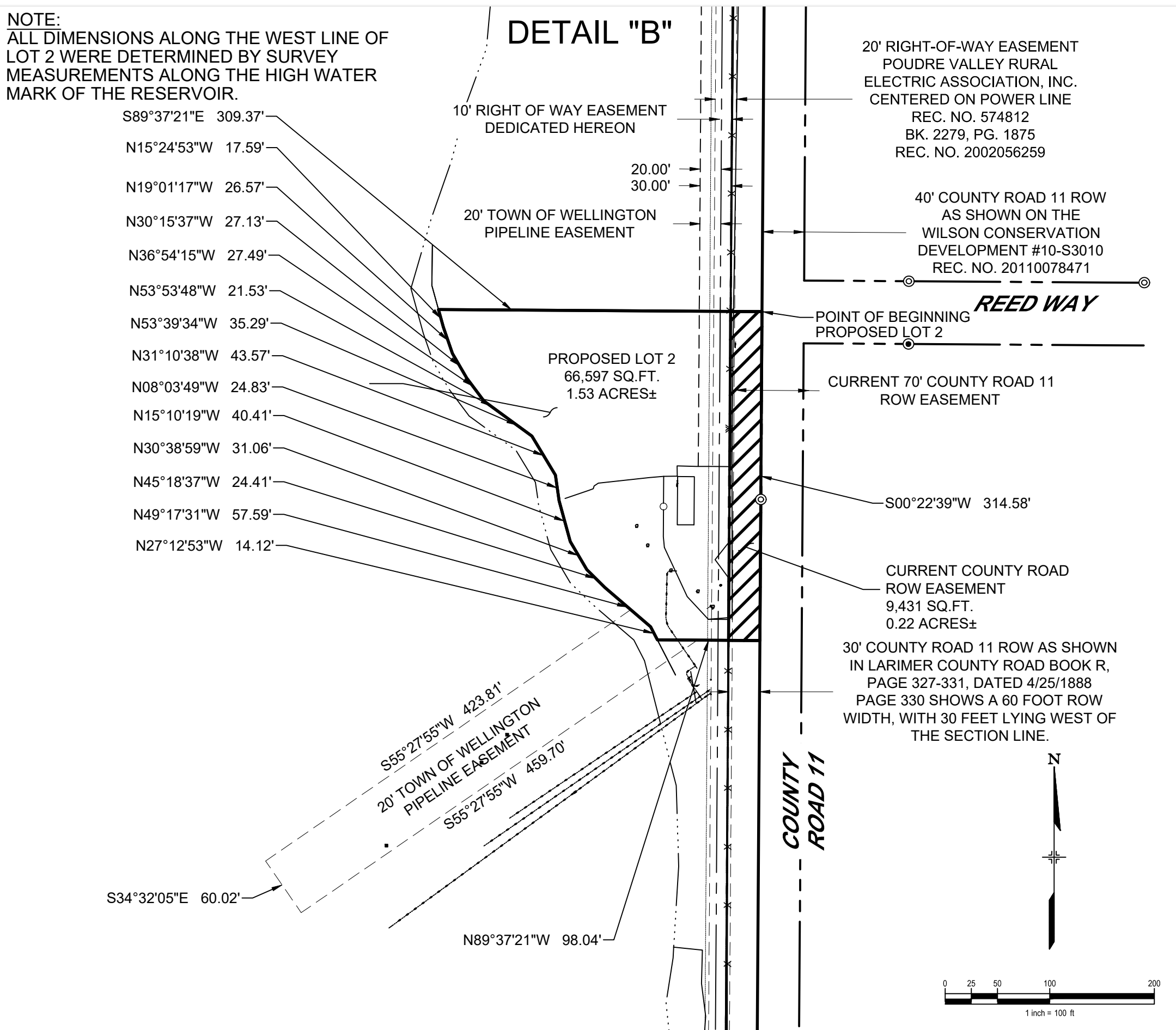
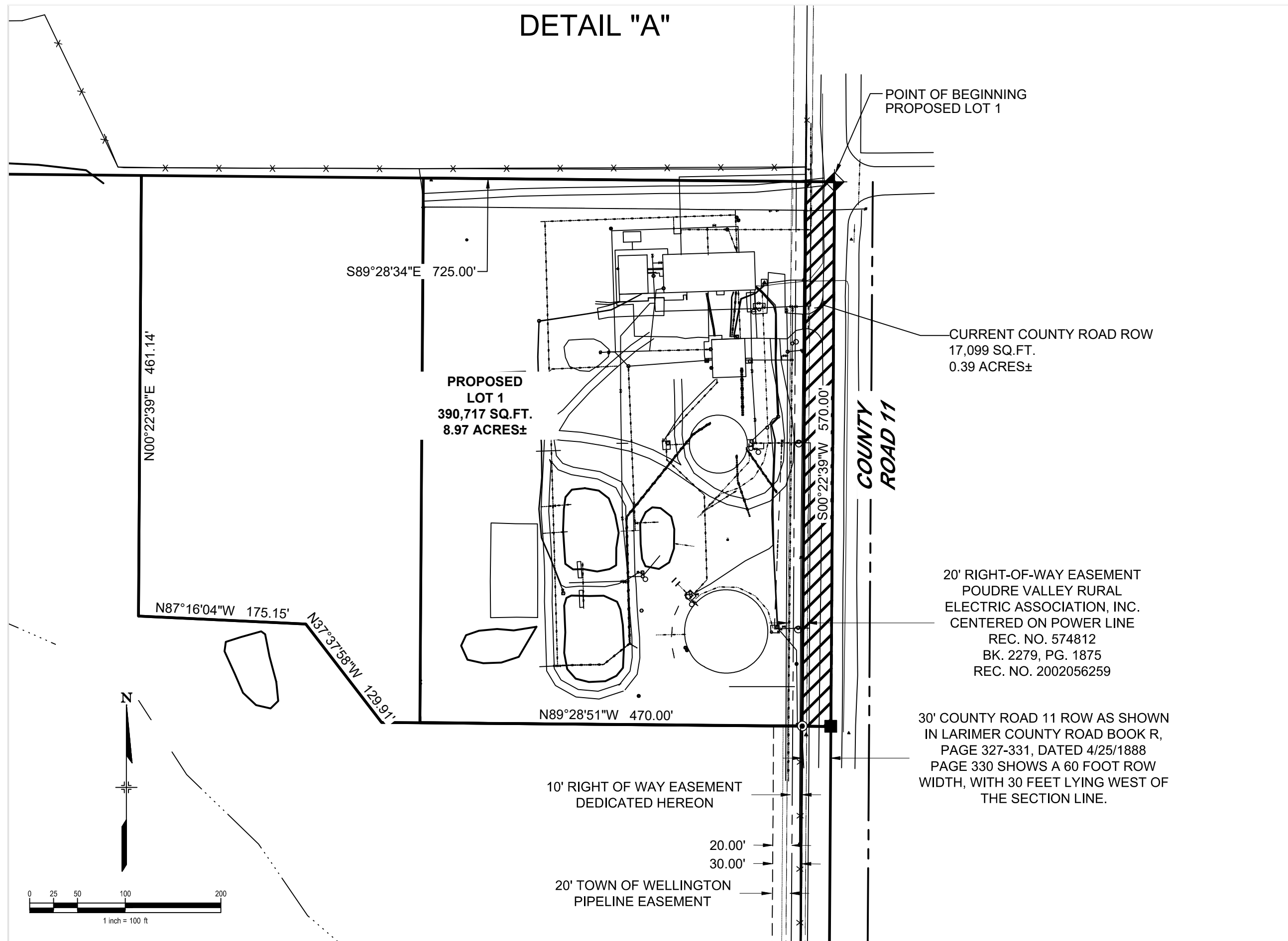
COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 19 (A FOUND 3.25" ALUMINUM CAP, DOWN 1.35' FROM SURFACE, STAMPED "1994 T9N R68W S18 S17 S19 S20 JONES LS#22098 KING SURVEYORS INC"), WHENCE THE EAST QUARTER CORNER OF SAID SECTION 19 (A FOUND 3.25" ALUMINUM CAP, DOWN 1.5' FROM SURFACE, STAMPED "1994 T9N R68W 1/4 S19 S20 JONES LS#22098 KING SURVEYORS INC") ASSUMED TO BEAR 500°22'39"W, A DISTANCE OF 2605.44';

THENCE 500°22'39"W, A DISTANCE OF 1616.15' FEET TO THE POINT OF BEGINNING;
THENCE CONTINUING 500°22'39"W PARALLEL WITH THE SAID EAST LINE OF SECTION 19, A DISTANCE OF 314.58 FEET;
THENCE N89°37'21"W, A DISTANCE OF 98.04 FEET;
THENCE N27°12'53"W, A DISTANCE OF 14.12 FEET;
THENCE N49°17'31"W, A DISTANCE OF 57.59 FEET;
THENCE N45°18'37"W, A DISTANCE OF 24.41 FEET;
THENCE N30°38'59"W, A DISTANCE OF 31.06 FEET;
THENCE N15°10'19"W, A DISTANCE OF 40.41 FEET;
THENCE N08°03'49"W, A DISTANCE OF 24.83 FEET;
THENCE N31°10'38"W, A DISTANCE OF 43.57 FEET;
THENCE N53°39'34"W, A DISTANCE OF 35.29 FEET;
THENCE N53°53'48"W, A DISTANCE OF 21.53 FEET;
THENCE N36°54'15"W, A DISTANCE OF 27.49 FEET;
THENCE N30°15'37"W, A DISTANCE OF 27.13 FEET;
THENCE N19°01'17"W, A DISTANCE OF 26.57 FEET;
THENCE N15°24'53"W, A DISTANCE OF 17.59 FEET;
THENCE S89°37'21"E, A DISTANCE OF 309.37 FEET TO THE POINT OF BEGINNING;
THE ABOVE DESCRIBED PARCEL CONTAINS 66,597 SQUARE FEET (1.53 ACRES), MORE OR LESS.

DESCRIPTION OF LOT 3:
A PARCEL OF LAND SITUATED IN THE NORTHEAST QUARTER OF SECTION 19, TOWNSHIP 9 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPLE MERIDIAN, TOWN OF WELLINGTON, COUNTY OF LARIMER, STATE OF COLORADO, BEING A PORTION OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN PLAT RECORDED AT RECEPTION NO. 20160087702, ON 12/16/2016, IN THE LARIMER COUNTY CLERK AND RECORDER'S OFFICE, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 19 (A FOUND 3.25" ALUMINUM CAP, DOWN 1.35' FROM SURFACE, STAMPED "1994 T9N R68W S18 S17 S19 S20 JONES LS#22098 KING SURVEYORS INC"), WHENCE THE EAST QUARTER CORNER OF SAID SECTION 19 (A FOUND 3.25" ALUMINUM CAP, DOWN 1.5' FROM SURFACE, STAMPED "1994 T9N R68W 1/4 S19 S20 JONES LS#22098 KING SURVEYORS INC") ASSUMED TO BEAR 500°22'39"W, A DISTANCE OF 2605.44';

THENCE S89°28'34"E COINCIDENT WITH SAID NORTH LINE OF SECTION 19, A DISTANCE OF 725.00 FEET TO THE POINT OF BEGINNING;
THENCE 500°22'39"W, A DISTANCE OF 461.14 FEET;
THENCE S87°16'04"E, A DISTANCE OF 175.15 FEET;
THENCE S37°37'58"E, A DISTANCE OF 129.91 FEET;
THENCE S89°28'51"E, A DISTANCE OF 470.00 FEET;
THENCE 500°22'39"W, A DISTANCE OF 1,046.15 FEET;
THENCE N89°37'21"W, A DISTANCE OF 309.37 FEET;
THENCE S15°24'53"E, A DISTANCE OF 17.59 FEET;
THENCE S19°01'17"E, A DISTANCE OF 26.57 FEET;
THENCE S30°15'37"E, A DISTANCE OF 27.13 FEET;
THENCE S36°54'15"E, A DISTANCE OF 27.49 FEET;
THENCE S53°53'48"E, A DISTANCE OF 21.53 FEET;
THENCE S53°39'34"E, A DISTANCE OF 35.29 FEET;
THENCE S31°10'38"E, A DISTANCE OF 43.57 FEET;
THENCE S8°03'49"E, A DISTANCE OF 24.83 FEET;
THENCE S15°10'19"E, A DISTANCE OF 40.41 FEET;
THENCE S30°38'59"E, A DISTANCE OF 31.06 FEET;
THENCE S45°18'37"E, A DISTANCE OF 24.41 FEET;
THENCE S49°17'31"E, A DISTANCE OF 57.59 FEET;
THENCE S27°12'53"E, A DISTANCE OF 14.12 FEET;
THENCE S89°37'21"E, A DISTANCE OF 98.04 FEET;
THENCE S0°22'39"W, A DISTANCE OF 674.71';
THENCE S0°21'52"W, A DISTANCE OF 1,217.46 FEET;
THENCE S84°45'59"W, A DISTANCE OF 1,332.16 FEET;
THENCE N0°00'30"W, A DISTANCE OF 10.38 FEET;
THENCE N89°50'03"W, A DISTANCE OF 1,326.07 FEET;
THENCE N0°22'39"W, A DISTANCE OF 1,320.85 FEET;
THENCE S89°52'42"W, A DISTANCE OF 178.04 FEET;
THENCE N13°11'50"W, A DISTANCE OF 464.89 FEET;
THENCE N00°12'53"E, A DISTANCE OF 440.00 FEET;
THENCE N18°12'53"E, A DISTANCE OF 440.00 FEET;
THENCE N31°17'07"W, A DISTANCE OF 795.37 FEET;
THENCE N58°39'08"E, A DISTANCE OF 635.53 FEET;
THENCE N29°04'44"W, A DISTANCE OF 360.19 FEET;
THENCE N29°04'44"W, A DISTANCE OF 278.06 FEET;
THENCE N30°54'26"E, A DISTANCE OF 241.14 FEET;
THENCE N89°47'29"E, A DISTANCE OF 184.14 FEET;
THENCE S00°01'00"E, A DISTANCE OF 225.97 FEET;
THENCE N20°45'49"E, A DISTANCE OF 197.21 FEET;
THENCE N37°23'54"E, A DISTANCE OF 339.08 FEET;
THENCE N81°28'42"E, A DISTANCE OF 205.16 FEET;
THENCE S72°10'28"E, A DISTANCE OF 197.84 FEET;
THENCE S57°34'10"E, A DISTANCE OF 295.73 FEET;
THENCE S41°20'37"E TO THE NORTH LINE OF SECTION 19. A DISTANCE OF 670.45 FEET;
THENCE S89°28'34"E, COINCIDENT WITH SAID NORTH LINE, A DISTANCE OF 619.15 FEET TO THE POINT OF BEGINNING;
THE ABOVE DESCRIBED PARCEL CONTAINS 11,471,764 SQUARE FEET (263.36 ACRES), MORE OR LESS.



JACOBS PROJECT NO. W022980		NORTH POUDRE RESERVOIR #3 MINOR LAND DIVISION	
CLIENT PROJECT NO. W022980		TITLE: TOWN OF WELLINGTON COUNTY OF LARIMER, STATE OF COLORADO	
REVISION DESCRIPTION:		REVISION: B DRAWING NO: Wellington-MLD.dwg SHEET NO: 2 of 2	
DRAWN: RRB DATE: 6/22/2022 SCALE: 1"=100' & 1"=200'			
6812 S PROLERS GREEN CIRCLE, SUITE 300, GREENWOOD VILLAGE, CO 80111 +1 (720) 286-2000			
THIS INSTRUMENT AND ASSOCIATED ELECTRONIC DATA WAS PREPARED BY JACOBS FOR THE PROJECT INDICATED AND FOR YOUR INFORMATION WITHOUT THE WRITTEN CONSENT OF JACOBS SHALL BE AT THE RISK OF THE USER.			

**AMENDMENT TO AGREEMENT BETWEEN
NORTH POUDRE IRRIGATION COMPANY
AND THE TOWN OF WELLINGTON, COLORADO**

This amendment (“Amendment”) is executed this _____ day of _____, 2022, by and between the North Poudre Irrigation Company, a Colorado nonprofit (“North Poudre”), and the Town of Wellington, Colorado, a Colorado statutory municipality (“Wellington”) (each a “Party” and together the “Parties”), to amend that agreement entered into between North Poudre and Wellington on August 26, 1983, as previously amended on October 4, 2000 (as thus amended, “Agreement”).

Recitals

WHEREAS, under the terms of the Agreement, Wellington has under lease from North Poudre a certain parcel of land adjacent to North Poudre’s Reservoir #3 (“Lease Property”) for purposes of construction, maintenance and operation of a water treatment plant (“WTP”). The Lease Property is approximately 5.23 acres, as described in the Agreement; and

WHEREAS, by amendment to the 1983 Agreement dated October 4, 2000, the Parties signed an amendment whereby Wellington was permitted to increase the size of the WTP within the existing Lease Property subject to Larimer County approvals. No other terms of the 1983 Agreement were modified; and

WHEREAS, by the terms of the Agreement and the payment formula set forth therein, a 7% fee was to be added to all payments made by Wellington to North Poudre, which fee was to be representative of administrative expense, rental of land, and contingencies (“7% Fee”); and

WHEREAS, by warranty deed executed concurrently with the execution of this Amendment, Wellington has acquired title to the Lease Property, along with additional area to permit the further expansion of the WTP to serve the increasing needs of the residents of Wellington (as thus expanded, the “Plant Site”); and

WHEREAS, North Poudre and Wellington desire to amend the Agreement to remove rental-related provisions, eliminate the rental and contingency components of the 7% Fee, and reduce the administrative expense component of the 7% Fee while preserving all other terms of the Agreement and making no other modification thereto except as expressly provided herein.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, North Poudre and Wellington agree to amend the Agreement as follows:

- 1. Replacement of 7% Fee with 1.5% fee.** Upon Wellington’s purchase and North Poudre’s conveyance of the Plant Site, the 7% Fee referenced in Sections 2 and 3 of the

Agreement and represented by the “1.07” multiplier in the “Proposed Formula” attached as Exhibit A to the Agreement is hereby reduced to and replaced by a 1.5% fee (the “1.07” multiplier shall be replaced with a “1.015” multiplier in the formula). The Parties acknowledge that the 1.5% fee represents Administrative Expenses only, and does not include a fee for rental of the Plant Site or a fee for contingencies. The 1.5% fee (1.015 multiplier) for Administrative Expenses is hereby made applicable to all payments under the Agreement for water use in calendar year 2022 as prorated from date of conveyance and thereafter.

2. Use of Property under Section 5 of the Agreement. Those portions of Section 5 of the Agreement placing restrictions or requirements on the use of the Lease Property are deleted from the Agreement or otherwise modified by this Amendment. As amended, Section 5 reads in its entirety as follows:

It is agreed that the expense of one and a half percent (1.5%) for administrative expense includes what is agreed to be a reasonable allocation under this agreement.

Because of the proximity of the pumping and filter plant to the Reservoir, all future construction, modification and/or expansion of the pumping and filter plant and the appurtenant facilities shall be coordinated with North Poudre and information furnished to North Poudre a reasonable time in advance.

Wellington has the sole obligation to make the withdrawal of water from the reservoir. Pumps shall be metered, and Wellington shall keep all meters in good working order. North Poudre shall have the right to approve or disapprove the installation of any pipes or structures into the reservoir, but approval shall not be unreasonably withheld. For any construction on property owned by North Poudre, including pipes or structures in the reservoir, Wellington shall also obtain all necessary approvals in writing from the State Engineer and furnish a copy of such approvals to North Poudre before any new construction begins.

It is Wellington’s sole responsibility to furnish and pay for any power charges. The location of poles and lines, if any, to be located on property owned by North Poudre shall meet with North Poudre’s prior written approval and shall not interfere with other uses.

Construction or modification of any improvements in the Plant Site shall be coordinated with North Poudre to hold to a minimum the loss of any water storage in Reservoir No. 3. Wellington has the sole discretion as to who receives service, and the charges therefore, but Wellington remains responsible for all obligations to North Poudre. No service shall be furnished outside the boundaries of the Northern Colorado Water Conservancy District or any lawful subdistrict in the Northern Colorado Water Conservancy District (“Northern”).

Wellington warrants that, upon completing construction of the 2022 Plant Site expansion, there shall be no waste water or other discharge from the Water Treatment Plant onto North Poudre's property and there will be no net change in storm water runoff from the Plant Site due to the 2022 Plant Site expansion. Should any future expansion, modification or alteration of the Plant Site propose to allow for impacts for stormwater, wastewater, or other discharges to North Poudre's property, such proposed expansion, modification or alteration shall be subject to North Poudre's prior written review and approval with respect to potential impact upon the North Poudre property, which approval shall not be unreasonably withheld. In the event that any expansion, modification or alteration impacting stormwater, wastewater, or other discharges from the Plant Site is done without the prior written approval of North Poudre, Wellington shall be obligated to address the written concerns of North Poudre. Wellington warrants that it will do nothing to materially and adversely affect the water quality in the Reservoir. In the event the Wellington materially breaches this warranty, Wellington shall take all timely actions necessary to satisfy the legal requirements for water quality, waste water discharge, and storm water discharge into the Reservoir.

The Parties acknowledge that Wellington is relying upon and does not hereby waive or intend to waive, by any provision of this Agreement, any rights, protections, or privileges provided by the Colorado Governmental Immunity Act, C.R.S. Section 24-10-101, *et. seq.* as may from time to time be amended. Wellington represents that it is presently prohibited by the Colorado Constitution and state law from entering into indemnification obligations without appropriations. To the extent that appropriations exist in its budget for the same in any given year, and otherwise only to the extent allowed by law and without waiving the applicable protections, procedural requirements and monetary limits of the Colorado Governmental Immunity Act or other applicable law, Wellington agrees to indemnify, defend, and hold harmless North Poudre and its shareholders, officers, directors, partners, principals, members, managers, employees, agents, contractors, engineers and representatives from and against any and all injury (including death), losses, costs, damages, liens, claims, liabilities, and/or expenses (including reasonable attorney fees, court costs, and disbursements) to the extent that such relate to, arise out of, or are the direct result of Wellington's use operation and maintenance of the Plant Site, except to the extent caused by the gross negligence or willful and wanton misconduct of the Ditch Company or its shareholders, employees, agents, contractors and/or subcontractors.

- 3. Use of Property under Section 13 of the Agreement.** Those portions of Section 13 of the Agreement placing restrictions or requirements on the use of the Lease Property are deleted from the Agreement by this Amendment. As amended, Section 13 reads in its entirety as follows:

Subject to North Poudre managing its system so it can make annual or seasonal transfers as required by the Northern Colorado Water Conservancy District, this Agreement contemplates that North Poudre has sufficient water to enable seasonal transfers of 275 acre feet of water annually for as long as the Town may require such waters, and North Poudre hereby makes such finding of availability for the 275 acre feet and for all other deliveries in accordance with the terms of this Agreement. This finding is not revocable without written consent of the Town.

4. **Approval by Northern.** The Parties agree that this Amendment is subject to Northern's prior written approval. As a condition precedent for the execution and implementation of this Amendment, Northern shall be afforded the timely opportunity to review and approve of this Amendment. The Parties acknowledge and agree that Northern's review and approval of this Amendment does not bind Northern to any provisions or representations in the Agreement or this Amendment. Nothing in this Amendment shall modify, amend or otherwise impact the existing contracts, allotments or agreements between Northern, North Poudre and other parties.
5. **Severability.** The invalidity or unenforceability of any of the provisions of the Agreement as amended herein shall not affect any other provision of the Agreement, which shall thereafter be construed in all respects as if such invalid or unenforceable provision were omitted.
6. **Binding Effect, No Third-Party Beneficiaries.** The Agreement as amended herein shall inure to the benefit of, and be binding upon the Parties and their respective successors in interest; provided, however, that nothing in this paragraph shall be construed to permit the assignment of the Agreement. None of the terms, conditions or covenants set forth in the Agreement shall give or allow any claim, benefit, or right of action by any third person not a party to the Agreement.
7. **Waiver of Breach.** The waiver by any Party to the Agreement as amended herein of a breach of any term or provision of the Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.
8. **Prior Amendment Superseded.** This Amendment supersedes and replaces in its entirety the amendment dated October 4, 2000, relating to an expanded area for the WTP.
9. **Counterparts.** This Amendment may be executed by the Parties in counterparts, both of which together will constitute one Amendment. Any .pdf or facsimile signature of either Party is a legal, valid, and binding execution hereof by such Party.
10. **Continuing Force and Effect of Unmodified Terms.** Except as expressly provided in this Amendment, all terms of the Agreement not expressly modified hereby, and the associated rights and obligations of the Parties under the Agreement, remain in full force

and effect. All capitalized terms used but not defined or redefined herein take the meanings assigned to them in the Agreement.

11. Interpretation. Subject to the terms of paragraph 6 above, in case of conflict between the terms of this Amendment and the terms of the Agreement, the terms of this Amendment will prevail.

12. Headers for Convenience Only. The paragraph headers in this Amendment are solely for the convenience of the Parties, and do not affect and are not to be construed as affecting the substantive terms hereof.

THE NORTH POUDRE IRRIGATION COMPANY,
a Colorado nonprofit corporation

By: _____
Loren Maxey, President

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by Loren Maxey as President of The North Poudre Irrigation Company, a Colorado non-profit corporation.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: _____

Notary Public

TOWN OF WELLINGTON
A Colorado statutory municipality

By _____
Calar Chaussee, Mayor

ATTEST:

Patti Garcia, Town Clerk

STATE OF COLORADO)
) ss.

COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022 by Calar Chaussee as Mayor of the Town of Wellington, A Colorado statutory municipality.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: _____

Notary Public

AGREEMENT FOR LEASE OF LAND
FOR WATER TREATMENT PLANT EXPANSION

This AGREEMENT FOR LEASE OF LAND FOR WATER TREATMENT PLANT EXPANSION (“Lease”) is entered into by and between the North Poudre Irrigation Company (“North Poudre” or “Company”), a Colorado nonprofit corporation whose address is P.O. Box 100, Wellington, CO 80549 and the Town of Wellington, Colorado (“Wellington” or “Town”) a Colorado statutory municipality whose address is P.O. Box 127, Wellington CO 80549, (each a “Party” and together the “Parties”).

Recitals

- A. North Poudre and Wellington are the parties to and beneficiaries of an agreement dated August 26, 1983, pertaining to Wellington’s transfer to the Company of 53 shares of North Poudre stock; the Company’s arranging for annual or seasonal transfers of water to North Poudre Reservoir No. 3 for Wellington’s use for domestic purposes; and Wellington’s rental from the Company of the ground on which Wellington constructed and operates its water treatment plant, along with associated easements (“1983 Agreement”). The terms of the 1983 Agreement are incorporated herein by reference and shall apply to additional land leased herein, except as to such terms as are expressly modified herein.
- B. Section 5 of the 1983 Agreement provides that the site of the water treatment plant (“WTP Site”) encompassed approximately 5.23 acres, plus access, as shown and described on Sheets 1 and 2 attached to the 1983 Agreement.
- C. Section 13 of the 1983 Agreement provides that Wellington’s use of the WTP Site “will be continued” for so long as “the site is used to provide water to the Town and the charges owed are paid”; and that Wellington holds no right to expand the WTP Site “without a new written agreement between the parties.”
- D. Wellington is undertaking an expansion of the water treatment plant that requires an enlargement of the WTP Site by approximately 3.35 acres (“WTP Expansion”).
- E. The Parties are presently engaged in purchase and sale negotiations concerning the existing lease parcel as well as the WTP Expansion area. However, Wellington wishes to commence construction of the WTP Expansion prior to closing on the pending purchase (“Closing”).
- F. The Parties wish to enter into this Lease to provide the terms and conditions on which Wellington will lease from North Poudre, through the earlier of September 30, 2022 or date

of Closing on the purchase of the additional ground necessary for the WTP Expansion (“Expansion Land”).

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, North Poudre and Wellington agree as follows:

1. Incorporation of Recitals: Recitals A through F above are part and parcel of this Lease, and are fully incorporated herein.
2. No effect on 1983 Agreement: Nothing in this Lease modifies, or is to be construed as modifying, the 1983 Agreement or the Parties’ rights and obligations thereunder.
3. Lease of Expansion Land: North Poudre hereby leases the Expansion Land to Wellington on the following terms and conditions:
 - 3.1 Description: A site layout of the WTP Expansion with depiction of the Expansion Land boundary is shown on attached **Exhibit A**
 - 3.1.1 In carrying out the WTP Expansion, and consistent with the terms of the 1983 Agreement, in lieu of maintaining and preserving the existing 30-foot access easement between the treatment plant as expanded and the north section line for the use of North Poudre and its agents as well as for the use of Wellington, Wellington shall, on or before the completion of the WTP Expansion, install a gravel access road for North Poudre’s sole use as set forth on **Exhibit B**. (“Access Road”). This provision shall survive the Lease term and shall be fully enforceable after termination of this Lease.
 - 3.2 Duration:
 - 3.2.1 This Lease will take effect on the date on which it has been signed by both Parties (“Effective Date”), and will continue in full force and effect through the earlier of September 30, 2022 or date of Closing, provided that (i) the treatment plant as modified by the WTP Expansion continues to be used to provide water to the Town, (ii) the Town timely pays all charges owed under this Lease, subject to the further terms of paragraph 3.4 below, and (iii) the Lease is not earlier terminated in accordance with the terms of paragraph 6.10 below or extended in accordance with the terms of paragraph 4.1 below. The period in which the Lease remains in effect is the “Lease Term.”
 - 3.2.2 There shall be no construction activity by Wellington on the Expansion Land prior to the execution of this Lease. To the extent that any entry or construction activity occurs on the Expansion Land prior to the Effective Date, Wellington shall pay North Poudre all amounts due under this Lease as though the Lease had been in effect at the time of entry and/or construction activity.

- 3.3 Lease rate and payments: Wellington shall pay North Poudre the following, which the Parties agree to be a reasonable cost allocation for Wellington's use of the Expansion Land.
- 3.3.1 Continuation of payments under the 1983 Agreement: Throughout the Lease Term, Wellington shall continue to be responsible to pay North Poudre all amounts due under the 1983 Agreement for rental of the WTP Site, including without limitation "7 percent times the total annual assessment as reimbursement and compensation to North Poudre for administrative expense, rental of ground and contingencies payable in advance for each assessment year" ("Annual 7% Payment").
- 3.3.2 Monthly rental payment: On the first day of each month during the Lease Term Wellington shall pay North Poudre Two Hundred and Fifty Dollars (\$250.00) for rental of the Expansion Land ("Monthly Lease Payment").
- 3.3.4 Reimbursement of legal and administrative expenses: Wellington shall reimburse North Poudre for its reasonable and documented legal and administrative expenses attributable to the Company's review, execution, and administration of this Lease ("Reimbursable Expenses"). Reimbursable Expenses do not include routine administrative costs and fees incurred in North Poudre's ordinary operations.
- (i) Beginning in the first full month after the Effective Date, no later than the fifteenth day of each month, North Poudre shall deliver to Wellington an emailed invoice for all of the Reimbursable Expenses the Company incurred in the previous month ("Monthly Invoice").
 - (ii) In each Monthly Invoice, North Poudre shall include a description of each expense for which reimbursement is claimed, including without limitation the hourly rate for and time billed by each of the Company's attorneys. North Poudre shall include in these description sufficient detail to allow Wellington to determine the amount, purpose, and reasonableness of expense; however, North Poudre will not include privileged or confidential information in such descriptions.
 - (iii) Should the Parties disagree over whether certain expenses incurred by North Poudre are Reimbursable Expenses, the dispute resolution provisions in paragraph 5.1 below will control.
 - (iv) Within thirty days of receipt of a Monthly Invoice, Wellington shall make full payment to North Poudre for all Reimbursable Expenses that are reported on that invoice and that are not disputed under paragraph 5.1 below.

- 3.4 Penalty for late payments: If money owed to North Poudre for Wellington's rental of the Expansion Land under this Lease is not paid when due, North Poudre may assess a late charge on such amount due and unpaid, in the amount of the interest rate then in effect and owed by any North Poudre stockholder for a delinquency on an assessment against shares of stock in the Company.
- 3.4.1 Remedies for North Poudre in the event of non-payment: North Poudre will not be entitled to terminate this lease for non-payment except under the following circumstances: (i) Wellington has appropriated sufficient funds to meet its obligations under this Lease in the applicable calendar year; (ii) Wellington has not paid money owed to North Poudre under this Lease within 60 days of the date on which such payment is due; (iii) North Poudre has sent Wellington written notice of such non-payment, along with documentation of North Poudre's intention to terminate the lease; (iv) Wellington does not dispute the non-payment; and (v) Wellington does not make the required payment within 28 days of the date on which it receives North Poudre's notice of intention to terminate. If Wellington disputes that it has not timely made a required payment, the Parties shall proceed according to the terms of paragraph 5 below.
- 3.5 Means of access to the Expansion Land: Wellington shall access the Expansion Land from County Road No. 11 within the existing lease parcel and shall arrange for such access.
- 3.6 Responsibility for loss or damage: Wellington bears sole responsibility for securing and insuring the WTP Expansion, and North Poudre will bear no responsibility for loss or damage suffered by the Town as a result of the location or characteristics of the Expansion Land. Wellington or its contractors or other agents acting on Wellington's behalf will bear sole responsibility for any and all damage for which there is legal liability as a result of construction.
- 3.7 Coordination of construction with North Poudre: Wellington shall coordinate with North Poudre the construction of the WTP Expansion and appurtenant facilities, and shall give North Poudre all requested information about such construction, including a reasonably detailed construction schedule, within a reasonable time prior to construction work commencing on the lease premises. Wellington shall plan such construction to hold to a reasonable minimum the loss of any water in storage in North Poudre Reservoir No. 3.
- 3.8 Regulatory approvals and permits: Wellington is solely responsible for obtaining all necessary regulatory approvals, permits, or other approvals necessary for construction of the WTP Expansion. Wellington shall deliver copies of all such approvals and permits to North Poudre within a reasonable time upon request of North Poudre.

- 3.9 Fencing: During construction, Wellington shall install fencing sufficient to turn livestock away from the construction site. Before construction is complete, Wellington shall install fencing, such as chain link or other similar security fencing, to fully surround the WTP Expansion.
 - 3.10 Power: Wellington bears sole responsibility for obtaining power for the WTP Expansion, and shall pay all charges for such power. Wellington shall obtain North Poudre's advance written approval of the location of power poles and lines, which location must not interfere with North Poudre's use of its property.
 - 3.11 Wellington shall have no right to further expansion or relocation of the Water Treatment Plant without subsequent agreement: Nothing in this Lease grants to the Town the right to further expansion or relocation of the WTP Site in the absence of a subsequent agreement providing for such expansion or relocation.
4. Agreement to terminate rental of the WTP Site and the Expansion Land upon Closing:
- 4.1 If the Parties are unable to close on the purchase and sale of the WTP Expansion Land and existing lease parcel on or before September 30, 2022, the Lease Term hereunder automatically will be extended on a month-to-month term until the Closing date.
 - 4.2 If the Parties close prior to September 30, 2022, the Lease Term hereunder automatically will terminate as of the Closing date.
 - 4.3 Nothing in this paragraph 4 alters or is to be construed as altering the terms of Section 13 of the 1983 Agreement.
5. Dispute resolution:
- 5.1 Disputes over Reimbursable Expenses: Should the Parties disagree over whether certain expenses incurred by North Poudre are Reimbursable Expenses, the Parties shall negotiate in good faith for a period of at least thirty days before taking any further action as provided in this Section ("Negotiation Period").
 - 5.1.1 If Wellington disputes that any expense claimed by North Poudre on a Monthly Invoice is not a Reimbursable Expense hereunder, Wellington shall, within thirty days of date of the invoice email, email North Poudre a written explanation of the basis for disputing that expense. The date Wellington emails that explanation is the first day of the Negotiation Period.
 - 5.1.2 If the Parties do not reach agreement concerning payment of the disputed expense within the Negotiation Period, which may be extended by written agreement of the Parties, either party may initiate an action in the District Court for Larimer County, Colorado, requesting declaratory judgment to resolve the dispute.

5.1.3 During pendency of any action under Section 5.1.2 above, Wellington shall make timely payment to North Poudre for all Reimbursable Expenses that were reported in a Monthly Invoice, that are undisputed, and that have not already been paid in accordance with paragraph 3.3.3 above.

5.2 Other disputes: Should a dispute arise that does not pertain to payment of Reimbursable Expenses and that the Parties are not able to resolve by good-faith negotiation, that dispute may be decided by binding arbitration. If the Parties cannot agree on an arbitrator, they shall engage JAG, Inc., in Denver, Colorado for arbitration services. However, if either Party informs the other in writing that it is unwilling to arbitrate, the dispute will be subject to all other remedies then available to the parties at law and in equity, including without limitation the remedy of specific performance.

6. General provisions:

6.1 Merger: This Lease supersedes and controls all prior written and oral agreements and representations of the Parties with respect to Wellington's rental of the Expansion Land and is the total integrated agreement between the Parties with respect to that subject.

6.2 Modifications: This Lease may be modified only by a subsequent written agreement executed by both Parties.

6.3 No assignment: This Lease is not assignable, and shall not be recorded in the county land records.

6.4 Communications: All communications and payments required under this Lease must be delivered to the addresses of the Parties as set forth below. All communications so given and properly addressed will be considered effective immediately upon hand delivery or email delivery; one business day after deposit with an overnight delivery service; and three business days after deposit in the U.S. Mail. Either Party by notice so given may change the address to which future notices or payments are to be sent.

North Poudre:

Communications and payments:

North Poudre Irrigation Company
Attn: Ms. Cali Gunter, Corporate Secretary
3729 Cleveland Avenue
P.O. Box 100 Wellington, CO 80549
cgunter@npicwater.com

Copies of communications:

Tad Moen, General Manager
tmoen@npicwater.com

Chrysten Hinze, Lind, Ottenhoff & Root, LLP
chrys@lorlegal.com

Wellington:

Town of Wellington
Attn: Ms. Patti Garcia, Town Administrator
3735 Cleveland Avenue
Wellington, CO 80549
garciapa@wellingtoncolorado.gov

Copies:

Bob Gowing, Director of Public Works
gowingbj@wellingtoncolorado.gov

Dan Sapienza, March & Olive, LLC, Town Attorney
dan@bmarchlaw.com

- 6.5 Severability: The terms of this Lease are severable. If a court of competent jurisdiction finds any provision hereof to be invalid or unenforceable, the remaining terms and conditions will remain in full force and effect.
- 6.6 No third-party beneficiaries: Nothing in this Lease, express or implied, confers or is intended to confer any rights or remedies whatsoever upon any person or entity other than North Poudre and Wellington.
- 6.7 No waiver of immunity: Nothing in this Lease, express or implied, waives or is intended to waive Wellington's immunity under Colorado law, including without limitation the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101 through 120.
- 6.8 Joint drafting: The Parties acknowledge that this Lease represents the negotiated terms, conditions, and covenants of the Parties, and that the Party responsible for drafting any such term, condition, or covenant is not to be prejudiced by any presumption, canon of construction, implication, or rule requiring construction or interpretation against that Party.
- 6.9 Counterparts: This Lease may be executed in multiple counterparts, all of which taken together constitute one and the same document.
- 6.10 Appropriation of funds: No part of this Lease creates or is to be construed as creating a "multiple fiscal year obligation" as that term is defined by Article X, Section 20 of the Colorado Constitution. Wellington may terminate this Lease without penalty by affirmatively declaring that it will not appropriate sufficient funds to meet its obligations under this Lease in the upcoming year. Wellington shall give North Poudre notice of any such termination due to non-appropriation no later than January 31 of the applicable calendar year. In that event, which will not constitute a breach of this Lease, Wellington and North Poudre shall negotiate in good faith regarding prompt execution of an agreement regarding Wellington's continuing use of the WTP Expansion to treat water for the Town.

- 6.11 No waiver of subsequent breach: Waiver of a breach of any term of this Lease by either Party will not constitute and is not to be construed as a waiver of any subsequent breach of either the same or another term of this Lease.
- 6.12 Dates: If any date or deadline set by this Lease for the delivery of any communication or payment should fall on a weekend, a federal holiday, or a Colorado-recognized holiday, such date or deadline is automatically extended to the next succeeding weekday that is not a holiday.

7. Indemnification and Insurance

- 7.1 Indemnification: To the extent allowed under law, and without in any manner waiving the protections, procedural requirements, defenses and monetary limitations on damages provided for in the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S., as amended (the “Governmental Immunity Act”), Wellington shall, during the term of this Lease, indemnify and hold North Poudre, its shareholders, officers, directors, employees, agents and representatives, harmless from and against any and all injury (including death), losses, costs, damages, liens, claims, liabilities, and/or expenses (including reasonable attorney fees, court costs, and disbursements), which are incurred or claimed to be incurred as a result of Wellington’s occupation and uses of the Expansion Land under this Lease.
- 7.2 Wellington shall carry and maintain comprehensive general liability insurance with standard waiver of subrogation endorsement to insure the risks undertaken in the Expansion Land as a part of this Lease with minimum coverage limits of Two Million Dollars (\$2,000,000.00) for injury or death for any one occurrence and Two Million Dollars (\$2,000,000.00) for property damage per occurrence. North Poudre and its agents, employees, contractors and engineers shall be listed as additional insureds under such policy. Wellington shall provide North Poudre with certificates evidencing such insurance before commencement of construction, and the same shall be in force until termination of the Lease.

WHEREFORE, the Parties have executed this Lease on the date(s) written below

[Signature Pages Follow]

- 6.11 No waiver of subsequent breach: Waiver of a breach of any term of this Lease by either Party will not constitute and is not to be construed as a waiver of any subsequent breach of either the same or another term of this Lease.
- 6.12 Dates: If any date or deadline set by this Lease for the delivery of any communication or payment should fall on a weekend, a federal holiday, or a Colorado-recognized holiday, such date or deadline is automatically extended to the next succeeding weekday that is not a holiday.

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- 7.2 Wellington shall carry and maintain comprehensive general liability insurance with standard waiver of subrogation endorsement to insure the risks undertaken in the Expansion Land as a part of this Lease with minimum coverage limits of Two Million Dollars (\$2,000,000.00) for injury or death for any one occurrence and Two Million Dollars (\$2,000,000.00) for property damage per occurrence. North Poudre and its agents, employees, contractors and engineers shall be listed as additional insureds under such policy. Wellington shall provide North Poudre with certificates evidencing such insurance before commencement of construction, and the same shall be in force until termination of the Lease.

WHEREFORE, the Parties have executed this Lease on the date(s) written below

TOWN OF WELLINGTON, COLORADO

By: 
Mayor

Date: 5/16/2022

Attest: 
Town Clerk



TOWN OF WELLINGTON, COLORADO

By: _____
Mayor

Date: _____

Attest: _____
Town Clerk

STATE OF COLORADO)

ss.

COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022 by _____, as Mayor of the Town of Wellington, Colorado.

Witness my hand and official seal.

My commission expires _____.

Notary Public

THE NORTH POUDRE IRRIGATION COMPANY

By: Loren R Maxey
Loren Maxey, President

Date: May 11, 2022

Attest: Cali Gunter
Secretary

STATE OF COLORADO)

ss.

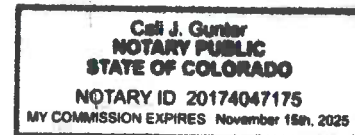
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 11th day of May, 2022 by Loren Maxey, as President of the North Poudre Irrigation Company.

Witness my hand and official seal.

My commission expires 11-15-25.

Cali Gunter
Notary Public



C:\Users\mhammett\Documents - Town of Wellington\10691 N CR 11\10691 N CR 11.dwg 04/25/2022

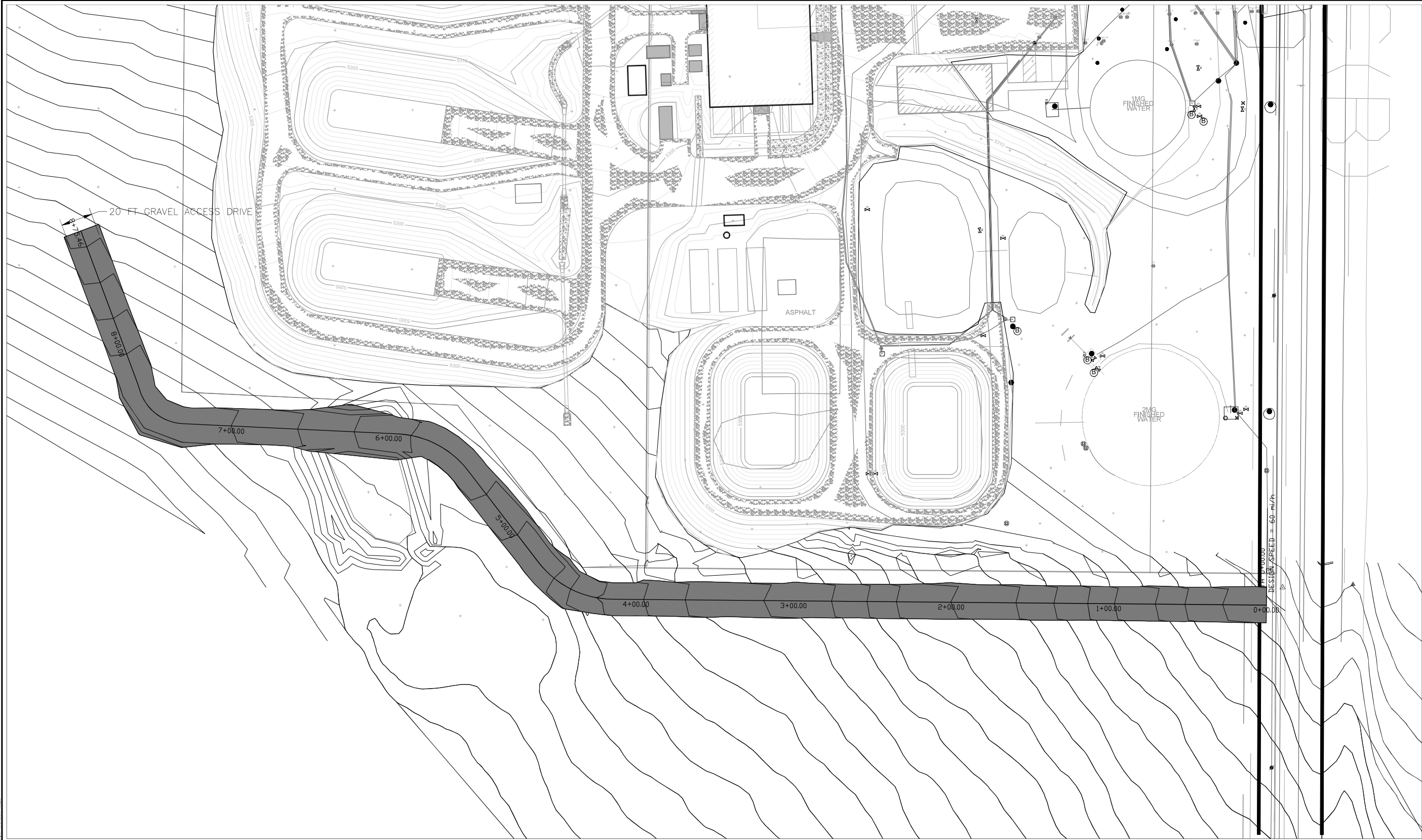
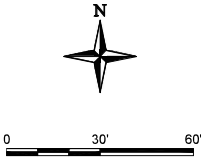


EXHIBIT "B"

EXPLANATION
NONE



DRAFT

SHEET 1 1 OF 1	NPIC ALTERNATE ACCESS ROAD		DRAWN BY: NRE		WARNING IF THIS BAR DOES NOT MEASURE 1" IN LENGTH THEN DRAWING IS NOT AT INTENDED SCALE		REV. DATE		DESCRIPTION		REVISIONS	
	WATER TREATMENT PLANT EXPANSION TOWN OF WELLINGTON 10691 N CR 11		CHECKED BY: MS		DATE: 04/25/2022		A		04/25/2022		DRAFT LAYOUT	
	REV: A		SCALE: AS SHOWN		FILE: WTP-NPIC SOUTH ACCESS		BY		NRE		MS	



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/16/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LIC #N/A CIRSA 3665 Cherry Creek North Drive Denver, CO 80209	1-303-757-5475	CONTACT NAME: PHONE (A/C, No. Ext): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: CIRSA	FAX (A/C, No):
INSURED Town of Wellington P.O. Box 127 Wellington, CO 80549		INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	NAIC #

COVERAGES

CERTIFICATE NUMBER: 65486830

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☒ CLAIMS-MADE ☐ OCCUR ☒ \$10m POL E&O Aggregate GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:			LIAB 01-2022	01/01/22	01/01/23	EACH OCCURRENCE \$ 10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 10,000,000 MED EXP (Any one person) \$ 0 PERSONAL & ADV INJURY \$ 10,000,000 GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ 10,000,000
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			LIAB 01-2022	01/01/22	01/01/23	COMBINED SINGLE LIMIT (Ea accident) \$ 5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☐	N/A				PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is Additional Insured on Liability Policies if required by contract.
With respects to lease agreement for expansion land for the Town of Wellington effective 5/16/2022.
North Poudre and its agents, employees, contractors and engineers are included as additional insureds.
The liability policies contain a provision allowing the insured the right to waive subrogation prior to a loss.

CERTIFICATE HOLDER**CANCELLATION**

North Poudre Irrigation Company a Colorado non-profit corporation P.O. Box 100 Wellington, CO 80549 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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Board of Trustees Meeting

Date: August 23, 2022
Subject: Resolution No. 30-2022: A Resolution Declining Full Participation in the Colorado State-Run Paid Family and Medical Leave Insurance Program

- **Presentation: Stephanie Anderson, Human Resources Manager**

BACKGROUND / DISCUSSION

In November 2020, Colorado voters approved Proposition 118 which paved the way for a state-run Paid Family Medical Leave Insurance (FAMLI) program. The Town must choose to participate or opt out of the program prior to January 1, 2023. After presentation and discussion at the June 14th work session, a resolution to opt out is being brought to the Board.

The State of Colorado Paid Family Medical Leave Insurance (FAMLI) program provides employees up to 12 weeks of paid leave to take care of themselves or a family member during life events like injury, serious illness, or pregnancy. Participating employers and employees will both contribute to premiums for FAMLI. Employers are to start collecting and remitting premiums on January 1, 2023, and benefits will be available starting January 1, 2024. Premiums are equal to .9% of each employee's regular weekly wage. Half of the .9% (or .45%) is to be paid by the employee, and the other half is to be paid by the employer. The Town is responsible for collecting employee premiums via payroll deduction, and for remitting all premiums to the State on a quarterly basis. Premiums are mandatory for all full-time, part-time, seasonal and temporary employees, whether they ever utilize the benefit or not. During their leave, employees will receive between 37% and 90% of their wages, capped at \$1,100 per week.

It is being presented to the Board that the Town opt out of the FAMLI leave program and offer an alternative leave program. The alternative consideration is to offer staff members 12 weeks of paid leave to care for themselves or a family member during life events such as injury, serious illness, or pregnancy. The leave will run concurrently with FMLA for FMLA eligible employees.

Human Resources emailed all staff members on 8/16/22 to notify that this item would be heard at the 8/23/22 regular meeting.

The Town's financial burden in the first year of the FAMLI program will likely exceed \$20,000. The premium costs are based on the number of employees we have as well as the amount of money each employee makes. We anticipate that this number may increase year over year due to increased staffing levels and/or increased salaries.

Of the municipalities surveyed by CML, most are opting out of the program. The survey consisted of 68 municipalities. Fifty one (51) of the municipalities have already opted out, or are leaning towards opting out, two (2) are opting in, and fourteen (14) are still undecided. Even if the Town of Wellington does opt out, employees may still participate in the program and would pay the same rate of premium and realize the same full benefits allowed by law as if the Town participated. In this scenario, staff recommends having Town employees go directly to the State for coverage rather than acting as an intermediary and withholding and



remitting the employee share of premiums for those who elect coverage. This would lessen potential financial liabilities for the Town and help reduce some of the administrative requirements for Town staff related to the program. Regardless of what the Board decides, there will be some staff administration required, if Town employees participate and request to use FAMLI leave.

If the Town declines the program, they are able to opt back into the state-run program. The option to opt out must be voted on every 8 years.

STAFF RECOMMENDATION

Staff has identified the following motion options for Trustee consideration:

- Move to approve Resolution No. 30-2022, a Resolution Declining Full Participation in the Colorado State-Run Paid Family and Medical Leave Insurance Program.
- Move to approve Resolution No. 30-2022 with amendments.
- Move to deny Resolution No. 30-2022.
- Move to continue Resolution No. 30-2022 to a Board of Trustees Regular/Special Meeting to be held on a date certain.

ATTACHMENTS

1. RESOLUTION NO 30 2022_FAMLI LEAVE
2. FAMLI Presentation 8.19.22 update

TOWN OF WELLINGTON

RESOLUTION NO. 30-2022

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, DECLINING FULL PARTICIPATION IN THE COLORADO STATE-RUN PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAM

WHEREAS, in November of 2020, Colorado voters approved Proposition 118, which established a State-run Paid Family and Medical Leave Insurance program (“FAMLI”); and

WHEREAS, the State’s purpose for creating the program is to ensure all Colorado workers have access to paid leave in order to take care of themselves or their family during life circumstances that pull them away from their jobs; and

WHEREAS, under FAMLI, employers and their employees are both responsible for funding the program and may split the cost 50/50; the premiums are set at 0.9% of the employee’s wage, with 0.45% paid by the employer and 0.45% paid by the employee; and

WHEREAS, as a local government, the Town of Wellington (the “Town”) declines to participate in FAMLI; however; Town employees will still have the option to participate in the program and remit premiums to the State; and

WHEREAS, the Town will offer a similar program for Town employees; and

WHEREAS, the Board of Trustees (i) declines participation in FAMLI and (ii) declines to withhold and remit the employee share of premiums for Town employees who elect FAMLI coverage.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, THAT:

The Board of Trustees hereby declines full participation in FAMLI, to include declining to collect and remit employee premiums to the State for those employees who elect coverage under FAMLI. The Board of Trustees further directs Town staff to bring up the matter of revisiting the decision to decline participation in FAMLI before a future Board of Trustees by no later than eight years from tonight’s meeting.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted by the Board of Trustees this 23rd day of August, 2022.

TOWN OF WELLINGTON, COLORADO

Calar Chaussee, Mayor

ATTEST:

Patti Garcia, Town Administrator/ Clerk

Family and Medical Leave Insurance (FAMLI)

Stephanie Anderson, Human Resources Manager
Kelly Houghteling, Deputy Town Administrator





Question for Board of Trustees

Should the Town of Wellington opt-in or opt-out of the State-run Family and Medical Leave Insurance (FAMLI) Program?



What is FAMLI Leave?

- Colorado Voters approved Proposition 118 in November of 2020 to initiate a state-run paid Family and Medical Leave Insurance (FAMLI) program.
- This program will ensure all Colorado Workers have access to paid leave in order to take care of themselves or their family for medical needs such as: growing a family, taking care of themselves or a loved one with a serious health condition.
- Colorado's FAMLI program will be administered by the Division of Family and Medical Leave Insurance.
- FAMLI will start providing benefits to Colorado employees on January 1, 2024, and contributions begin January 1, 2023.



When can covered workers use FAMLI leave?

- Their own serious health condition.
- Serious health condition of a family member.
- Care of a new child (birth, foster placement, adoption, caring for a child within the first year from birth).
- Making arrangements for military deployments.
- Immediate safety needs and impact of domestic violence/sexual assault.



How it Works

- Employers and their employees are responsible for funding the program.
- The premium is 0.9% of each employee's salary and this will be split between the employee and the employer contributing 0.45% each to the state.
- Funding will begin on January 1, 2023 to prepare for the 2024 launch.
- An employee would work directly with the State for leave and their leave would be paid up to \$1,100.00 per week, and they would not be required to use their work leave banks.
- They are eligible for 12 weeks up to 16 weeks of the benefit per year.

A local government's options to participate:

Participate in FAML.I.

- You pay the employer share of the premium like any other employer.
- That's 0.45% of wages if you have 10 or more employees, and 0% of wages if you have fewer than 10 employees.
- You remit employees' share of the premium (0.45% of wages) and submit wage data to the FAML.I Division once a quarter.

Decline *all* participation in FAML.I.

- Your local government must vote not to participate.
- Then you must then notify the FAML.I Division of your decision.
- The local government must revisit the decision to opt out at least every eight years.

Decline *employer* participation in FAML.I.

- If the local government votes to decline, it still has the option to assist its employees who want to individually participate in FAML.I.
- This means the local government would facilitate voluntary payroll deductions, remit the employee share of the premium, and submit wage data once a quarter to the FAML.I Division.

Wellington Impact

Example of 2021 Financial Impact to Opt-in

Full and Part Time Employees	Employee Contribution = .45%	Town Contribution = .45%	TOTAL (0.9% of salary)
64	\$15,170	\$15,170	\$30,340
Seasonal and Board Members	Seasonal and Board Contribution .45%	Town Contribution = .45%	TOTAL (0.9% of salary)
14	\$233	\$233	\$466
2021 Total			\$30,806

We are uniquely Wellington, but what are other communities leaning towards doing?

Town/City	Leaning Towards
Castle Pines	Opt-in
Frederick	Opt-out
Estes Park	Opt-out
Louisville	Opt-out
Severance	Opt-out
Greenwood Village	Opt-out

Original Slide- Updated information on next slide



Updated Opt in/Opt out Information

Based on CML data accessed on 8/19/22. The current CML document is a live document and is subject to change based on municipality input

Two (2) Opting In

Zero (0) Leaning
Toward opting in

Thirty One (31)
Opting Out

Twenty One (21)
Leaning Toward
Opting Out

Fourteen (14) Not
Discussed/Not
Decided



Opting-in

Pros

- Most administrative duties fall to the State.
- More cost-effective for large employers.
- FAMLII benefits are portable potential employees can transfer benefit with out fear of losing family leave accrued at prior employers.

Cons

- Pay the State of Colorado to administer the program.
- Must pay for all full-time, part-time, seasonal, and elected officials on quarterly basis.
- If the Town opts in, an employee cannot opt-out.
- If the Town of Wellington opts in, we must remain in the program for 3 years.
- This is a new state program and may have administrative issues to sort out as they grow.



Opting-out

Pros

- Town has more control to run our own program that is equal or better than state program.
- Only pay for employees currently on leave rather than lump sum to State quarterly.
- Pay for leave will already be budgeted for the year and will not need an additional fund.
- Employees will be eligible for their normal weekly wage. The state has some restriction and maxes out at \$1,100 per week.

Cons

- The town continues administration of our own leave plan.
- Employees may be interested in participating and would either be unable to, or would have to manage their portion.
- The Town could have vacancy savings not paying wages while an employee is being paid by the State.

Employer Only vs. Complete Opting Out



All Colorado employees have the right to FAMLI leave. If the TOW chooses to opt out of the program staff members are still able to opt in, and contribute their portion, but the employer would not.

Decline All Participation

- If an employee wanted to opt in, they would have to open their own FAMLI account, and submit remit their wages to the state quarterly.
- The Town would play no part in FAMLI program and all responsibility falls on staff members



Decline Employer Participation

- The TOW would provide administrative responsibility to deduct and remit employees wages to the state on the employee's behalf.
- The Town would be responsible to remit payments and properly deduct wages for participating staff members.

Timeline for Decision Making





Benefit Impact

- Employees that are eligible for Family and Medical Leave Act (FMLA) will have their FAMLI leave and FMLA run concurrently
- Employees on FAMLI leave will not use their leave bank
- Short Term disability insurance is voluntary and is not paid by the Town therefore there will be no impact
- Employee deductions of their health care benefits will be normally deducted from their paycheck while on leave leading to no impact on the Town's responsibility



Next Steps

Decision Options

- a) Opt-in
- b) Opt-out All Participation
- c) Opt-out Employer Only

Timeline for Decision Making

- Tonight: Discussion
- August/September: Vote on resolution to opt-in or opt-out.
- Notify Employees within 30 days of decision.



Questions

<https://famli.colorado.gov/>



Wellington Water and Wastewater Utilities Monthly Production and Operational Summary Report For July 2022

Production Summary

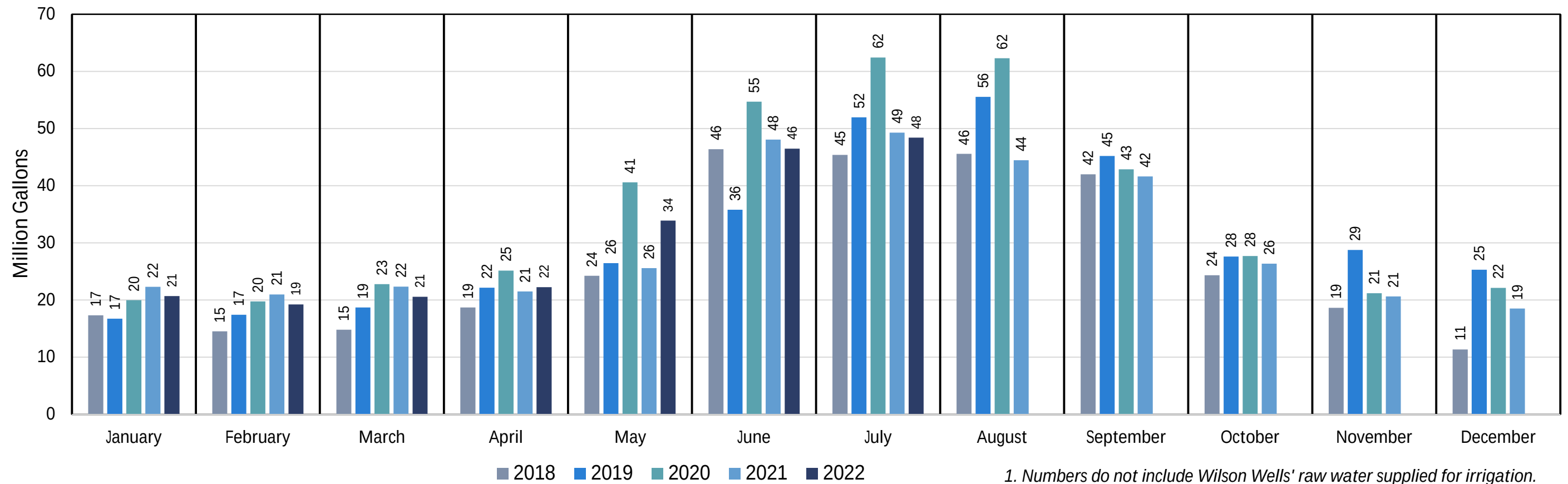
- Water
 - Please see the attached charts for various data related to drinking water production
 - Total monthly volumetric production to meet demand was 48 million gallons (MG), which is a bit less than the average for the last 5 years.
 - The Conventional Plant produced 37 MG
 - The Nanofiltration Plant produced 11 MG
- Wastewater
 - Please see the attached charts for various data related to water reclamation production
 - The total influent volume for the month was 20 MG, which is about average
 - Hydraulic loading rose to 0.65 million gallons per day (MGD), which is also about average. This represents 73% of maximum permitted hydraulic capacity.
 - Organic loading was 2102 pounds of BOD, which is a sharp increase from last month. This represents 80% of maximum permitted organic capacity

Operational Summary

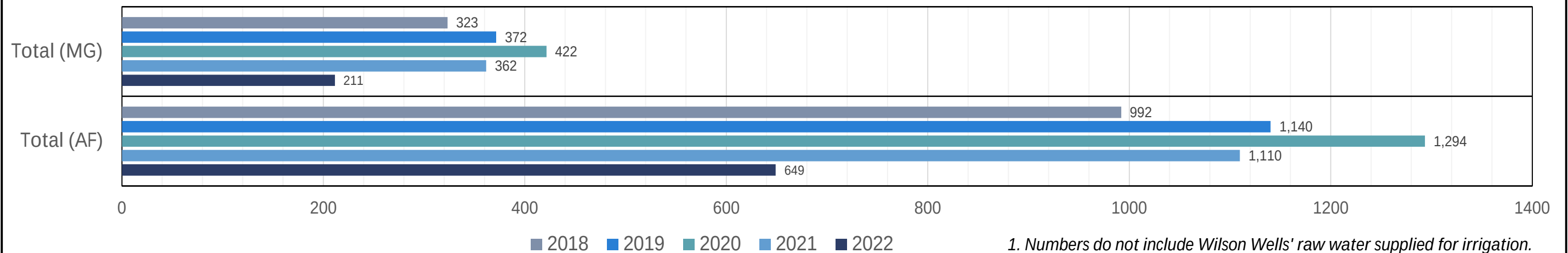
- Water Treatment Plants
 - Conventional Plant
 - Operators continue to coordinate with the expansion project contractor daily. Numerous challenges and coordination issues are resolved on a daily or hourly basis.
 - Nanofiltration and Reverse Osmosis Plants
 - The plant continued to run successfully at 60% of maximum production
 - Microfiltration Plant
 - Although operational, the Microfiltration Plant remains inactive due to poor taste and odor treatment performance
- Water Reclamation Plant
 - Operators continue to coordinate with the expansion project contractor daily. Numerous challenges and coordination issues are resolved on a daily or hourly basis.

Town of Wellington Water Treatment

Total Monthly Production: Main WTP (Conventional & Microfiltration), Nano Plant₁ and RO
(Through July 2022)

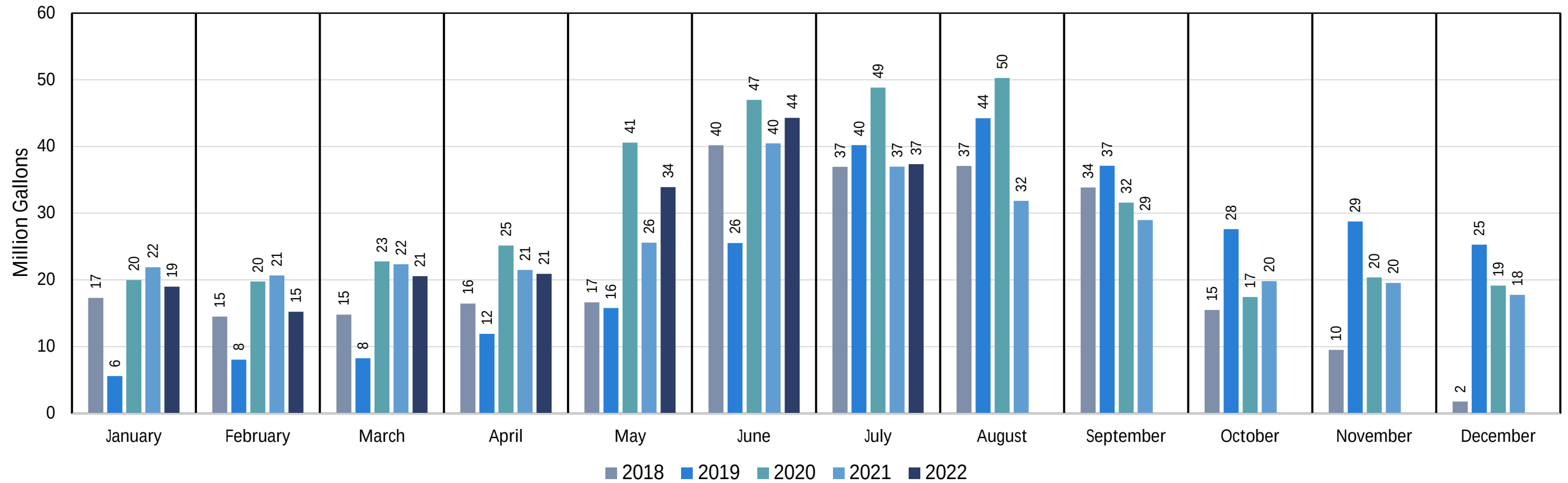


Annual Production Volumes₁
(Through July 2022)

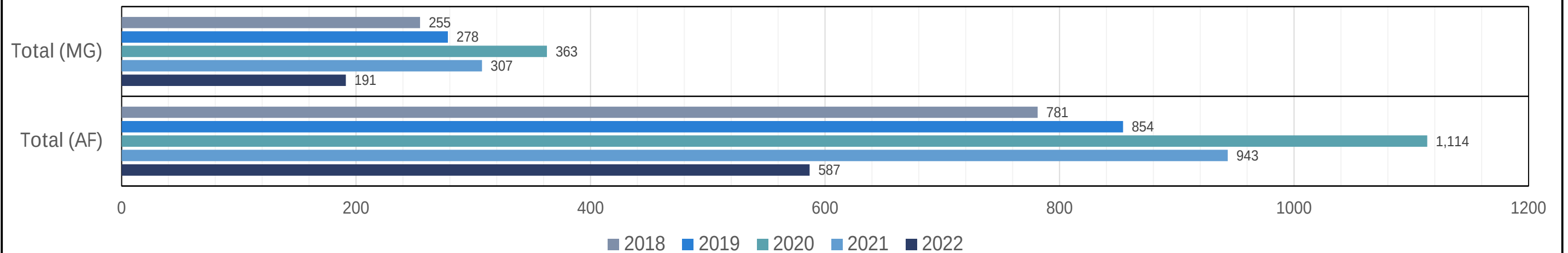


Town of Wellington Water Treatment

Monthly Production: Main WTP (Conventional & Microfiltration) (Through July 2022)

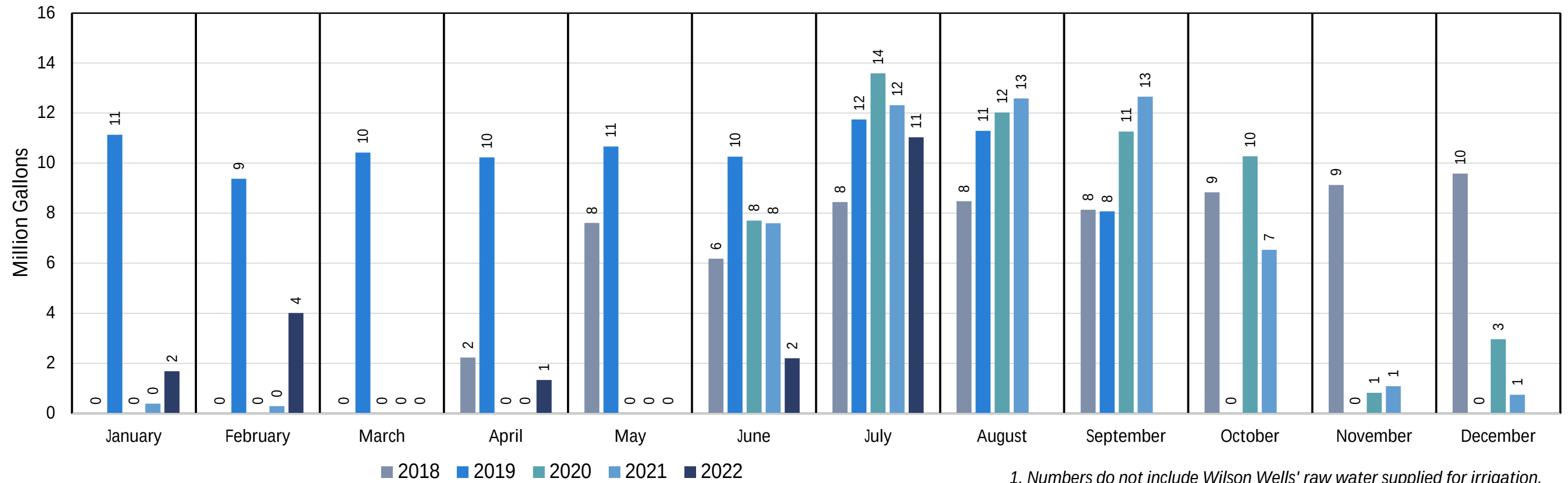


Annual Production Volumes (Through July 2022)

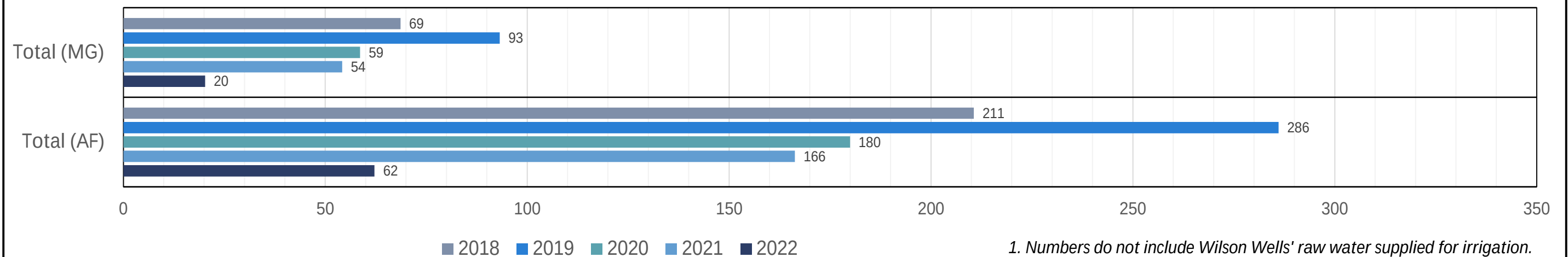


Town of Wellington Water Treatment

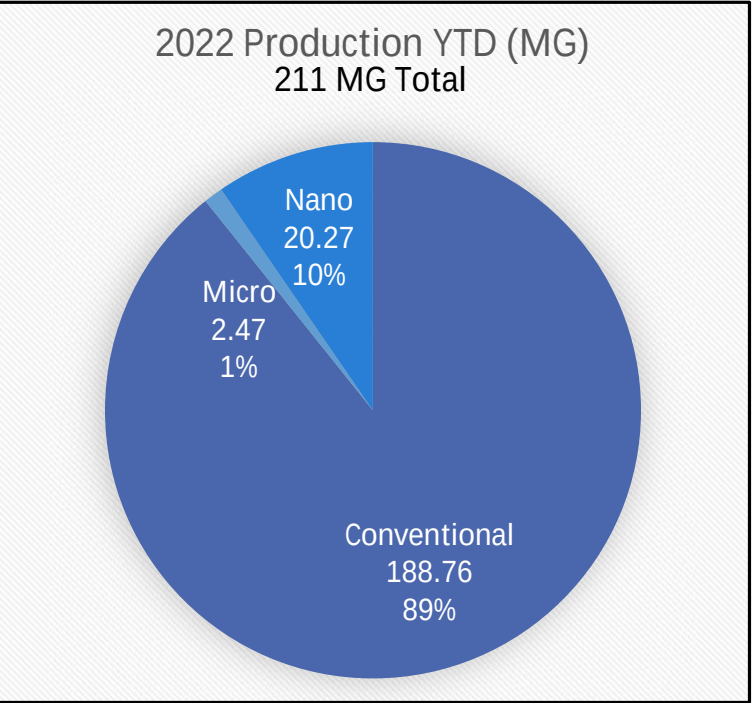
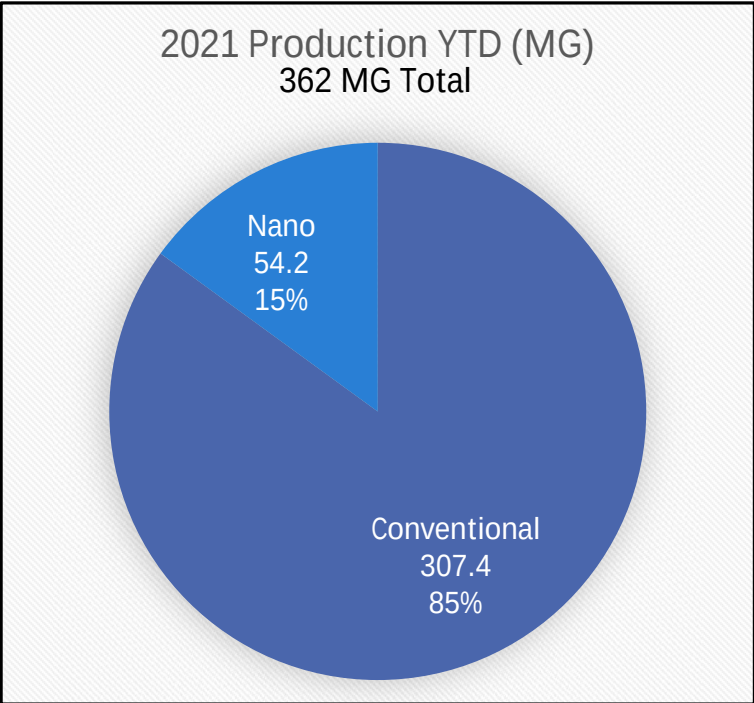
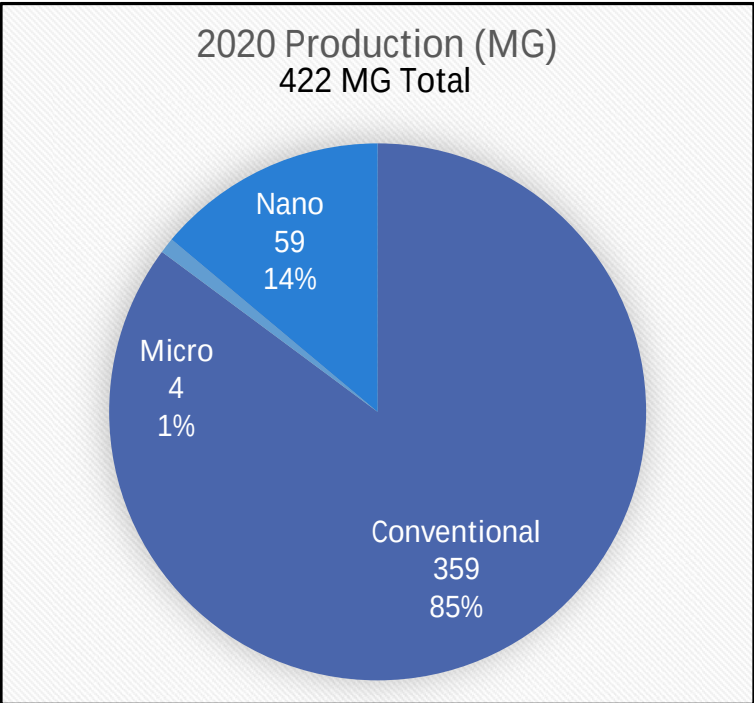
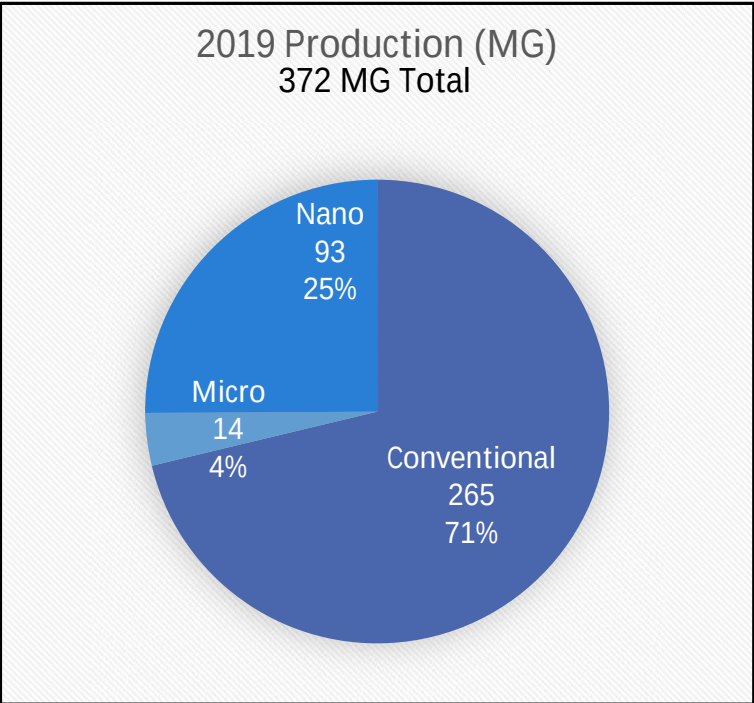
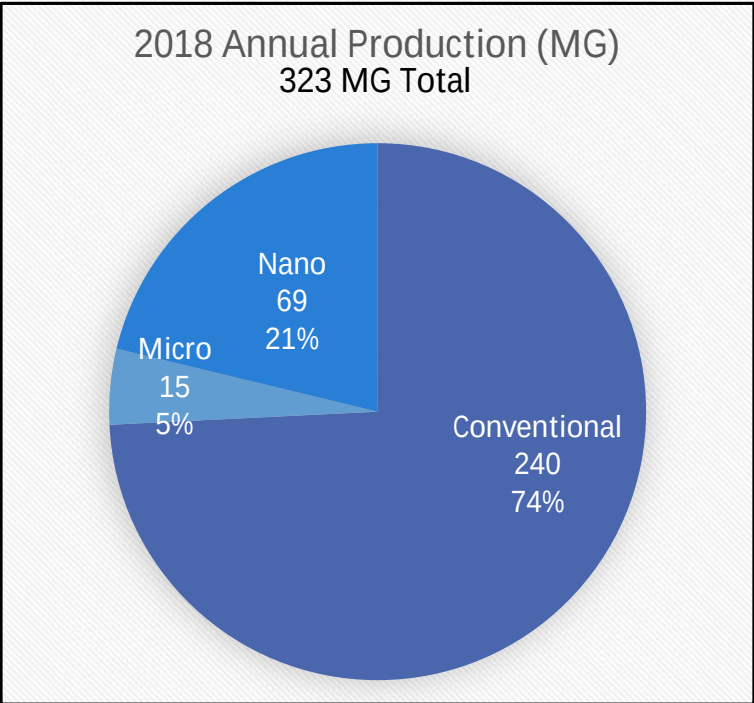
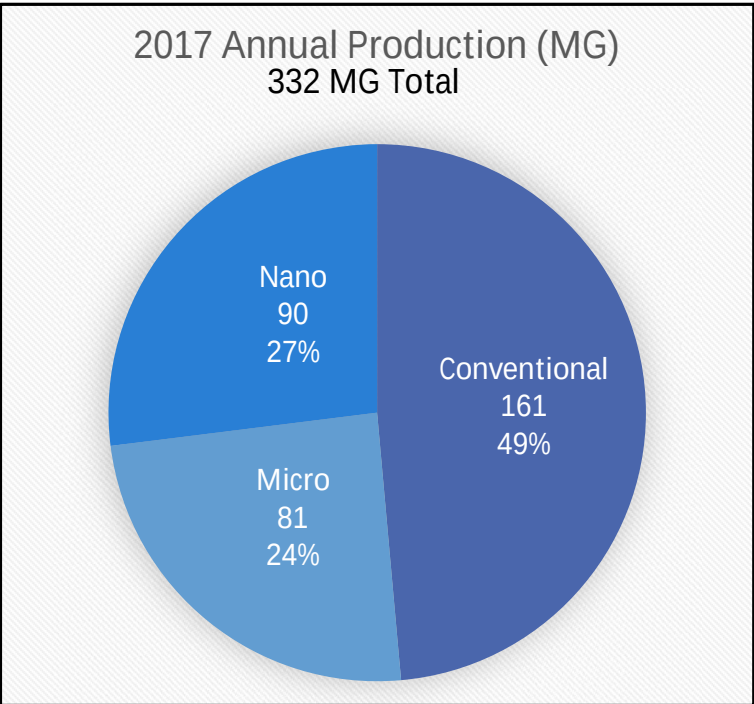
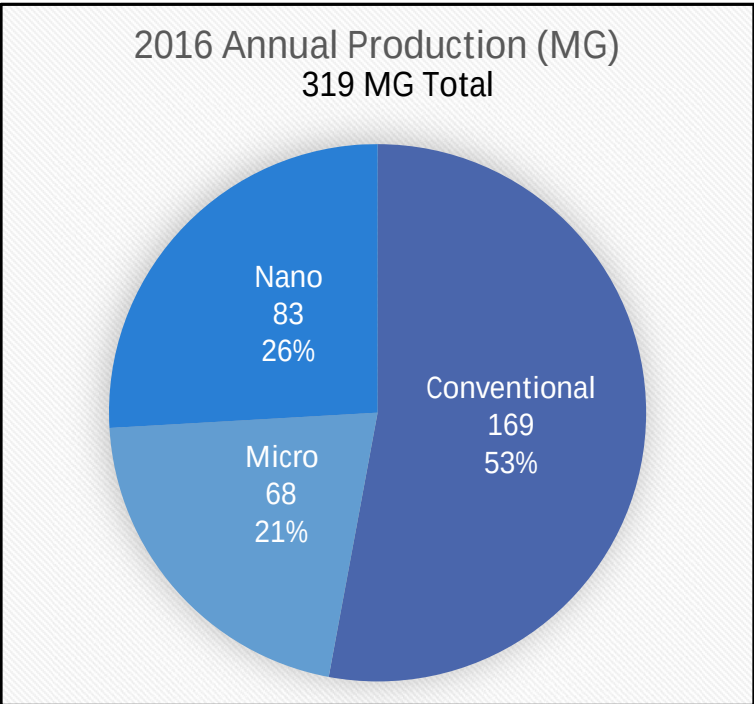
Monthly Production: Nano Plant₁ (Through July 2022)



Annual Production Volumes₁ (Through July 2022)

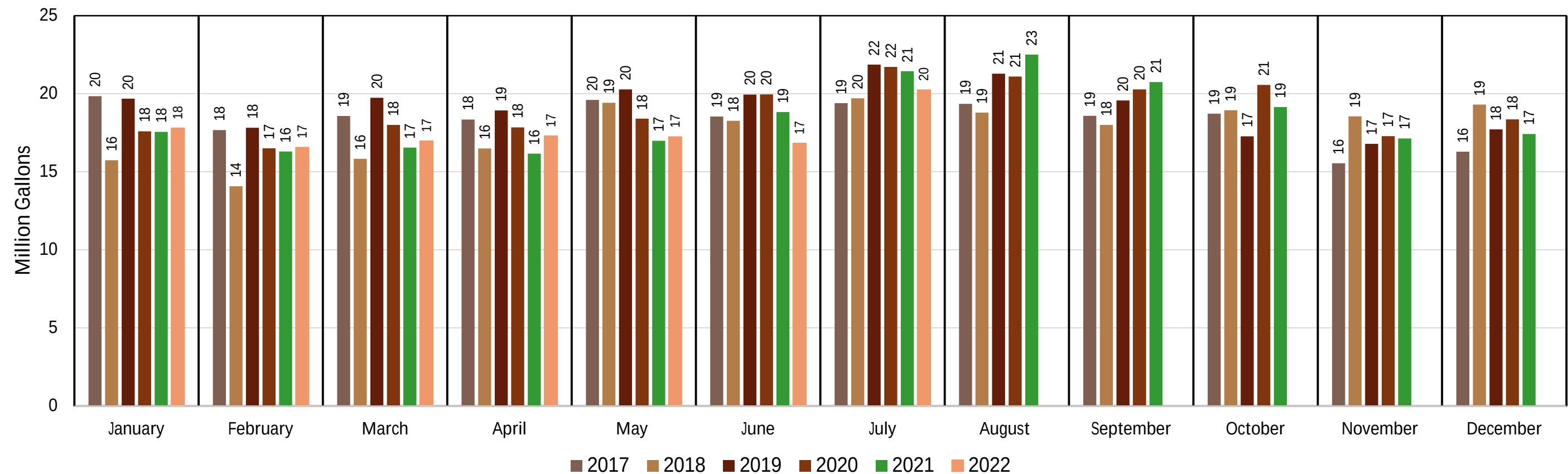


Town of Wellington
Water Treatment

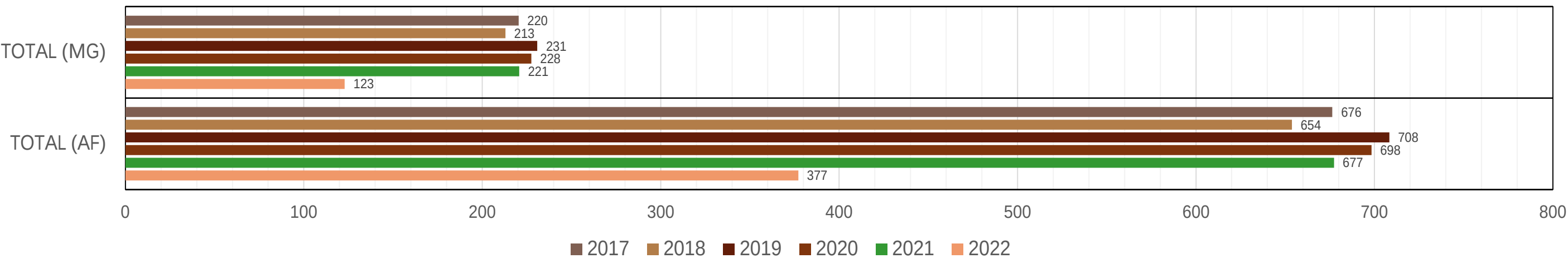


Town of Wellington
Water Reclamation Facility Treatment

Monthly Production: Monthly Volume of Influent
(Through July 2022)

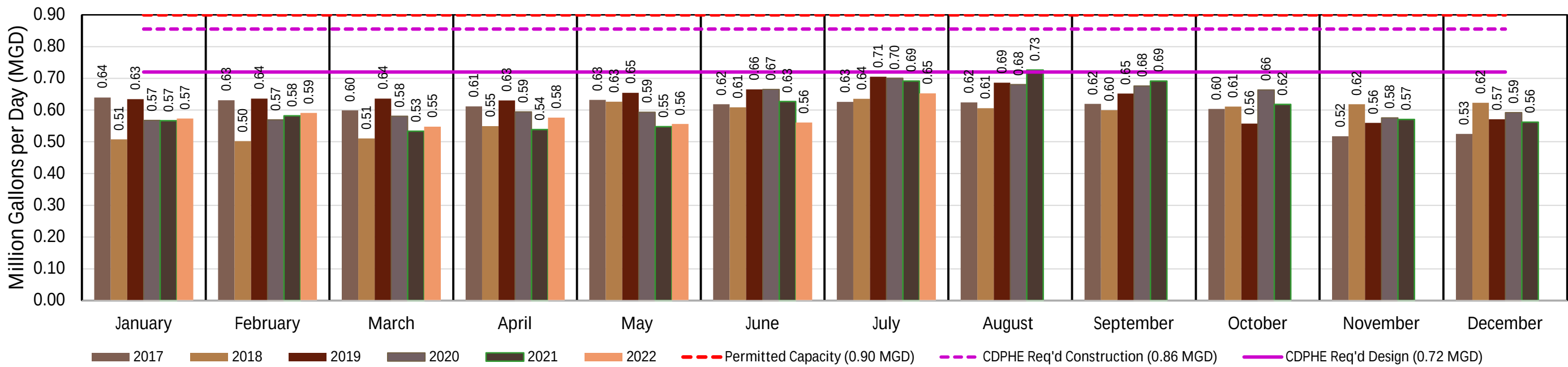


Annual Volume of Influent
(Through July 2022)

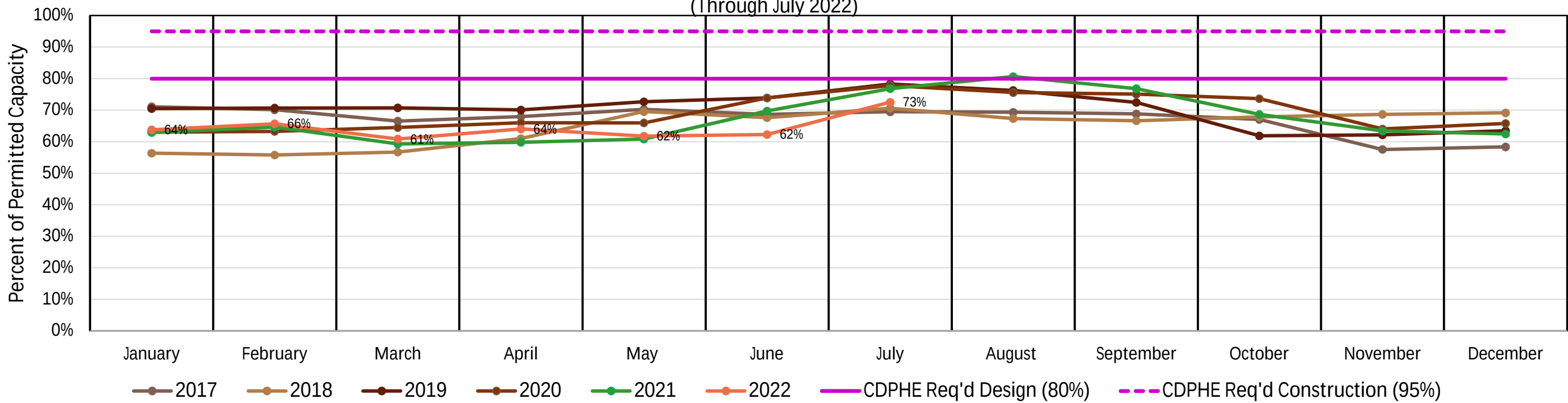


Town of Wellington
Water Reclamation Facility

Monthly Production: Hydraulic Loading
(Through July 2022)



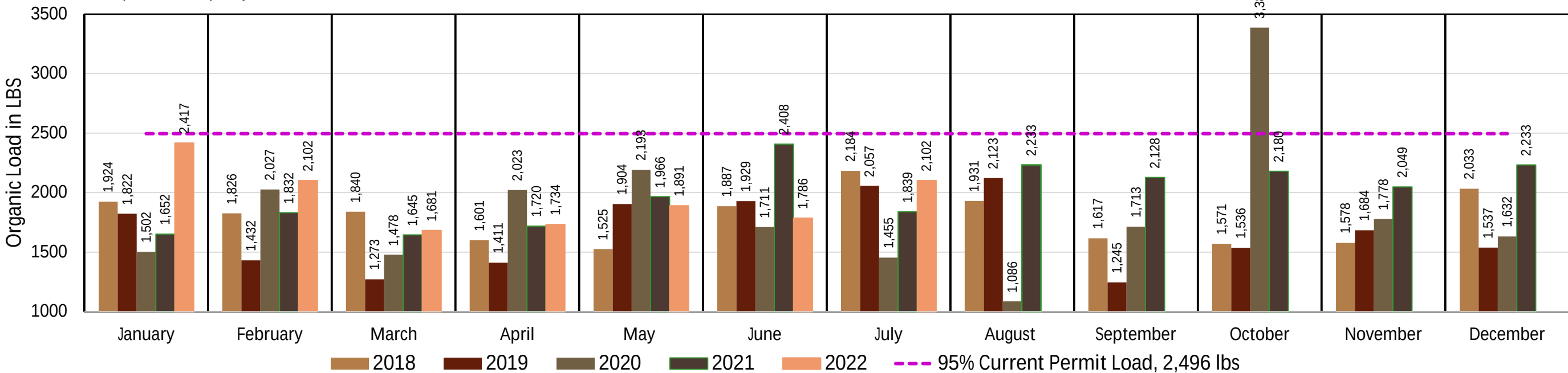
Monthly Production: Percent of Permitted Hydraulic Capacity
(Through July 2022)



Town of Wellington
Water Reclamation Facility

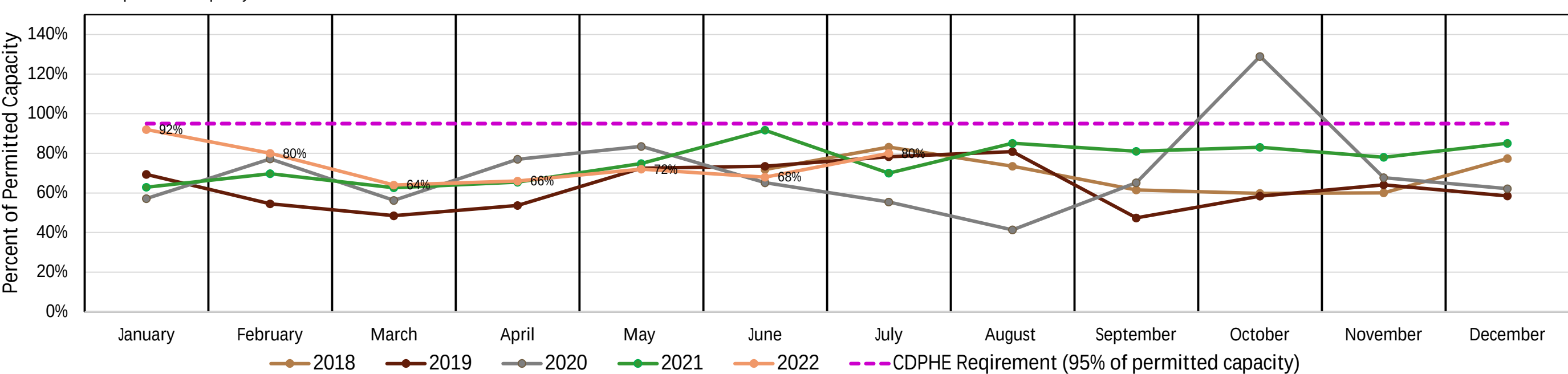
Monthly Production: Organic Loading
(Through July 2022)

Note: June 2018 permitted capacity increased from 1314lbs to current level of 2627lbs.



Monthly Production: Percent of Permitted Organic Capacity
(Through July 2022)

Note: June 2018 permitted capacity increased from 1314lbs to current level of 2627lbs.





Treatment Plant Expansion Projects

Project Status Summary Reports

For July 2022

Water Treatment Plant Expansion Project

Schedule Update

- Project is currently on schedule for Final Completion on July 29, 2024. There has been one (1) rain/weather day to date. Material and equipment procurement continues to be the biggest threat to project schedule. Milestone dates are as follows:
 - Notice to Proceed May 11, 2022
 - Substantial Completion May 6, 2024
 - Final Completion July 29, 2024
 - Days remaining to Final Completion 483 Days

Construction Update

- Work completed or in progress listed under each structure
 - Site Work
 - Completed clearing and grubbing
 - Contractor parking and material storage areas were expanded
 - Treatment Building
 - Placed flow fill under the Rapid Mix area of the Treatment Building Foundation
 - Placed mud mat over bottom of excavation for areas under the Floc/Sed Basins
 - Ozone Building
 - No work
 - Chemical Building
 - Completed re-route of back wash line from Clearwell Building
 - Construction team continues to work through design and material submittals requiring approval from the design engineer and Town Project Managers prior to construction. Backfill and compaction testing by Soillogic as needed.
 - Construction team continued the permitting effort through Safebuilt
- Issues
 - The project team is monitoring the availability of materials and equipment. Supply chain issues and material availability continue to impact the project schedule and adjustments are being made to maintain the final completion date.

Contingency Update

- Contractor Contingency Actions
 - None as of Pay Application 2 (August 1, 2022)
- Town Contingency Actions
 - No new items added this reporting period

Water Reclamation Facility Expansion Project

Schedule Summary

- Project is currently on schedule for Final Completion on October 30, 2024. There has been one (1) rain/weather day to date. Material and equipment procurement continues to be the biggest threat to project schedule. Milestone dates are as follows:
 - Notice to Proceed April 19, 2022
 - Substantial Completion August 1, 2024
 - Final Completion October 30, 2024
 - Days remaining to Final Completion 547 Days

Construction Update

- Work completed or in progress listed under each structure
 - Site Work
 - Dewatering wells installed and operated as needed.
 - Relocated existing utilities in conflict at site.
 - Dust control with water truck used as needed.
 - Step Feed Aeration Basin
 - Pre-tied wall rebar
 - Waiting on wall forms
 - Influent Pump Station (IPS)
 - Completed wall rebar and form placement
 - Poured IPS walls
 - Waiting on wall concrete to reach required strength for liquid tightness test
 - Secondary Clarifiers
 - Excavation completed
 - Completed center column rebar and form placement
 - Poured center column for both Clarifiers
 - Step Feed Process Building
 - Placed base slab rebar
 - Installed trench drains
 - Poured both sections of the base slab
 - Pre tied wall rebar waiting on wall forms
 - Orbal Reactor
 - No work – waiting on concrete to cure as well as wall forms
 - UV Digester 5 & 6
 - Design for utility conflict re-routes completed
 - UV Digester Blower Building
 - Design for utility conflict re-routes completed
 - Administration Building
 - None
 - Construction team continues to work through design and material submittals requiring approval from the design engineer prior to construction. Materials Testing by CTL Thompson as needed

- Issues
 - The project team is monitoring the availability of materials and equipment. Supply chain issues and material availability continue to impact the project schedule and adjustments are being made to maintain the final completion date.
 - Escalations due to increased fuel cost and materials shortages for items such as concrete have already occurred in addition to scheduling restrictions based on availability of cement.
 - Equipment price escalations have been threatened requiring accelerated review and approvals of submittals by the team to avoid pricing increases.

Contingency Update

- Contractor Contingency
 - No new items added this reporting period
- Town Contingency
 - No new items added this reporting period