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El Paso County Clerk & Recorder: Index in Grantee Indexes under Ivilo Heights
 Subdivision, and under Grantor as 6225 Vessey LLC

**DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND
 RESTRICTIONS OF USE AND WATER
 FOR
IVILO HEIGHTS SUBDIVISION**

THIS DECLARATION, is made and entered into as of the date shown below, by 6225
 Vessey LLC ("Declarant"), his successors, and assigns.

WITNESSETH:

WHEREAS, Declarant is the sole owner of real property more particularly described
 on Exhibit A hereto, subdivided as:

Lot 1 and Lot 2 as shown on the Plat of Ivilo Heights
 Subdivision, recorded on _____, 202_ at
Reception No. _____, County of El Paso,
 State of Colorado

(each Lot 1 and Lot 2, hereinafter referred to as a "Lot")(collectively known as the
 "Subdivision" or "Property").

WHEREAS, Declarant desires to submit the property to the limited covenants, terms,
 and conditions hereof, to protect the Subdivision's quality residential living environment, its
 desirability, attractiveness, and value, and to ensure compliance with all applicable
 groundwater determinations concerning water and water rights to be utilized within the
 Subdivision;

WHEREAS, Declarant hereby declares that all of the Subdivision as herein defined,
 with all appurtenances, facilities, and improvements thereon, shall be held, sold, used,
 improved, occupied, owned, resided upon, hypothecated, encumbered, liened, and conveyed
 subject to the following reservations, uses, limitations, obligations, restrictions, covenants,
 provisions and conditions of this Declaration, all of which are for the purpose of enhancing

and protecting the value, desirability and attractiveness of the Subdivision, and for assurance of legal water usage, and all of which shall run with the land and be binding on and inure to benefit of all parties having any right, title or interest in the Subdivision or any part thereof, their heirs, successors and assigns;

WHEREAS, by acceptance of a deed to the Property, each successor shall be deemed to have agreed, submitted to, and subordinated all rights to the provisions of this Declaration;

WHEREAS, Declarant further declares that pursuant to C.R.S. § 38-33.3-103(8), the Subdivision is not a Common Interest Community Subject to the Colorado Common Interest Ownership Act (C.R.S. § 38-33.3-101 et seq.) and any amendments, repeals or modifications of that Act (hereinafter called “**CCIOA**”), because the Declaration does not require by virtue of such person’s ownership of property within the Subdivision, payment of real estate taxes, insurance premiums, maintenance, or improvement of other real estate described in this Declaration. See C.R.S. § 38-33.3-103(8) (2023).

WHEREAS, certain documents are recorded in the real estate records of the Clerk and Recorder of El Paso County, Colorado at the reception numbers noted below, and referred to in this Declaration as pertaining to the Subdivision. These include:

- Findings of Fact, Conclusions of Law, Ruling and Decree of Water Court entered in Case No. 22CW3087, District Court, Water Division 1, dated April 6, 2023, and as recorded April 6, 2023, at Reception No. 223028216, attached hereto as **Exhibit B** (the “Decree”).

NOW, THEREFORE, the following Declarations of Water Covenants are made:

1. Water Decree and Augmentation Plan

A. Decree/Summary. The subdivision shall be subject to the obligations and requirements set forth in in the Decree, and the plan for augmentation for the not-nontributary Dawson aquifer decreed therein (the “Augmentation Plan”), which is incorporated by reference. The Decree concerns the water rights and water supply for the Subdivision and creates obligations upon the Subdivision and the Lot owners, which run with the land. The Augmentation Plan provides water supply for the Subdivision shall be by individual wells to the not-nontributary Dawson aquifer under the Augmentation Plan. The Augmentation Plan contemplates that the existing Vessey Well No. 1, located on and servicing Lot 1 will be re-permitted pursuant to the Augmentation Plan and will be located upon and serve Lot 1, and that Vessey Well No.2 to be located on and serve Lot 2 will be constructed and permitted pursuant to the Augmentation Plan. Each Lot owner will be responsible for obtaining a permit from the Colorado Division of Water Resources and drilling or maintaining an individual well for water service to their residence and lot to the Dawson aquifer and use of such well as consistent with the terms of the Augmentation Plan, including wastewater treatment through a non-evaporative individual septic disposal system (“ISDS”). Lot owners will be the owners of the water within the aquifers underlying their lots, and also own the plan

for augmentation. The Lot owners will be responsible for reporting and administration based on pumping records, and eventually for replacement of any injurious post-pumping depletions requiring construction of deep wells to the Laramie-Fox Hills or Arapahoe aquifers at such time as all Dawson aquifer pumping ceases.

2. Water Rights Ownership. Water rights and obligations as set forth in the Decree, the Augmentation Plan, and this Declaration shall be appurtenant to the Property, shall be indivisible from, and shall run with the land, and the same may not be separately sold, traded, bartered, assigned, or encumbered in whole or in part by any Lot owner. The water rights shall be explicitly conveyed, by special warranty deed, with no warranty as to the quantity or quality of water conveyed, only as to title. However, if a successor Lot owner fails to so explicitly convey the water rights, such water rights shall be conveyed as set forth below without specific reference, whether or not the conveyance instrument references the Decree or Augmentation Plan or water rights.

A. Declarant will transfer and assign to each Lot owner the following rights and interests in the not-nontributary Dawson aquifer, as well as the not-nontributary Denver aquifer, the nontributary Arapahoe aquifer, and nontributary Laramie-Fox Hills aquifer, as adjudicated in the Decree, as the physical source of supply and replacement for each Lot, which vested rights are appurtenant to each Lot, as follows:

	Adjudicated Quantity of Water underlying the Property exclusive of artificial recharge (Acre Feet)	Adjudicated Water Appurtenant to Lot 1	Adjudicated Water Appurtenant to Lot 2
not-nontributary Dawson aquifer	480	240	240
not-nontributary Denver aquifer	510	255	255
nontributary Arapahoe aquifer	235	117.5	117.5
nontributary Laramie-Fox Hills aquifer	171	85.5	85.5

B. The Dawson aquifer well on each Lot shall be augmented per the Augmentation Plan as administered by the Lot owners. Ground Water Determinations apply for Designated Basins Only. The water was quantified in the Decree, Case No. 22CW3087, Water Court, Water Division 1. Based on the Declarant's intent expressed in these Covenants that each Lot owner will be able to withdraw water from the Dawson aquifer, in order to comply with El Paso County's 300-year water supply requirement, Declarant shall convey to each Lot owner the vested right to withdraw **at least** 198 acre-feet total (0.66 acre-feet/year x 300 years) of Dawson aquifer water quantified in the Decree and Augmentation Plan.

C. The entirety of water in the Arapahoe and Laramie-Fox Hills aquifers assigned to each Lot is reserved for replacement of any injurious post pumping depletions to the not-nontributary Dawson aquifer pursuant to the Decree and Augmentation Plan.

D. Declarant will transfer and assign to each Lot owner their portion of all right, title and interest in the Augmentation Plan and water rights thereunder. Those water rights assigned include ground water in the nontributary Laramie-Fox Hills aquifer, and nontributary Arapahoe aquifer, as adjudicated in the Decree, and as reserved for replacement of any injurious post-pumping depletions. The Declarant will further transfer and assign to each Lot owner all obligations and responsibilities for compliance with the Decree and Augmentation Plan, including monitoring, accounting and reporting obligations as applied to each Lot. The owners shall assume and perform these obligations and responsibilities, and by this assignment to the Lot owners, the Declarant is relieved of any and all responsibilities and obligations for the administration, enforcement and operation of the Augmentation Plan. Such conveyance shall be subject to the obligations and responsibilities of the Decree and Augmentation Plan and said water rights may not be separately assigned, transferred, or encumbered by the Lot owners. The Lot owners shall maintain such obligations and responsibilities in perpetuity, unless relieved of such replacement responsibilities by Order of the Water Court or another Court with appropriate jurisdiction, rule, regulation, governmental authority, or other properly entered administrative relief.

E. Each Lot owner's water rights in the not-nontributary Dawson aquifer underlying their respective Lot shall remain subject to the Decree and Augmentation Plan, and shall, transfer automatically upon the transfer of title to each Lot as an appurtenance, including the transfer by the Declarant to the initial owner of each Lot, whether or not separately deeded. The ground water rights in the Dawson aquifer subject to the Decree and Augmentation Plan cannot and shall not be severable from each respective Lot, and each Lot owner covenants that it cannot sell or transfer such ground water rights to any party separate from the conveyance of the Lot.

F. All Denver Basin groundwater in the not nontributary Denver aquifer, and nontributary Arapahoe and Laramie-Fox Hills aquifers underlying each Lot, are likewise to be deeded, assigned and transferred to the overlying Lot owner half to each Lot 1 and to Lot 2, and may be used in said Lot owner's sole and complete discretion, subject to the terms and conditions of this Declaration and the Decree and Augmentation Plan requiring that the water be used exclusively for primary or replacement water supply.

G. The Dawson, Denver, Arapahoe, and Laramie-Fox Hills aquifer water rights conveyed to each Lot owner, and return flows therefrom, shall not be sold, leased or otherwise used for any purpose inconsistent with the Decree, Augmentation Plan, and these Covenants, and shall not be separated from the transfer of title to the land, and shall not be separately conveyed, bartered or encumbered.

3. Water Administration.

A. Vessey Wells Nos. 1 and 2 may each pump a maximum of 0.66 acre-feet per year per lot, for a maximum total of 1.32 acre-feet being withdrawn from the Dawson aquifer annually. Lot 1 and Lot 2 owners shall operate all existing or replacement wells to limit the collective pumping of all wells to the Dawson aquifer such that the collective pumping from all wells does not to exceed the annual (1.40 acre-feet) and total (420 acre-feet) pumping limits, consistent with the Augmentation Plan. Each Lot owner shall further ensure that the allocations of use of water resulting from such pumping as provided in the Augmentation Plan is maintained, as between in-house, irrigation of lawn and garden, watering of horses or equivalent livestock, and other allowed uses permitted under the Augmentation Plan, to-wit: 0.2 acre-feet of water per year per residence, with the remaining entitlements available for other permissible uses. Each Lot owner shall use non-evaporative ISDS in order to ensure that return flows from such systems are made to the stream system to replace depletions during pumping. Each Lot shall have an occupied, single family dwelling that is generating return flows from a non-evaporative ISDS before any irrigation or animal watering is allowed. Return flows from the non-evaporative ISDS shall only be used for replacement purposes and shall not be sold, traded, bartered, assigned, encumbered, or used in whole or in part for any other purpose.

B. The Lot owners, as the owners of all obligations and responsibilities under the Augmentation Plan, shall administer and enforce the Augmentation Plan as it applies to each Lot owner's respective Lot and pumping from individual Dawson aquifer well(s). Such administration shall include, without limitation, accountings to the Colorado Division of Water Resources under the Decree and Augmentation Plan and taking all necessary and required actions under the Decree and Augmentation Plan to protect and preserve the ground water rights for all Lot owners.

C. Each Lot owner has the right to specifically enforce, by injunction if necessary, the Decree against any other Lot owner for failing to comply with the Lot owner's respective obligations under the Decree, including the enforcement of the terms and conditions of well permits issued pursuant to the Augmentation Plan, and the reasonable legal costs and fees for such enforcement shall be borne by the non-prevailing party.

D. The use of the not-nontributary Dawson ground water rights owned by each Lot owner is restricted and regulated by the terms and conditions of the Decree, Augmentation Plan, and this Declaration, including, without limitation, that each Lot owner is subject to the maximum annual well pumping of 0.66 acre feet. Failure of a

Lot owner to comply may result in an order from the Division of Water Resources under the Augmentation Plan to curtail use of ground water rights, or further actions as deemed necessary by a Water Court or regulating authority with applicable jurisdiction.

E. Each Lot owner shall promptly and fully account to the Division of Water Resources for total pumping from the individual well to the not-nontributary Dawson Aquifer on each Lot, including for any irrigation, stockwater or other permitted/allowed uses as may be required under the Augmentation Plan. The frequency of such accounting shall be annually, unless otherwise reasonably requested by the Division or Water Resources.

4. Well Permits.

A. Each Lot owner shall be responsible for obtaining a well permit for the individual well to the not-nontributary Dawson aquifer for provision of water supply to the owner's respective Lot, to the extent quantities deeded to such Lot owner therein are sufficient for such Lot owner's needs or are responsible for ensuring an existing permit is in the Lot owners name. The permit for the existing Vessey Well No. 1, i.e. Well Permit 87817, located on and serving Lot 1, shall be re-permitted to operate pursuant to the Augmentation Plan. Vessey Well No. 2 shall be constructed on and serve Lot 2 and shall be permitted at the time of application. All such Dawson aquifer wells shall be constructed and operated in compliance with the Augmentation Plan, the well permit obtained from the Colorado Division of Water Resources, and the applicable rules and regulations of the Colorado Division of Water Resources. **The costs of the construction, operation, maintenance and repair of such individual well, and delivery of water therefrom to the residence located on such Lot, shall be at each Lot owner's respective expense.** Each Lot owner shall comply with any and all requirements of the Division of Water Resources to log their well, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide the diversion information necessary for the accounting and administration of the Augmentation Plan. It is acknowledged that well permits, and individual wells, may be in place on some of the Lots at the time of sale, and by this Declaration no warranty as to the suitability or utility of such permits or structures is made nor shall be implied.

B. The Lot owners shall be responsible for obtaining any well permits, rights and authorities necessary for the construction of well(s) to the nontributary Laramie Fox Hills or Arapahoe aquifer, though such wells shall be constructed only for purposes of replacing any injurious post-pumping depletions, consistent with the Augmentation Plan, and shall not be constructed unless and until such post-pumping depletions must be replaced. The Lot owners shall comply with any and all requirements of the Division of Water Resources to log such wells, and shall install and maintain in good working order an accurate totalizing flow meter on the well in order to provide all necessary accounting under the Augmentation Plan.

C. No party guarantees to the Lot owners the physical availability or the adequacy of water quality from any well to be drilled under the Augmentation Plan. The Denver Basin aquifers which are the subject of the Augmentation Plan are considered a nonrenewable water resource and due to anticipated water level declines the useful or economic life of the aquifers'

water supply may be less than the amount adjudicated in the Decree or Augmentation Plan, 100 years allocated by state statutes or the 300 years of El Paso County water supply requirements, despite current groundwater modelling to the contrary.

5. Continuing Jurisdiction. The Augmentation Plan issued is subject to the court’s continuing jurisdiction over the plan for reconsideration and compliance. By acceptance of a deed or any interest in any part of the Property, each Lot owner or other grantee thereby consents to the continuing personal jurisdiction of the water court.

6. Compliance. The Lot owners shall perform and comply with all terms, conditions, and obligations of the Augmentation Plan, and shall further comply with the terms and conditions of any well permits issued by the Division of Water Resources pursuant to the Augmentation Plan, as well as all applicable statutory and regulatory authority.

7. Amendments. **No changes, amendments, alterations, or deletions to these Water Covenants may be made which would alter, impair, or in any manner compromise the water supply as set forth in the Augmentation Plan, or the water rights of the Lot owners without the prior written approval of said parties, El Paso County, and an adjudicated amendment to the Augmentation Plan from the Water Court.**

8. Termination. **These Covenants shall not terminate unless the requirements of the Augmentation Plan are also terminated by the Water Court and a change of water supply is approved in advance of termination by El Paso County.**

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed this 16 day of OCTOBER, 2024.

6225 Vessey LLC

By: [Signature]
Pawel Posorski, Manager

STATE OF COLORADO)
) ss
COUNTY OF EL PASO)

Subscribed and sworn to before me this 16 day of October, 2024 by Pawel Posorski, as Manager of 6225 Vessey LLC.

My commission expires: 1/29/2028

Witness my hand and seal.

[Signature]
Notary Public

Exhibit A

Legal Description for Ivilo Heights Subdivision

A tract of land in the Northwest Quarter of Section 6, Township 12 South, Range 65 West of the Sixth Principal Meridian, El Paso County, Colorado described as follows:

Beginning at a point that is N 00°07'30" E 3979.50 feet and S 88°52'30" E 1981.48 feet from the Southwest Corner of said Section 6; thence N 88°55'06" E 466.84 feet; thence S 00°27'57" E 160.00 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence N 88°55'06" E 165.00 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence S 00°01'52" W 315.08 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence N 86°26'11" W 292.91 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence S 84°24'14" W 245.64 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence S 77°52'51" W 99.26 feet to a found 3/4" iron pipe; thence N 00°02'37" E 10.00 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence N 00°01'06" E 175.09 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #37631; thence N 00°14'10" E 145.17 feet to a found 1/2" rebar with Surveyor's Cap, P.L.S. #30106; thence N 00°07'33" E 159.48 feet to the point of beginning, containing 6.2 acres.

Subject to easements and restrictions of record.

Exhibit B

Findings of Fact, Conclusions of Law, Ruling and Decree of Water Court dated April 6, 2023, as recorded April 6, 2023, at Reception No. 223028216