



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

TOWN COUNCIL REGULAR MEETING
450 S. Parish, Johnstown, CO
Monday, March 18, 2024 at 7:00 PM

MISSION STATEMENT: Enhancing the quality of life of our residents, businesses, and visitors through community focused leadership.

AGENDA

CALL TO ORDER

Pledge of Allegiance

ROLL CALL

AGENDA APPROVAL

PUBLIC COMMENT

Members of the audience are invited to speak at the Council meeting. Public Comment is reserved for citizen comments on items not contained on the Public Hearing portion of the agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position.

CONSENT AGENDA

The Consent Agenda is a group of routine matters to be acted on with a single motion and vote. Council or staff may request an item be removed from the Consent Agenda and placed on the Regular Agenda for discussion.

1. March 4 2024 Meeting Minutes
2. Resolution 2024-15: Inclusion of Property into The Villages at Johnstown Metropolitan Districts
3. Water & Sewer Service Agreement Settler's Crossing Irrigation
4. Water & Sewer Service Agreement – Larch Industry LLC
5. February 2024 Financials and 2023 Sales Tax Summary

TOWN MANAGER REPORT

TOWN ATTORNEY REPORT

NEW BUSINESS

6. Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado and District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado
7. Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado and District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado

- [8.](#) Consider Approval of the Xcel Energy Off-Site Distribution Line Extension Agreements Between the Town of Johnstown and Xcel Energy for the Water Treatment Plant Expansion
- [9.](#) Consider a Request from Johnstown YMCA to Construct a Shade Structure Adjacent to Existing Ball Fields on the Town of Johnstown Recreation Center Property
- [10.](#) A Change Order to Town Alleyway Aesthetic Improvements for BHA Design, Inc.
- [11.](#) Contract Award for the 2024 Johnstown Concrete Repair Program

PUBLIC HEARING

- [12.](#) Ordinance 2024-242, Ordinance Amending Sections 10-251, 10-252, and 10-254 of the Johnstown Municipal Code Concerning Marijuana Regulation.
- [13.](#) Ordinance 2024-243: Dedication of Rights of Way and Easements to the Colorado Department of Transportation
- [14.](#) Front Range Fire Rescue Annexation
 1. Resolution 2024-14: Findings Of Fact And Conclusions For The Front Range Fire Rescue Fire Protection District Annexation
 2. Ordinance 2024-244: Annexing Certain Unincorporated Lands Located In The Southeast Quarter Of Section 6, Township 4 North, Range 67 West Of The 6th P.M., County Of Weld, State Of Colorado, Consisting Of Approximately 0.098 Acres And Known As The Front Range Fire Rescue Fire Protection District Annexation
 3. Ordinance 2024-245: Approval Of PUD-R Zoning Of The Property Known As The Front Range Fire Rescue Fire Protection District Annexation, Located In The Southeast Quarter Of Section 6, Township 4 North, Range 67 West Of The 6th P.M., County Of Weld, State Of Colorado, Consisting Of Approximately 0.098 Acres

COUNCIL REPORTS AND COMMENTS

MAYOR'S COMMENTS

INFORMATIONAL ITEMS

- [15.](#) Informational Items

ADJOURN

AMERICANS WITH DISABILITIES ACT NOTICE

In accordance with the Americans with Disabilities Act and other applicable laws, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at 970-587-4664 no later than 48 hours before the meeting in order to request such assistance.

De conformidad con la Ley de Discapacitados Estadounidenses y otras leyes vigentes, los individuos que necesitan adaptaciones funcionales para asistir o participar en esta reunión deberán comunicarse con la Municipalidad marcando el 970 587- 4664 a lo más tardar 48 horas antes de dicha reunión para solicitarla.



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TOWN COUNCIL REGULAR MEETING
450 S. Parish, Johnstown, CO
Monday, March 04, 2024 at 7:00 PM

MINUTES

CALL TO ORDER

Mayor Mellon called the meeting to order and led the Pledge of Allegiance.

Pledge of Allegiance

ROLL CALL

Present:
Councilmember Berg
Councilmember Molinar
Councilmember Morris
Councilmember Paranto
Councilmember Young
Mayor Mellon

AGENDA APPROVAL

Mayor Mellon noted a request to move the first executive session to after public comment.

Councilmember Berg Moved To Approve The Agenda As Amended With The First Executive Session Moving To After Public Comment.

Councilmember Morris seconded and the motion passed. .

SPECIAL PRESENTATIONS

2. Business of the Month

Sarah Crosthwaite, Economic Development Manager, presented Clubhouse Academy as the March Business of the Month.

3. Employee Introductions

New employees were introduced as follows:
Meghan Martinez, Communications and Marketing Manager, introduced Isabelle Griego.
Chief Oglesby, Police Department, introduced Officer Logan Robinson.

PUBLIC COMMENT

Amy Musgrave, spoke to the Downtown signage.
Lesley Hollywood spoke to the signage in Downtown.
Online public comment was received as follows:

- Andrea Crawford emailed a comment regarding bike racks in Downtown.
- Christopher Bates emailed a comment regarding Xfinity boxes.

- Dezzie Lujan emailed a comment regarding signage in Downtown.
- Michael Trapp emailed a comment regarding signage in Downtown.
- Scott Gudmundson emailed a comment regarding signage in Downtown.

EXECUTIVE SESSION

1. An executive session to receive legal advice from the Town's Water Attorney pursuant to C.R.S. Section 24-6-402(4)(b) regarding Water Division No. 1 - Case Number: 20CW3011

This item was moved to after Public Comment.

Councilmember Berg Moved To Recess Into Executive Session To Receive Legal Advice From The Town's Water Attorney Pursuant To C.R.S. Section 24-6-402(4)(B) Regarding Water Division No. 1 - Case Number: 20CW3011

Councilmember Paranto seconded and the motion passed.

Council stood in recess.

Council reconvened and Mayor Mellon noted no items were discussed outside of those noted in the motion

CONSENT AGENDA.

Councilmember Berg moved to approve the consent agenda

Councilmember Paranto seconded and the motion passed.

4. February 21, 2024 Meeting Minutes
5. Ordinance 2024-241: Second Reading, Approving the Larson Annexation
6. Resolution 2024-10: Setting the Public Hearing Date for the Yellow Roof Annexation
7. Annexation Agreement - Larson Annexation
8. Boundary Agreement Between the Town of Milliken and Town of Johnstown
9. February 2024 List of Bills

TOWN MANAGER REPORT

10. Town Manager's Report

Mr. LeCerf presented the report noted in the packet. It was noted that Council received a letter of support request from the Coalition Against Bigger Trucks and Council asked for Mr. LeCerf to share the requested letter.

Council expressed appreciation on the new layout of the Town Manager report.

TOWN ATTORNEY REPORT

There was no Town Attorney Report.

NEW BUSINESS

11. Council Chambers Audio/Visual Options

Hannah Hill, Town Clerk, presented the options to Council noting staff's recommendation to move forward with a more complete system replacement.

Johnathan Eubank from High County Low Voltage answered Council's questions regarding audio and sound quality with an updated system.

Councilmember Paranto Moved Forward With High Country Low Voltage For A Full System Replacement Of The Chambers Audio Video System As Presented And Authorize The Town Manager To Sign The Agreement

Councilmember Morris seconded and the motion passed.

12. Resolution 2024-13: Approving the Purchase and Sale Agreement By and Between the Town Of Johnstown and Bruce Gillam Development Corporation and/or its Successors or Assigns for the Purchase of Real Property Known As Lot 1 and Outlot A, Country Acres Tenth Filing Town of Johnstown, County of Weld, State of Colorado, Consisting of Approximately .317 Acres

Mr. LeCerf presented this resolution noting this item related to the ongoing drainage issues in Country Acres.

Council asked for clarification on the communication plan for this item going forward. Mr. LeCerf noted that the neighborhood would be notified, and design is currently underway. Once both parties have signed this item, staff will communicate with the neighborhood.

Councilmember Berg Moved To Approve Resolution 2024-13 As Presented And Authorize The Town Manager And Town Attorney To Administratively Approve The Purchase And Sale Agreement, If Changes Are Necessary.

Councilmember Morris seconded and the motion passed.

PUBLIC HEARING

13. Resolution No. 2024-11: Approving North Ridge Design Guidelines

Mayor Mellon opened the public hearing.

Tony LeFevre, Planner I, presented this hearing to Council, noting the history of this item and that the design guidelines would speak to the details that a developer would need clarification on. Planning and Zoning Commission offered recommendation for approval.

Council asked for clarification on what standards are for Bike Lanes. Mr. LeCerf noted that there are certain types of roadways that speak to this, and Council noted they would like to see bike lanes.

Council asked if there was sustainable differences with the Land Use Code. Mr. LeFevre noted the guidelines are similar, with noted exceptions to parking guidelines.

Russ Lee representing Ripley Design noted the goals of continuity of design.

Mayor Mellon opened the hearing for comments in favor or opposed to this item to which there was none.

Mayor Mellon closed the public hearing.

Councilmember Morris Moved To Approve Resolution No. 2024-11 Accepting The North Ridge Design Guidelines.

Councilmember Molinar seconded and the motion passed.

14. Resolution No. 2024-12: Approving The Ridge Johnstown Design Guidelines

Mayor Mellon opened the public hearing.

Tony LeFevre, Planner I, presented this hearing to Council, noting 135 acres of mixed use zoning. Substantial compliance with the current Land Use Code, with Planning and Zoning recommending approval.

Council asked for clarification on the naming as the two proposed design guidelines in the packet are similar. Mr. Lee noted was changed to create cohesion across both developments.

Mayor Mellon opened the hearing for comments in favor or opposed to this item to which there was none.

Mayor Mellon closed the public hearing.

Councilmember Young Moved To Approve Resolution No. 2024-12 Accepting The Ridge Design Guidelines.

Councilmember Berg seconded and the motion passed.

COUNCIL REPORTS AND COMMENTS

Councilmember Young noted the Historical Society Letford Brick sales. The Library has completed the kitchen/workspace remodel and are moving into the children's area.

Councilmember Paranto noted the upcoming Upstate Colorado event.

Councilmember Berg noted a youth turnout for Veteran's and the Police Officer of the Year to Office Farris.

MAYOR'S COMMENTS

Mayor Mellon noted the Weld County hearing for the gravel pit regarding Loveland Ready Mix and noted the Town's desire was not met but discussed the approved route. The commissioners did mandate that the gravel company put in all the safety improvements the Town requested.

Mayor Mellon spoke to a meeting with the Town's state representative's about current legislature; a local meeting at the YMCA and met the new director of the YMCA.

EXECUTIVE SESSION

15. An Executive Session to Discuss a Personnel Matter Under C.R.S. Section 24-6-402(4)(f) - Town Manager Evaluation

Councilmember Berg Moved To Recess To Executive Session To Discuss A Personnel Matter Under C.R.S. Section 24-6-402(4)(F) - Town Manager Evaluation

Councilmember Paranto seconded and the motion passed.

Council reconvened from executive session and Mayor Mellon noted no items were discussed outside of what was noted in the motion.

Councilmember Paranto Moved To Approve An 18% Increase In Pay To The Town Manager Effective Immediately Due To His Evaluation

Councilmember Morris seconded and the motion passed.

ADJOURN

Council discussed public comment speaking time to five minutes. Discussion centered around length of time for each comment, total comment period and noted this item would be discussed at a later date.

Mayor Mellon adjourned the March4, 2024 meeting at 9:33 pm.

Troy D. Mellon, Mayor

Hannah Hill, Town Clerk



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TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

- AGENDA DATE:** March 18, 2024
- SUBJECT:** Inclusion of Property into The Villages at Johnstown Metropolitan Districts
- ATTACHMENTS:**
1. Resolution No. 2024-15, a Resolution Consenting to the Inclusion of Property into The Villages at Johnstown Metropolitan Districts
 2. Correspondence from Robert Rogers, counsel for The Villages at Johnstown Metropolitan Districts, to Avi Rocklin, Town Attorney, dated March 5, 2024, with attachments
- PRESENTED BY:** Avi Rocklin, Town Attorney, and Carolyn Steffl, Special Counsel
-

AGENDA ITEM DESCRIPTION: For consideration is Resolution No. 2024-15, a Resolution Consenting to the Inclusion of Property into The Villages at Johnstown Metropolitan Districts. On March 19, 2018, the Town Council passed Resolution No. 2018-04 Approving the Consolidated Service Plan (“Service Plan”) for the Villages at Johnstown Metropolitan District Nos. 1-8 (the “Districts”). Pursuant to Section V(A)(11) of the Service Plan, the Districts must obtain the written consent of the Town prior to including property outside the Inclusion Area Boundaries, as defined in the Service Plan, into the Districts’ boundaries.

CaliberCos, Inc., a Delaware corporation (“Caliber”), is the developer of the property in the Districts. Blue Spruce Ridge HoldCo, LLC, a Colorado limited liability company (“Blue Spruce”), an entity affiliated with Caliber, is the owner of property known as the “Blue Spruce Parcel.” Blue Spruce has filed a petition for annexation of the Blue Spruce Parcel into the Town and the matter is set for a public hearing on April 1, 2024.

West Ridge Holdco, LLC, a Colorado limited liability company (“West Ridge”), also an entity affiliated with Caliber, is under contract to purchase property known as the “West Ridge Parcel.” The closing of the property is intended to occur on March 31, 2024.

Blue Spruce and West Ridge desire, upon annexation and purchase respectively, to include the Blue Spruce Parcel and West Ridge Parcel into the Districts. The Blue Spruce Parcel and the West Ridge Parcel are adjacent to the Districts. The request is, upon annexation and approval by the Board of Directors, to include the Blue Spruce Parcel into Villages at Johnstown Metropolitan District No. 2 (“District No. 2”), a residential district, and, upon purchase and approval by the Board of Directors, to include the West Ridge Parcel into the Villages at Johnstown Metropolitan District No. 4 (“District No. 4”), a commercial district. Neither District No. 2 nor District No. 4 has issued debt. While the request is to include the properties in District No. 2 and District No. 4, the property owners seek the ability to include the properties into any of the Districts as development plans dictate.

Notably, neither the Districts nor the property owners are seeking to amend the mill levy caps or the debt authorization. The property owners are merely requesting an opportunity to be included in the boundaries of the Districts, which property will thereafter assist in repaying debt, if and when such is issued.

STRATEGIC PLAN ALIGNMENT:

- Healthy & Resilient Economy
 - *Drive projects and initiatives that promote Johnstown as a premier destination for business*
- Natural & Built Environment
 - *Support a broad range of housing options*
- Quality Infrastructure & Facilities
 - *Ensure future viability of infrastructure and facilities*

LEGAL ADVICE:

The Town Attorney and the Town’s Special Counsel have reviewed the request and the proposed Resolution.

FINANCIAL ADVICE:

N/A

RECOMMENDED ACTION: Approve Resolution No. 2024-15, a Resolution Consenting to the Inclusion of Property into The Villages at Johnstown Metropolitan Districts.



Reviewed and Approved for Presentation,



Town Manager

TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2024-15

**A RESOLUTION CONSENTING TO THE INCLUSION OF PROPERTY INTO THE
VILLAGES AT JOHNSTOWN METROPOLITAN DISTRICTS**

WHEREAS, the Town of Johnstown, Colorado (the “Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with the authority to administer the affairs of the Town; and

WHEREAS, on March 19, 2018, the Town Council passed Resolution No. 2018-04, Approving the Consolidated Service Plan (“Service Plan”) for the Villages at Johnstown Metropolitan District Nos. 1-8 (the “Districts”); and

WHEREAS, the Districts provide for the planning, design, acquisition, construction, installation and financing of public improvements for the use and benefit of all current and anticipated residents and end users within the boundaries of the District (the “District Boundaries”) under the terms of the Service Plan; and

WHEREAS, pursuant to Section V(A)(11) of the Service Plan, the Districts must obtain the Town’s written consent prior to including property outside the Inclusion Area Boundaries, as defined in the Service Plan, into the District Boundaries; and

WHEREAS, Villages at Johnstown Metropolitan District No. 2 (“District No. 2”) has received a draft petition for inclusion of certain property outside the Inclusion Area Boundaries known as the “Blue Spruce Parcel,” as further described in **Exhibit A** attached hereto and incorporated herein by reference, into the District Boundaries of District No. 2, and District No. 2 desires to include the Blue Spruce Parcel in the District Boundaries of District No. 2; and

WHEREAS, the Blue Spruce Parcel is owned by Blue Spruce Ridge Holdco, LLC, a Colorado limited liability company (“Blue Spruce Property Owner”), and the Blue Spruce Property Owner consents to the inclusion of the Blue Spruce Parcel in the District Boundaries of District No. 2; and

WHEREAS, annexation of the Blue Spruce Parcel into the Town is pending but has not yet been completed, and the Districts and the Blue Spruce Property Owner are agreeable to forestalling processing inclusion of the Blue Spruce Parcel into District No. 2 until the annexation process is concluded; and

WHEREAS, Villages at Johnstown Metropolitan District No. 4 (“District No. 4”) has received a draft petition for inclusion of certain property outside the Inclusion Area Boundaries known as the “West Ridge Parcel” (together with the Blue Spruce Parcel, the “Property”), as further described in **Exhibit B**, attached hereto and incorporated herein by reference, into the District Boundaries of District No. 4, and District No. 4 desires to include the West Ridge Parcel

in the District Boundaries of District No. 4; and

WHEREAS, the West Ridge Parcel is being acquired by West Ridge Holdco, LLC, a Colorado limited liability company (“Future West Ridge Property Owner”), and closing is scheduled for March 31, 2024, after which time the Future West Ridge Property Owner will execute the petition for the inclusion of the West Ridge Parcel into the District Boundaries of District No. 4; and

WHEREAS, the Town Council recognizes the benefits of allowing the Districts to include the Property, and finds, determines, and declares that adoption of this Resolution is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

Section 1. Approval. Subject to the conditions set forth below, the Town Council hereby consents to the inclusion of the Property into the District Boundaries of the Districts, subject to requirements of the Consolidated Service Plan for the Villages at Johnstown Metropolitan District Nos. 1-8, approved on March 19, 2018, as amended, the Intergovernmental Agreement between the Town of Johnstown and Villages at Johnstown Metropolitan District Nos. 1-8, dated March 19, 2018, and any other applicable intergovernmental agreements executed by and between the Town of Johnstown and the Villages at Johnstown Metropolitan District Nos. 1-8. The foregoing approval is subject to the following conditions:

1. The Blue Spruce Parcel is annexed into the Town prior to inclusion of such property into District No. 2, or any of the Districts as development approvals or plans dictate; and
2. The West Ridge Parcel is purchased by the Future West Ridge Property Owner prior to inclusion of such property into District No. 4, or any of the Districts as development approvals or plans dictate.

PASSED, SIGNED, APPROVED, AND ADOPTED this 18th day of March, 2024.

TOWN OF JOHNSTOWN, COLORADO

Troy D. Mellon, Mayor

ATTEST:

Hannah Hill, Town Clerk

EXHIBIT A**BLUE SPRUCE PARCEL PROPERTY DESCRIPTION**

THAT PORTION OF THE SOUTHEAST 1/4 OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF LARIMER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

CONSIDERING THE SOUTH LINE OF SAID SOUTHEAST 1/4 AS BEARING NORTH 89 DEGREES 55'23" EAST AND WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO: BEGINNING AT THE SOUTH 1/4 CORNER OF SAID SECTION 26; THENCE ALONG THE WEST LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 26 NORTH 1278.85 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 79 DEGREES 23'04" EAST 137.06 FEET; THENCE NORTH 63 DEGREES 47'08" EAST 215.02 FEET; THENCE NORTH 76 DEGREES 14'08" EAST 476.92 FEET; THENCE NORTH 61 DEGREES 50'06" EAST 141.76 FEET; THENCE NORTH 48 DEGREES 57'30" EAST 854.64 FEET; THENCE NORTH 75 DEGREES 42'25" EAST 215.91 FEET; THENCE NORTH 51 DEGREES 34'56" EAST 149.44 FEET; THENCE NORTH 60 DEGREES 19'55" EAST 81.69 FEET; THENCE NORTH 40 DEGREES 46'23" EAST 155.68 FEET; THENCE NORTH 21 DEGREES 09'42" EAST 214.18 FEET, MORE OR LESS, TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 26; THENCE ALONG SAID NORTH LINE SOUTH 89 DEGREES 56'21" WEST 2137.06 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST 1/4; THENCE ALONG THE WEST LINE OF SAID SOUTHEAST 1/4 SOUTH 1363.96 FEET, MORE OR LESS, TO THE TRUE POINT OF BEGINNING

EXHIBIT B**WEST RIDGE PARCEL PROPERTY DESCRIPTION**

SOUTH 71°36'43" EAST, A DISTANCE OF 71.06 FEET; THENCE SOUTH 82°10'04" EAST, A DISTANCE OF 97.85 FEET; THENCE NORTH 89°26'58" EAST, A DISTANCE OF 53.70 FEET; THENCE SOUTH 85°00'43" EAST, A DISTANCE OF 125.92 FEET; THENCE NORTH 81°02'47" EAST, A DISTANCE OF 80.15 FEET; THENCE NORTH 87°46'43" EAST, A DISTANCE OF 83.05 FEET; THENCE SOUTH 84°24'59" EAST, A DISTANCE OF 49.25 FEET; THENCE SOUTH 80°22'13" EAST, A DISTANCE OF 89.42 FEET; THENCE SOUTH 70°09'46" EAST, A DISTANCE OF 68.99 FEET; THENCE SOUTH 43°39'12" EAST, A DISTANCE OF 83.38 FEET; THENCE SOUTH 25°33'06" EAST, A DISTANCE OF 52.69 FEET; THENCE SOUTH 43°59'50" EAST, A DISTANCE OF 77.85 FEET; THENCE SOUTH 04°12'03" WEST, A DISTANCE OF 233.09 FEET; THENCE SOUTH 69°05'50" EAST, A DISTANCE OF 15.70 FEET; THENCE NORTH 17°34'31" EAST 139.19 FEET; THENCE NORTH 40°02'58" EAST, A DISTANCE OF 159.14 FEET; THENCE NORTH 05°51'56" EAST, A DISTANCE OF 121.36 FEET; THENCE NORTH 12°17'23" WEST, A DISTANCE OF 171.26 FEET; THENCE ALONG SAID EAST –WEST CENTERLINE EAST 58.79 FEET; THENCE LEAVING SAID EAST-WEST CENTERLINE THE FOLLOWING COURSES AND DISTANCES:

NORTH 25°19'22" WEST 86.82 FEET; NORTH 08°29'17" WEST 111.32 FEET; NORTH 05°31'27" EAST 139.65 FEET; NORTH 29°38'10", EAST 162.24 FEET; NORTH 35°51'16" EAST 86.72 FEET; NORTH 25°24'32" EAST 80.02 FEET; NORTH 05°28'47" EAST 71.89 FEET; NORTH 06°32'16" EAST 145.74 FEET; NORTH 00°47'38" EAST 107.72 FEET; NORTH 11°02'34" WEST 106.43 FEET; NORTH 17°04'49" WEST 136.26 FEET; NORTH 20°38'45" WEST 138.61 FEET; NORTH 24°55'38" WEST 91.71 FEET; NORTH 38°40'46" WEST 86.25 FEET; NORTH 33°06'24" WEST 80.78 FEET; NORTH 27°07'25" WEST 61.05 FEET; NORTH 48°44'34" WEST 53.16 FEET; NORTH 57°46'06" WEST 192.87 FEET; NORTH 09°40'58" EAST 10.42 FEET; NORTH 70°39'09" WEST 57.88 FEET; NORTH 80°11'09" WEST 141.34 FEET; SOUTH 73°52'29" WEST 14.40 FEET; NORTH 89°27'00" WEST 109.17 FEET; SOUTH 68°44'27" WEST 23.58 FEET; NORTH 75°48'44" WEST 92.55 FEET; NORTH 76°01'39" WEST 34.36 FEET; SOUTH 71°20'42" WEST 40.83 FEET; SOUTH 86°56'38" WEST 41.49 FEET; SOUTH 74°14'50" WEST 40.03 FEET; SOUTH 19°35'37" WEST 58.28 FEET; SOUTH 00°31'42" WEST 53.78 FEET; SOUTH 17°15'53" WEST 34.59 FEET; SOUTH 43°03'40" WEST 42.38 FEET; SOUTH 57°49'33" WEST 34.27 FEET; SOUTH 40°16'57" WEST 63.13 FEET; SOUTH 58°39'57" WEST 71.24 FEET; SOUTH 65°55'32" WEST 77.03 FEET; SOUTH 80°50'09" WEST 44.53 FEET; SOUTH 57°07'28" WEST 84.48 FEET; SOUTH 72°37'21" WEST 46.13 FEET; SOUTH 74°08'30" WEST 54.32 FEET; SOUTH 42°19'31" WEST 47.87 FEET; SOUTH 34°18'06" WEST 39.06 FEET; SOUTH 12°43'54" WEST 43.25 FEET; SOUTH 08°09'19" EAST 84.74 FEET; SOUTH 19°58'20" WEST 91.02 FEET; SOUTH 40°51'00" WEST 45.33 FEET; SOUTH 54°31'22" WEST 37.85 FEET; SOUTH 47°20'20" WEST 68.25 FEET; TO THE NORTH-SOUTH CENTERLINE OF SAID SECTION 32; THENCE ALONG SAID NORTH-SOUTH CENTERLINE NORTH 00°08'14" EAST 16.19 FEET;

THENCE LEAVING SAID NORTH-SOUTH CENTERLINE THE FOLLOWING COURSES AND DISTANCES:

SOUTH 22°34'57" WEST 21.33 FEET; SOUTH 70°59'45" WEST 44.31 FEET; SOUTH 85°15'17" WEST 87.89 FEET; SOUTH 74°52'21" WEST 75.55 FEET; SOUTH 31°38'36" WEST 37.17 FEET; SOUTH 26°48'57" EAST 30.97 FEET; SOUTH 25°22'49" EAST 49.38 FEET; SOUTH 43°45'46" WEST 20.24 FEET; SOUTH 28°40'14" EAST 93.61 FEET; SOUTH 40°05'35" EAST 61.12 FEET; SOUTH 67°02'19" EAST 21.06 FEET; SOUTH 29°55'22" EAST 170.61 FEET; SOUTH 07°00'27" EAST 20.44 FEET; SOUTH 35°43'03" EAST 28.25 FEET TO A POINT ON THE NORTH-SOUTH CENTERLINE OF SAID SECTION 32;
THENCE LEAVING SAID NORTH-SOUTH CENTERLINE THE FOLLOWING COURSES AND DISTANCES:

SOUTH 28°51'51" EAST 114.87 FEET; SOUTH 30°25'32" EAST 91.51 FEET; SOUTH 37°30'38" EAST 204.61 FEET; SOUTH 21°46'11" EAST 62.77 FEET; SOUTH 37°39'55" EAST 26.63 FEET; SOUTH 80°32'04" EAST 43.53 FEET; SOUTH 37°46'31" EAST 83.57 FEET TO THE TRUE POINT OF BEGINNING.



Robert G. Rogers
Shareholder

303-858-1800
rrogers@wbapc.com

March 5, 2024

VIA E-MAIL AND U.S. MAIL

Avi S. Rocklin
Law Office of Avi S. Rocklin, LLC
1437 N. Denver Avenue, # 330
Loveland, Colorado 80538

Re: Materials relating to Villages at Johnstown Metropolitan District Inclusions

Dear Ms. Rocklin:

I am writing in connection with the request of The Villages at Johnstown Metropolitan Districts Nos. 1-8 (the “Districts”) to the Town of Johnstown (the “Town”) to for authorization to include two properties known as the “West Ridge Parcel” and the “Blue Spruce Parcel” (together the “Inclusion Parcels”) into one or more of the Districts. The Inclusion Parcels are not included within the “Inclusion Area Boundaries” as described in the Districts’ service plan, so their inclusion requires approval from the Town.

I appreciate the discussions we have had with respect to this process. In response to staff requests for additional information about the proposed inclusions, below is a list of attachments and responses for staff and council reference:

- (1) Attached as Exhibit A is a map of the current district boundaries.
- (2) Attached as Exhibit B is a map showing the proposed Inclusion Parcels.
- (3) Attached as Exhibit C is a summary of the districts, the planned use types within them, and confirmations of those which are subject to existing bond transactions and those that are not. The proposed use types the inclusion properties are consistent with the districts they are being included into. Active development is underway in each of the Districts for which debt has been issued. The Inclusion Parcels are not currently subject to active development, but are anticipated to be developed consistent with the plans set forth in Exhibit C.
- (4) The acreage of the West Ridge Parcel is 134 acres, and the acreage of the Blue Spruce Parcel is 43 acres.
- (5) The West Ridge Parcel and the Blue Spruce Parcel are not within the boundaries of any other metropolitan districts, and are not within the future inclusion area of any other metropolitan districts. The West Ridge Parcel has been annexed into the Town. The Blue Spruce Parcel

- Annexation is pending, and no property within the Blue Spruce Parcel will be included within the boundaries of any of the Villages at Johnstown District until after the annexation of this parcel is completed.
- (6) Attached as Exhibit D are letters of no objection from the Blue Spruce Parcel owner and the West Ridge Parcel owner.
 - (7) Finally, in response to a request from staff, pending approval of the inclusions the Districts will be completing name changes so that their titles will better align with the marketing title for the development that they are supporting. Moving forward, the districts will be known as the Ridge at Johnstown Metropolitan District Nos. 1-8.

If you have any questions, please do not hesitate to contact me.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON



Robert G. Rogers
Shareholder

Enclosures

EXHIBIT A
MAP OF CURRENT DISTRICT BOUNDARIES

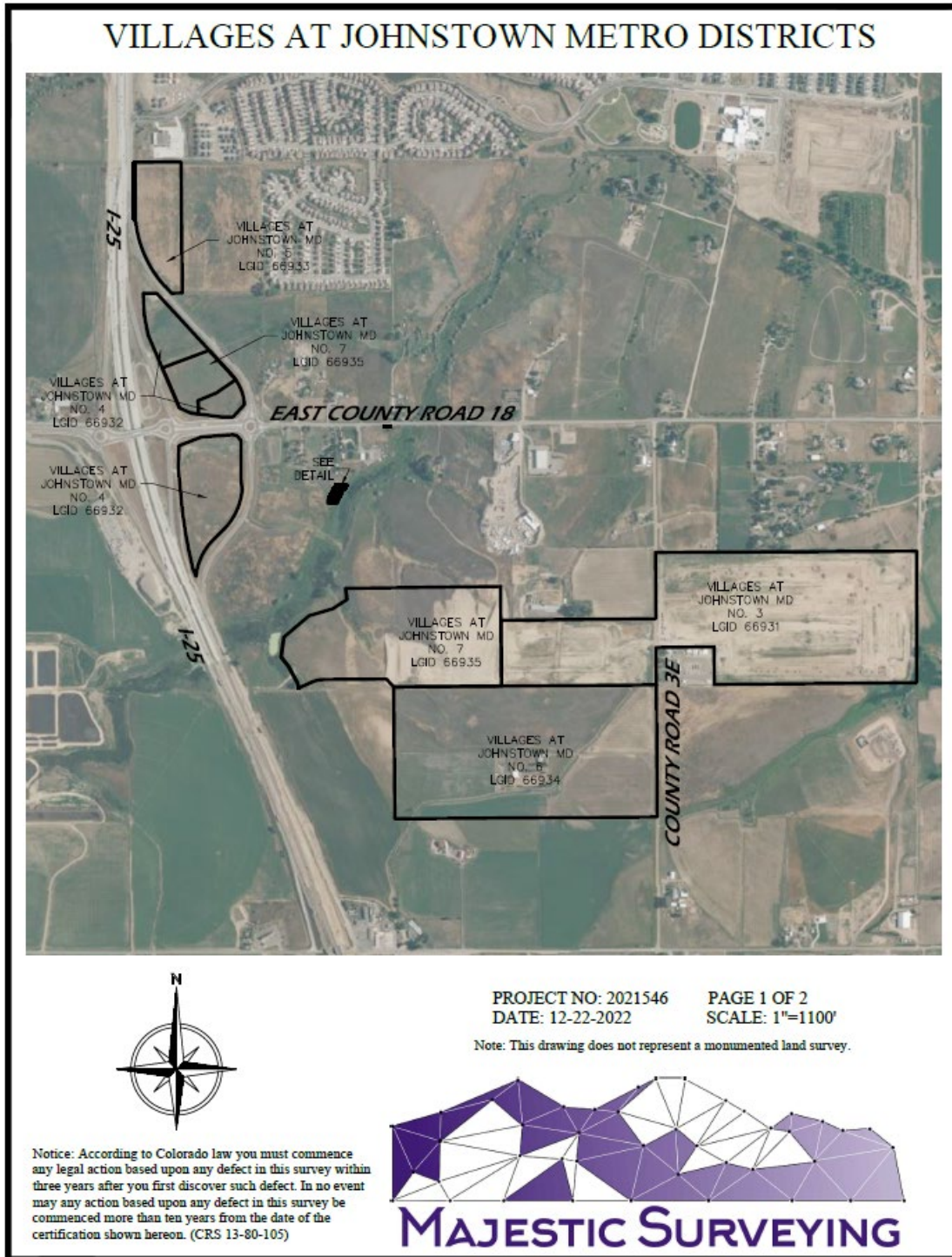
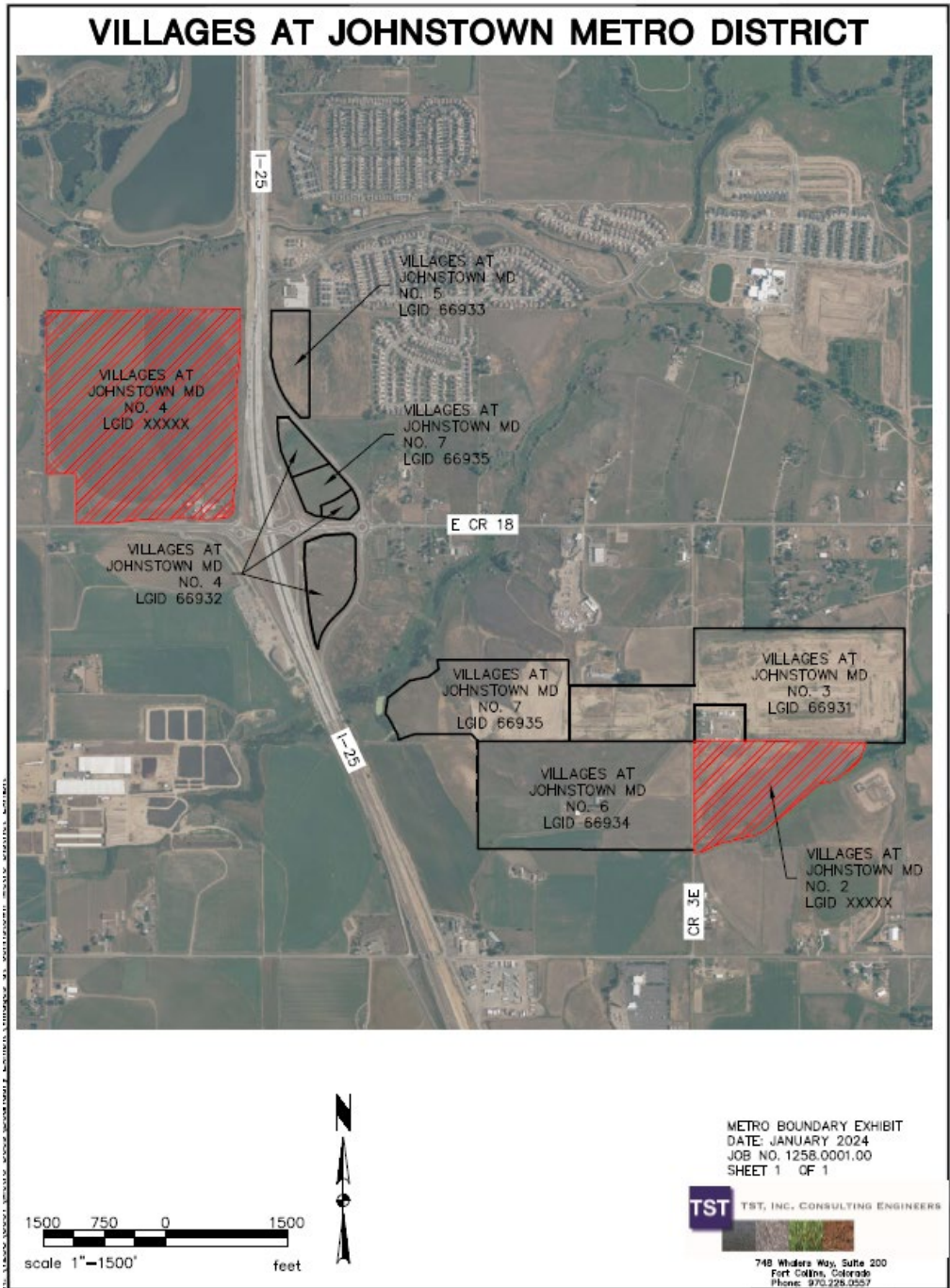


EXHIBIT B
AERIAL VIEW OF INCLUSION PARCELS



The red area highlighted as District No. 4 is the West Ridge Parcel and the red area highlighted as District No. 2 is the Blue Spruce Parcel.

EXHIBIT C

SUMMARY OF THE VILLAGES AT JOHNSTOWN METROPOLITAN DISTRICTS

Villages at Johnstown Metropolitan Districts		
District No.	Subject to Bond Pledge	Primary Use Type
D1	No	To be determined
D2	No	Residential
D3	2020 Issuer	Residential
D4	No	Commercial
D5	2022 Pledge	Residential
D6	2022 Pledge	Residential
D7	2022 Issuer	Residential
D8	No	To be determined

EXHIBIT D

LETTERS OF NO OBJECTION FROM INCLUSION PARCEL OWNERS

January 24, 2024

Town Council
Town of Johnstown, Colorado
450 S. Parish Avenue
Johnstown, Colorado 80534

Dear Mr. Mayor and Honorable Council Members:

I write on behalf of Blue Spruce Ridge Holdco, LLC, a Colorado limited liability company (“Blue Spruce Ridge”). Blue Spruce Ridge is presently the owner of property known as the Blue Spruce Parcel and we have submitted a petition for inclusion into Villages at Johnstown Metropolitan District No. 2 with respect to the Blue Spruce Parcel. This letter is to confirm that Blue Spruce Ridge supports the petition for inclusion of the Blue Spruce Parcel into Villages at Johnstown Metropolitan District No. 2.

BLUE SPRUCE RIDGE HOLDCO, LLC

DocuSigned by:
Jennifer Schrader
68DCC9DED9594E9
By: Jennifer Schrader
Its: Authorized signatory

EXHIBIT A TO SIXTEENTH AMENDMENT

February __, 2024

Town Council
Town of Johnstown, Colorado
450 S. Parish Avenue
Johnstown, Colorado 80534

Dear Mr. Mayor and Honorable Council Members:

I write on behalf of Mountain View Farms, Inc. ("Mountain View Farms"). Mountain View Farms is presently the owner of property known as the West Ridge Parcel, as defined in that certain proposed Resolution Consenting to the Inclusion of Property into the Villages at Johnstown Metropolitan District Nos. 2 and 4. Mountain View Farms is presently under contract to sell the West Ridge Parcel to West Ridge HoldCo, LLC, a Colorado limited liability company ("West Ridge HoldCo"). Mountain View Farms is aware that, subsequent to the conveyance of the West Ridge Parcel, West Ridge HoldCo intends to petition for inclusion of some or all of the West Ridge Parcel into one or more of The Villages at Johnstown Metropolitan District Nos. 1-8. It is presently anticipated that the closing of the sale and the transfer of ownership from Mountain View Farms to West Ridge HoldCo will occur on March 31, 2024. While the sales contract is subject to certain conditions, assuming those conditions are met and the West Ridge Parcel is conveyed to West Ridge HoldCo, and West Ridge HoldCo pays the entire purchase price and any interest in due in full, Mountain View Farms has no objection to the inclusion of portions or all of the West Ridge Parcel into one or more of The Villages at Johnstown Metropolitan District No. 1-8 subsequent to the fulfillment of these conditions.

Respectfully submitted,

MOUNTAIN VIEW FARMS, INC.

By: *Gabe Johnston*
Its: *President*



TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: March 18, 2024

SUBJECT: Water and Sewer Service Agreement – Settler’s Crossing, with Parish, LLC

ACTION PROPOSED: Consideration and Approval of the Water and Sewer Service Agreement– Settler’s Crossing, with Parish, LLC

ATTACHMENTS: 1. Water and Sewer Service Agreement

PRESENTED BY: Lilly Cory, Planner I

AGENDA ITEM DESCRIPTION:

The Developer, Parish, LLC., has received approval of a Preliminary and Final Subdivision Plat for 11 commercial use lots. As each individual lot develops, water will be allocated accordingly, pursuant to the anticipated water demand of the end user. The purpose of this agreement is to memorialize the irrigation water demands associated with the project’s common areas along Parish Ave and Centennial Dr.

The annual irrigation water demand is estimated at 0.45 acre-feet. These numbers are provided by the Developer and reviewed by the Town’s contract water engineering firm. The developer has a Home Supply/Stroh credit of 0.75 acre-feet, which came from a 2018 Water and Sewer Service Agreement that corresponded to the Mountain View West development. Given the applicant’s existing balance, they have the requisite supply to dedicate for common area irrigation purposes and will have a remaining balance of 0.3 acre-feet.

Development Component	Demand (AF/YR)	Consumption (AF/YR)
Landscape Irrigation	0.45	0.38
Home Supply Water Credit	0.75	0.75
Balance	0.3	0.37

Within 10 days of approval, dedication of sufficient water will be required.

STRATEGIC PLAN ALIGNMENT:

Quality Infrastructure & Facilities

- o Ensure future viability of infrastructure and facilities

LEGAL ADVICE:

The agreement was prepared by the Town Attorney.

FINANCIAL ADVICE :

N/A

RECOMMENDED ACTION: Approve the Water and Sewer Service Agreement for Settler's Crossing, with Parish, LLC as the developer.

SUGGESTED MOTIONS:

For Approval

I move to approve the Water and Sewer Service Agreement for Settler's Crossing Subdivision.

For Denial

I move to deny the Water and Sewer Service Agreement for Settler's Crossing Subdivision

Reviewed and Approved for Presentation,



Town Manager

WATER AND SEWER SERVICE AGREEMENT

THIS WATER AND SEWER SERVICE AGREEMENT (“Agreement”) is made and entered into this 6TH day of FEBRUARY 2024, by and between **PARISH, LLC**, a Colorado limited liability company (“Developer”), and **THE TOWN OF JOHNSTOWN**, a Colorado municipal corporation (“Town”), collectively sometimes referred to as the “Parties” and singularly as “Party.”

WITNESSETH:

WHEREAS, Developer owns an interest in land located within a replat of Block 3 and Outlot A from Mountain View West Subdivision Replat, Amendment No. 1, described more particularly on Exhibit “A” (“Subject Property”); and

WHEREAS, the Subject Property has been annexed to the Town; and

WHEREAS, the Subject Property is being developed by Developer will consist of eleven (11) lots that will dedicate water in the future to meet their individual on-lot, in-building, and irrigation water demands as separate projects; this Agreement address only the irrigation water demands for South Parish Avenue and Centennial Drive consisting of 0.13 acre of spray-irrigated turf and 0.08 acre of drip irrigated planting beds, known as Settler’s Crossing Subdivision (“Project”); and

WHEREAS, the Developer and the Town desire to set forth their agreement concerning water rights dedication, preliminary projections of water and sewer demand and a current commitment by the Town for water and sewer service for the Project.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Water and Sewer Demand Studies. In compliance with the Town Water Rights Dedication Ordinance (“Ordinance”), Developer has submitted to the Town a preliminary Water and Sewer Demand Analysis for the Project dated November 1, 2023. Said analysis was received by the Town and is on file with the Town and as modified by the Town’s Water Engineer by memorandum dated November 20, 2023, is hereby accepted by the Town. The analysis sets forth the projected water and sewer demands for the Project as follows:

Development Component	Demand (AF/YR)	Consumption (AF/YR)
Landscape Irrigation	0.45	0.38
Total	0.45	0.38

2. **Water Rights Dedication and Credits.** Due to previous dedications of Raw Water to the Town, Developer has a surplus dedication credit of 0.75 acre-feet. Developer agrees to dedicate the raw water credit from this surplus for the Project.

3. **Surplus dedication credit.** As a result of said dedication, Developer will have a surplus dedication credit with the Town of 0.30 acre-feet. The credit is calculated as follows:

Dedication Credit:	0.75 acre-feet
LESS estimated demand:	0.45 acre-feet
Net current surplus credit:	0.30 acre-feet

Developer seeks to dedicate 0.45 acre-feet of the net current surplus credit to the Project, and the remaining 0.30 acre-feet of surplus credit will be retained by Developer. The Town hereby approves such assignment. Upon notice and written approval of the Town, said credit may be utilized to offset increased demands, if any, which are not currently projected for the Project or may be used for other future development within the Town of Johnstown, subject to approval by the Town in subsequent agreement(s) in accordance with the requirements of the Ordinance.

4. **Commitment to serve.** Subject to Developer's performance of all the covenants contained herein and payment of all required fees, the Town commits to provide to the Project up to 0.45 acre-feet per year of water supply for landscape irrigation as described above.

5. **Future review of water usage and dedication requirements.** In accordance with the Ordinance, the Town reserves the right to review actual water usage within the Project at a point in time after water usage has been established to confirm the adequacy of the water demand projections made by the Developer, and to require additional water rights dedication and/or cash-in-lieu payments, if necessary, based on actual water usage.

6. **Payment of Water Court Transfer fees.** Upon execution of this Agreement, Developer shall pay to the Town the sum of One Hundred and Fifty Dollars (\$150.00) as payment of the water court transfer fees required by the Ordinance. This water court transfer fee applies only to the 0.45 acre-feet of permanent water demand. Pursuant to Paragraph 5, above, if future review requires additional dedication of water, additional water court transfer fees will be required at the time of dedication.

7. **Notices.** All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered or mailed postage prepaid, certified mail, return receipt requested, as follows:

TO DEVELOPER:

Parish, LLC
Attention: A.L. Gilbert Company
P.O. Box 38
Oakdale, CA 95361
Email: fred@cbanoco.com
david.gilbert@algilbert.com

TO THE TOWN:

Town of Johnstown
c/o Town Clerk
P.O. Box 609
450 S Parish Ave.
Johnstown, CO 80534

WITH A COPY TO
THE TOWN ATTORNEYS:

Avi Rocklin, Esq.
Johnstown Town Attorney
1437 N. Denver Avenue, #330
Loveland, CO 80538
avi@rocklinlaw.com

Peter J. Ampe
Hill & Robbins, P.C.
3401 Quebec St., Suite 3400
Denver, CO 80207
peterampe@hillandrobbins.com

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

8. Default. In the event of default by either Party hereunder, the non-defaulting Party shall notify the defaulting Party in writing of such default(s), specifying the nature and extent thereof. If such default is not cured within thirty (30) days, the non-defaulting Party shall be entitled to such remedies as are provided by law, including the Town's ordinances.

9. Successors and assigns. The benefits and burdens of this Agreement shall respectively inure to and be binding upon the successors and assigns of the Parties hereto. This agreement shall not be assigned without the prior written consent of the other Party, which shall not be unreasonably withheld.

10. Amendment or modification. No amendment or modification of this Agreement shall be of any force or effect unless in writing and executed by the Parties hereto with the same formality as this Agreement.

11. Attorney's fees and costs. If any judicial proceedings may hereafter be brought to enforce any of the provisions hereof, including an action for specific performance and/or damages, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

12. Waiver. The waiver of any breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by said Party, concerning either the same or any other provision of this Agreement.

13. Headings for convenience only. Paragraph headings and titles contained herein are intended for convenience and reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

14. Non severability. Each paragraph of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties hereto.

15. Choice of laws and venue. This agreement and the rights and obligations of the Parties hereto shall be governed by the laws of the State of Colorado. Venue for any legal action shall be in the County of Weld, State of Colorado.

16. Entire agreement. This Agreement constitutes the entire agreement between the Parties related to the subject matter hereof and any prior agreements pertaining thereto whether oral or written have been merged or integrated into this Agreement.

17. No Presumption. Each Party acknowledges that it has carefully read and reviewed the terms of this Agreement. Each Party acknowledges that the entry into and execution of this Agreement is of its own free and voluntary act and deed, without compulsion. Each Party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Agreement and with respect to all matters set forth herein. The Parties agree that this Agreement reflects the joint drafting efforts of all Parties and in the event of any dispute, disagreement or controversy arising from this agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.

18. Recordation. This Agreement will be recorded by the Town at Developer's expense in the office of the Clerk and Recorder of Weld County, Colorado, shall run with the Subject Property, will be binding upon the Parties hereto and the permitted successors and assigns of the Developer and will constitute notice of this Agreement to all persons or entities not parties hereto.

*IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

Signatures follow.

PARISH, LLC

By: [Signature]
Name: David S. Gilbert
Title: President & CEO

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Stanislaus

On 6 Feb 2024 (date) before me, Zoe Anne Kilkenny [Name], Notary Public, personally appeared

David S. Gilbert
[Name(s) of Signer(s)],

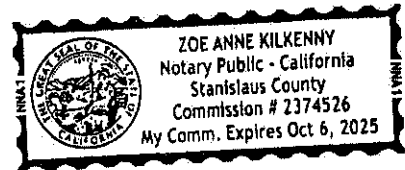
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

[Seal]



TOWN OF JOHNSTOWN, COLORADO,
a municipal corporation

By: _____
Troy D. Mellon, Mayor

ATTEST:

By: _____
Hannah Hill, Town Clerk

EXHIBIT A
LEGAL DESCRIPTION

JOHNSTOWN WSSA



OAKDALE
170 CALIFORNIA AVE
OAKDALE, CA 95361-9998
(800)275-8777

02/07/2024 01:40 PM

Product	Qty	Unit Price	Price
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First-Class Mail® Letter	1		\$0.92
Johnstown, CO 80534			
Weight: 0 lb 1.20 oz			
Estimated Delivery Date			
Mon 02/12/2024			

Grand Total: \$0.92

Credit Card Remit \$0.92

Card Name: VISA
Account #: XXXXXXXXXXXX3495
Approval #: 007328
Transaction #: 929
AID: A0000000031010 Contactless
AL: Visa Credit

Preview your Mail
Track your Packages
Sign up for FREE @

<https://informedelivery.usps.com>

All sales final on stamps and postage.
Refunds for guaranteed services only.
Thank you for your business.

Tell us about your experience.
Go to: <https://postalexperience.com/pos>
or scan this code with your mobile device,



or call 1-800-410-7420.

UFN: 055496-0361
Receipt #: 840-59560077-2-3830155-2
Clerk: 4

TOWN OF JOANSTOWN
LILLY CORY
% TOWN CLERK
P.O. BOX 609
450 S. PARISH AVE.
JOHNSTOWN, CO 80534

A. L. Gilbert Company
304 N. Yosemite
P.O. Box 38
Oakdale, California 95361-0038





450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

TOWN COUNCIL CONSENT AGENDA COMMUNICATIONS

AGENDA DATE: March 18, 2024

SUBJECT: Water & Sewer Service Agreement – Larch Industry LLC

ATTACHMENTS: 1. Water & Sewer Agreement Larch Industrial Executed

PRESENTED BY: Tyler Smith, Planner II

AGENDA ITEM DESCRIPTION:

The Developer, Larch Industry LLC, has received administrative approval of a Site Development Plan for the Larch Industrial Building, consisting of 12,000 sq. ft. of warehouse space with 0.10 acres of spray-irrigated landscape area and 0.19 acres of drip-irrigated landscape area.

The annual in-building water demand is estimated at 0.81 acre-feet, with annual permanent irrigation demand at 0.54 acre-feet. These numbers were provided by the Developer and reviewed and accepted by the Town’s contract water engineering firm.

Development Component	Demand (AF/YR)	Consumption (AF/YR)
In-Building	0.81	0.04
Permanent Landscape Irrigation	0.54	0.46
Total	1.35	0.50

Potable water is allocated from the Gateway Water Bank for both in-building and irrigation. Evidence of the agreement and allocation of this water is incorporated as Exhibit A.

Water court transfer fees have been paid on water held in this bank.

STRATEGIC PLAN ALIGNMENT:

- Quality Infrastructure & Facilities
 - *Establish and maintain levels of service*
 - *Ensure future viability of infrastructure and facilities*

LEGAL ADVICE:

The Town Attorney drafted the Agreement.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve the Water & Sewer Service Agreement for Larch Industry LLC.

Reviewed and Approved for Presentation,



Town Manager

WATER AND SEWER SERVICE AGREEMENT

THIS WATER AND SEWER SERVICE AGREEMENT (“Agreement”) is made and entered into this 5 day of January, 2024, by and between **LARCH INDUSTRY, LLC**, a Colorado limited liability company (“Developer”), and **THE TOWN OF JOHNSTOWN**, a Colorado municipality (“Town”), collectively sometimes referred to as the “Parties”.

WITNESSETH:

WHEREAS, Developer owns an interest in land known as known as Lot 1, Block 3, I-25 Gateway Center Filing #3 Replat A, situated in the Southeast Quarter of Section 3, Township 3 North, Range 68 West of the 6th PM, Weld County, Colorado (“Subject Property”); and

WHEREAS, the Subject Property is being developed as 2 prefabricated steel warehouse buildings totaling 12,000 square-feet, with 0.10 acre of spray-irrigated landscape area and 0.19 acre of drip-irrigated landscape area, to be known as the Larch Industrial Building (“Project”); and

WHEREAS, I-25 Gateway Center, LLC, a Colorado limited liability company, previously dedicated ten (10) shares of stock in the Consolidated Home Supply Ditch and Reservoir Company to the Town to supply the required water for those certain lands in the development known as the I-25 Gateway Center; and

WHEREAS, after execution of four separate water and sewer service agreements with the Town, on October 7, 2019, the Town and I-25 Gateway Center, LLC entered into an Addendum to Water Sewer Service Agreements with the Town, wherein the parties agreed that, based on the initial dedication of water and the then existing use of the water, I-25 Gateway Center, LLC had a surplus raw water credit with the Town in the amount of 33.917 acre-feet at that time; and

WHEREAS, I-25 Gateway Center, LLC desires to assign a portion of the raw water credit to the Developer to supply the necessary water demand for the Project, as evidenced in Exhibit A, attached hereto and incorporated herein by reference; and

WHEREAS, based on such assignment, the Developer and the Town desire to set forth their agreement concerning water rights dedication and use of the raw water, preliminary projections of water and sewer demand, and a current commitment by the Town for water and sewer service for the Project.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and incorporating the foregoing recitals into the agreement, the Parties hereto agree as follows:

1. Water and Sewer Demand Studies. In compliance with the Town Water Rights Dedication Ordinance, as set forth in the Johnstown Municipal Code, as amended, (“Ordinance”), Developer has submitted to the Town an amended preliminary water and sewer demand analysis for the Project, dated February 6, 2023. Said analysis was received by the Town and is on file

with the Town and, as modified by the Town’s Water Engineer by memorandum dated December 14, 2023, is hereby accepted by the Town as to the potable water demands. Said analysis addresses the projected water and sewer demands for the Project as follows:

Development Component (Potable)	Demand (AF/YR)	Consumption (AF/YR)
In-building use	0.81	0.04
Landscaping irrigation	0.54	0.46
Total potable water use	1.35	0.50

2. **Water Rights Dedication.** I-25 Gateway Center, LLC has dedicated to the Project 1.35 acre-feet of its existing raw water credit, as shown in Exhibit A.

3. **Commitment to serve.** Subject to Developer’s performance of all the covenants contained herein and payment of all required fees, the Town commits to provide to the Project up to 0.81 acre-feet per year of potable water supply together with the corresponding sewer service for in-building use and up to 0.54 acre-feet per year of potable water supply for outdoor irrigation use.

4. **Future review of water usage and dedication requirements.** In accordance with the Ordinance, the Town reserves the right to review actual water usage within the Project, at a point in time after water usage has been established, to confirm the adequacy of the water demand projections made by the Developer, and to require additional water rights dedication and/or cash-in-lieu payments based on actual water usage.

5. **Payment of Water Court Transfer fees.** Within ten days of the execution of this Agreement, Developer shall pay to the Town the sum of Four Hundred Fifty Dollars (\$450.00) as payment of the Water Court Transfer Fees required by the Ordinance, based upon two (3) single family equivalent units.

6. **Notices.** All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered, sent by electronic mail or mailed postage prepaid, certified mail, return receipt requested, as follows:

TO DEVELOPER:
 Lawrence Nee
 Larch Industry, LLC
 770 N. 2nd Street
 Berthoud, CO 80513
 Email: loren.nee@larchindustry.com

TO THE TOWN:
 Town of Johnstown
 c/o Town Clerk
 450 S. Parish Ave.
 Johnstown, CO 80534
 Email: hhill@townofjohnstown.com

WITH A COPY TO
THE TOWN ATTORNEYS:

Avi Rocklin, Esq.
Johnstown Town Attorney
1437 N. Denver Avenue, #330
Loveland, CO 80538
Email: avi@rocklinlaw.com

Peter J. Ampe
Hill & Robbins, P.C.
3401 Quebec St., Suite 3400
Denver, CO 80207
Email: peterampe@hillandrobbins.com

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

7. Default. In the event of default by either Party hereunder the non-defaulting Party shall notify the defaulting Party in writing of such default(s), specifying the nature and extent thereof. If such default is not cured within thirty (30) days and the non-defaulting Party desires to seek recourse, the Parties shall participate in mediation, the costs of which shall be shared equally by both Parties. If mediation is not successful after a ninety-day period, either Party may then commence an action in a court of competent jurisdiction, and shall be entitled to such remedies as are provided by law, including the Town's ordinances.

8. Successors and assigns. The benefits and burdens of this Agreement shall respectively inure to and be binding upon the successors and assigns of the Parties hereto. This Agreement shall not be assigned without the prior written consent of the other party, which shall not be unreasonably withheld.

9. Amendment or modification. No amendment or modification of this Agreement shall be of any force or effect unless in writing and executed by the Parties hereto with the same formality as this Agreement.

10. Attorney's fees and costs. If any judicial proceedings may hereafter be brought to enforce any of the provisions hereof, including an action for specific performance and/or damages, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

11. Waiver. The waiver of any breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by said Party, concerning either the same or any other provision of this Agreement.

12. Headings for convenience only. Paragraph headings and titles contained herein are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

13. Non severability. Each paragraph of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties hereto.

14. Choice of laws. This Agreement and the rights and obligations of the Parties hereto shall be governed by the laws of the State of Colorado. Venue for any claim, proceeding or action shall be in Weld County, State of Colorado.

15. Entire agreement and Authorization. This Agreement constitutes the entire agreement between the Parties related to the subject matter hereof and any prior agreements pertaining thereto whether oral or written have been merged or integrated into this Agreement. Each of the undersigned represents to the others that he/she is authorized by his/her respective entity to execute this Agreement on behalf of that entity.

16. No Presumption. Each Party acknowledges that it has carefully read and reviewed the terms of this Agreement. Each Party acknowledges that the entry into and execution of this Agreement is of its own free and voluntary act and deed, without compulsion. Each Party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Agreement and with respect to all matters set forth herein. The Parties agree that this Agreement reflects the joint drafting efforts of all Parties and in the event of any dispute, disagreement or controversy arising from this agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.

17. Recordation. This Agreement may be recorded by the Town at Developer's expense in the office of the Clerk and Recorder of Weld County, Colorado, and, effective as of the date of such recordation, this Agreement shall run with the Subject Property, shall be binding upon the Parties hereto and the permitted successors and assigns of the Developer and shall constitute notice of this Agreement to all persons or entities not parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

[Signatures Follow on Separate Page]

EXHIBIT A
WATER USE AUTHORIZATION

Gateway Subdivision - Water Bank Allocation Worksheet
12/15/2023

Remaining Undeveloped Lots:

Lot	Block	Filing	Number of Parcels	Developed	Business	Platted Acres	% of Undev. Area, 10/10/19	Prorata Credit Allocation, AF	Supply Demand, AF	Demand Shortage, AF	Credit Allocation used, AF	Allocation Excess, AF ¹
1	3	3	1		Larch Industrial Building	1.889	4.82%	1.635	1.350	0.000	1.350	0.285
2	3	3	1		Lockard Storage	1.889	4.82%	1.635	1.070	0.000	1.070	0.565
3	3	3	1			1.886	4.81%	1.632		0.000		
Outlot A	none	4	1			3.473	8.86%	3.006		0.000		
1	1	4	1	1	Red Barn Liquor	1.604	4.09%	1.388	0.840	0.000	0.840	0.548
3	1	4	1			0.871	2.22%	0.754		0.000		
4	1	4	1			1.937	4.94%	1.677		0.000		
5	1	4	1			1.848	4.72%	1.600		0.000		
6	1	4	1			1.808	4.61%	1.565		0.000		
7	1	4	1			2.105	5.37%	1.822		0.000		
8	1	4	1			2.115	5.40%	1.831		0.000		
9	1	4	1			2.115	5.40%	1.831		0.000		
10	1	4	1			2.132	5.44%	1.845		0.000		
1	2	4	1	1	AC Ice	2.239	5.71%	1.938	1.620	0.000	1.620	0.318
1-4, 7, 8	3	4	6			5.942	15.16%	5.143		0.000		
5	3	4	1			1.082	2.76%	0.937		0.000		
6	3	4	1			1.000	2.55%	0.866		0.000		
2	Replat B	4	1			1.290	3.29%	1.117		0.000		
3	2	5	1			1.960	5.00%	1.696		0.000		
			Total Undeveloped Lots	22		39.185	100%	33.917		Allocation Used	4.880	1.716
			Total Developed Lots	34								
			Total Lots	56								

Raw water credit assigned to Gateway Center 100.000 AF
Reserved Surplus 20.900 AF

¹Portion of Allocation remaining that was in excess of demand. This is available for use, upon negotiation, by future lot developers in addition to their prorata credit allocation.

All water meters as of July 2019	45.183	AF
Oct. 2019 Addendum Allocation	33.917	AF
Allocation Used since Oct. 2019	4.880	AF
Allocation remaining	29.037	AF

Remaining AF from original 100 AF dedicated **Surplus 20.9 AF**
(CANNOT be sold, or transferred until audit is completed on 1st 51 lots of 56 lots are developed.)



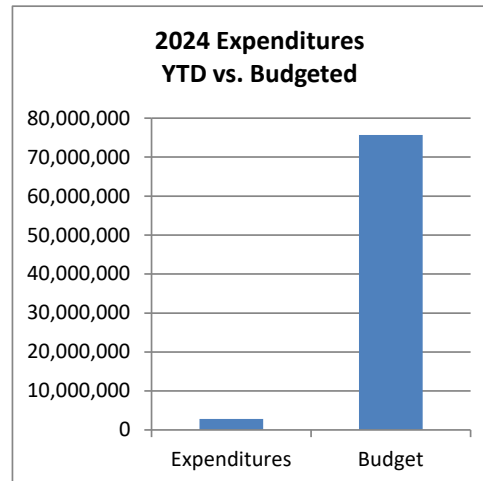
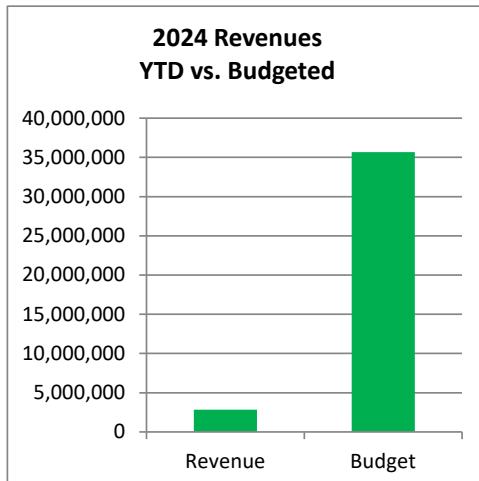
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - General Fund
Period Ending February 29, 2024
Unaudited

Item #5.

General Fund	2024 Actuals February	2024 Adopted Budget	%
			Complete
Beginning Fund Balance*	57,780,682	57,780,682	
Revenues:			
Taxes & Fees	1,890,018	32,347,410	5.8%
Licenses & Permits	415,833	2,193,300	19.0%
Fines & Forfeitures	44,188	215,000	20.6%
Intergovernmental	15,538	50,000	31.1%
Earnings on Investment	461,643	500,000	92.3%
Miscellaneous Revenue	8,320	380,000	2.2%
<i>Transfers In</i>	-	-	
Total Operating Revenues	2,835,540	35,685,710	7.9%
Expenditures:			
Legislative	205,368	1,925,100	10.7%
Town Manager	272,882	2,117,435	12.9%
Town Clerk	65,627	542,300	12.1%
Events	613	282,050	0.2%
Finance	59,220	708,120	8.4%
Planning	87,290	696,050	12.5%
Reimbursements	63,416	350,000	18.1%
Engineering	53,246	1,313,495	4.1%
Inspections	11,811	403,400	2.9%
Police	1,406,750	10,265,820	13.7%
Public Works	113,443	686,100	16.5%
Buildings	57,178	1,003,300	5.7%
<i>Transfers Out</i>	397,527	55,356,967	0.7%
Total Expenditures	2,794,371	75,650,137	3.7%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	41,169	(39,964,426)	
Prior Period Adjustment			
Ending Fund Balance*	57,821,851	17,816,256	

* - Unaudited

16% of the fiscal year has elapsed



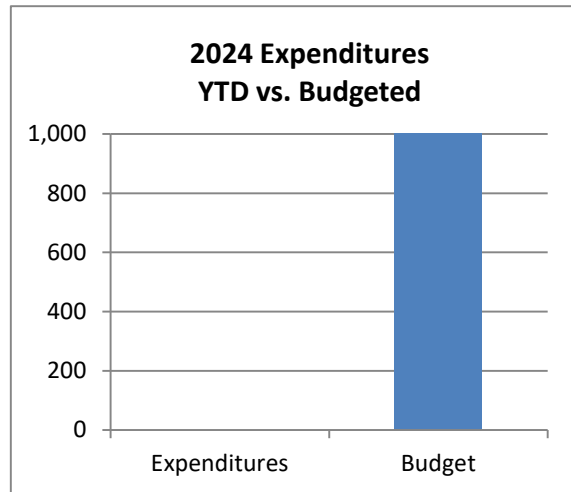
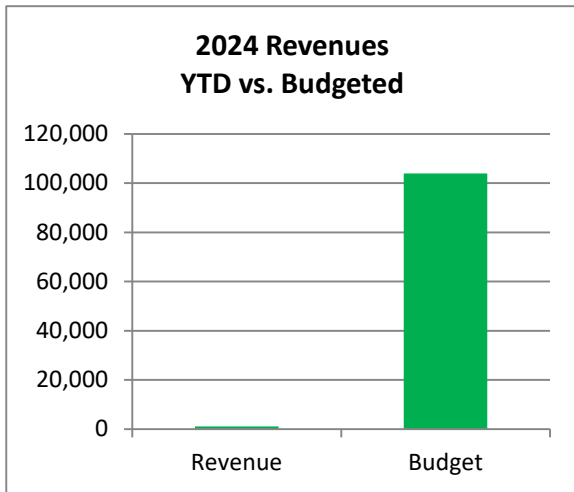
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Conservation Trust Fund
Period Ending February 29, 2024
Unaudited

Item #5.

Conservation Trust Fund	2024 Actuals February	2024 Adopted Budget	% Complete
Beginning Fund Balance*	264,069	264,069	
Revenues:			
Intergovernmental	-	100,000	0.0%
Earnings on Investment	1,128	4,000	28.2%
Total Operating Revenues	1,128	104,000	1.1%
Expenditures:			
Operations	-	-	
Capital Outlay	-	350,000	0.0%
Total Expenditures	-	350,000	
Excess (Deficiency) of Revenues and Other Sources over Expenditures	1,128	(246,000)	
Ending Fund Balance*	265,197	18,069	

* - Unaudited

16% of the fiscal year has elapsed



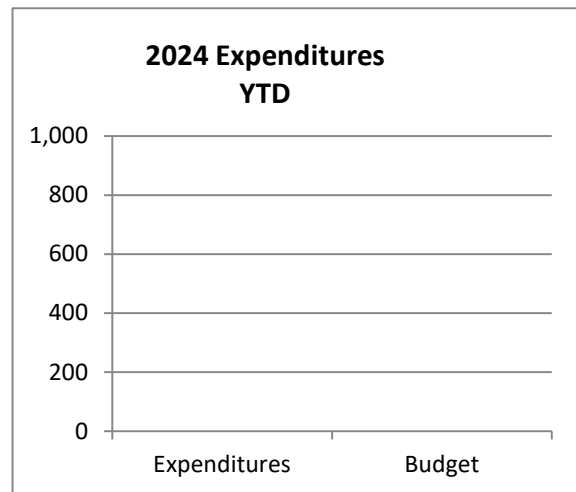
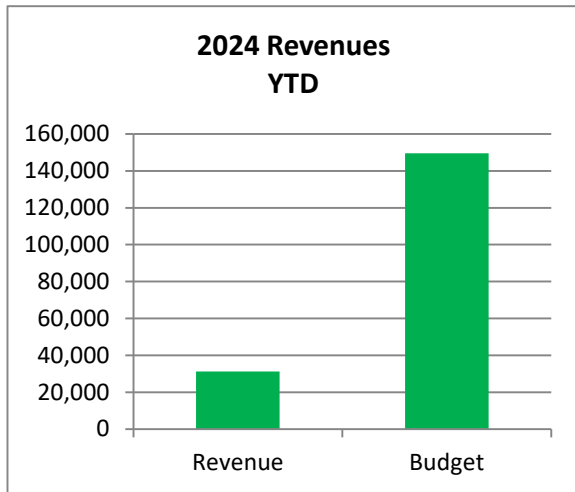
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Arts and Culture Fund
Period Ending February 29, 2024
Unaudited

Item #5.

Arts & Culture Fund	2024 Actuals February	2024 Adopted Budget	%
			Complete
Beginning Fund Balance	62,558	62,558	
Revenues:			
Intergovernmental	31,189	149,580	20.9%
Earnings on Investment	-	-	
	31,189	149,580	
Expenditures:			
Operations	-	-	
Capital Outlay	-	-	
	-	-	
Total Expenditures	-	-	
Excess (Deficiency) of Revenues and Other Sources over Expenditures	31,189	149,580	
Ending Fund Balance*	93,747	212,138	

* - Unaudited

16% of the fiscal year has elapsed



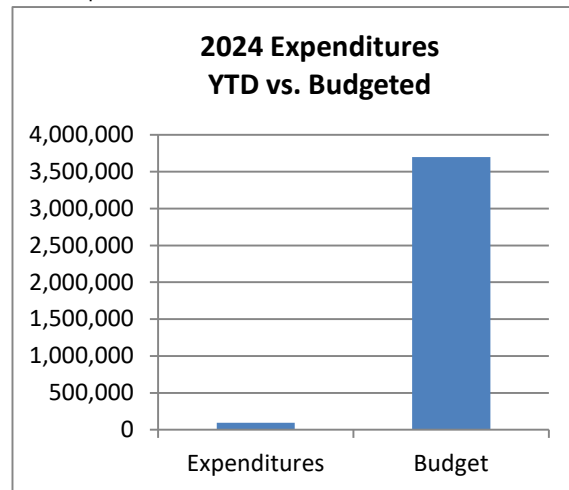
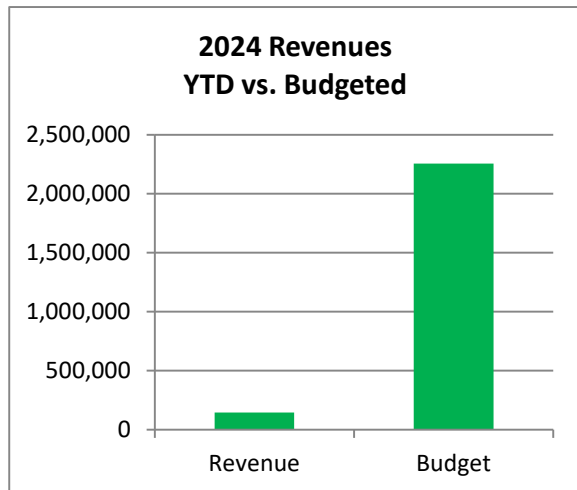
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Parks and Open Space Fund
Period Ending February 29, 2024
Unaudited

Item #5.

Parks and Open Space Fund	2024 Actuals February	2024 Adopted Budget	% Complete
Beginning Fund Balance*	8,104,788	8,104,788	
Revenues:			
Taxes & Fees	113,008	1,024,950	11.0%
License & Permit	10	500	2.0%
Earnings on Investment	27,280	50,000	54.6%
Miscellaneous Revenue	4,335	41,000	10.6%
<i>Transfers In</i>	0	1,140,000	0.0%
Total Operating Revenues	144,633	2,256,450	6.4%
Expenditures:			
Operations	79,673	1,621,450	4.9%
Capital Outlay	14,635	2,076,000	0.7%
<i>Transfers Out</i>	-	-	
Total Expenditures	94,307	3,697,450	2.6%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	50,326	(1,441,000)	
Ending Fund Balance*	8,155,114	6,663,788	

* - Unaudited

16% of the fiscal year has elapsed



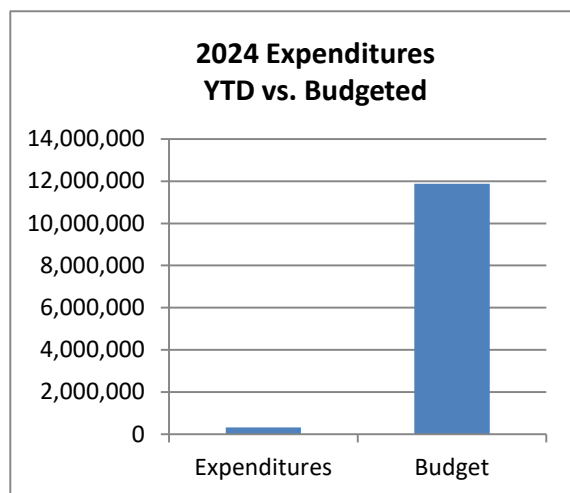
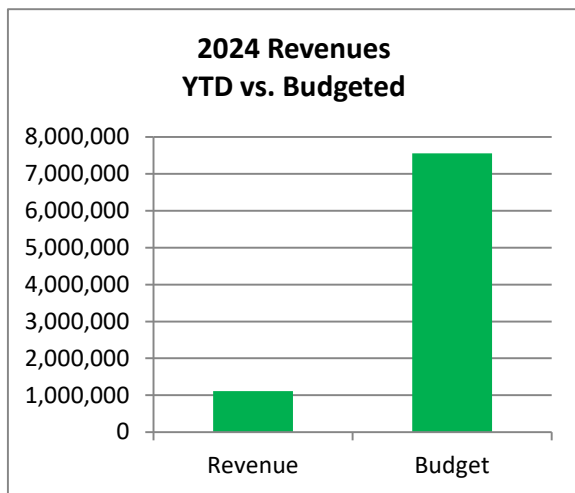
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Street and Alley Fund
Period Ending February 29, 2024
Unaudited

Item #5.

	2024 Actuals February	2024 Adopted Budget	%
Street and Alley Fund			% Complete
Beginning Fund Balance*	20,727,786	20,727,786	
Revenues:			
Taxes & Fees	669,573	5,080,000	13.2%
Intergovernmental	-	115,000	0.0%
Charges for Services	176,749	985,000	17.9%
Capital Investment Fees	202,761	1,276,375	15.9%
Earnings on Investment	67,139	100,000	67.1%
Miscellaneous Revenues	-	1,000	0.0%
Transfers In	-	-	
Total Operating Revenues	1,116,222	7,557,375	14.8%
Expenditures:			
Operations & Maintenance	279,916	5,501,250	5.1%
Capital	37,189	6,384,000	0.6%
Total Expenditures	317,106	11,885,250	2.7%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	799,117	(4,327,875)	
Ending Fund Balance*	21,526,903	16,399,911	

* - Unaudited

16% of the fiscal year has elapsed



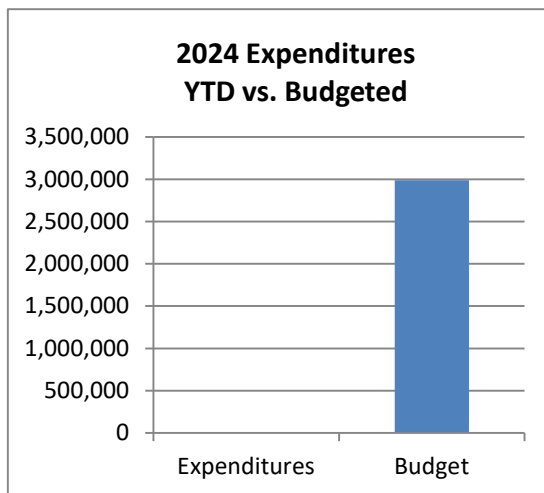
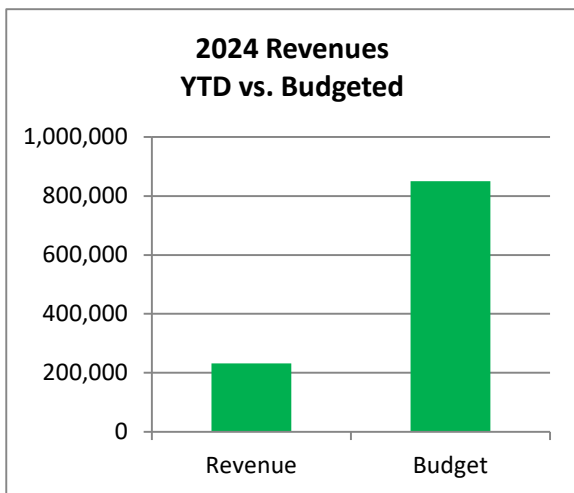
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Capital Projects Fund
Period Ending February 29, 2024
Unaudited

Item #5.

	2024 Actuals February	2024 Adopted Budget	%
Capital Projects Fund			Complete
Beginning Fund Balance*	10,830,773	10,830,773	
Revenues:			
Taxes and Fees	131,492	800,000	16.4%
Miscellaneous Revenue	-	-	
Interest	100,931	100,000	100.9%
<i>Transfers In</i>	-	(50,000)	0.0%
	232,423	850,000	27.3%
Expenditures:			
Capital Outlay	7,459	2,988,500	0.2%
<i>Transfers Out</i>	-	-	
	7,459	2,988,500	0.2%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	224,964	(2,138,500)	
Ending Fund Balance*	11,055,737	8,692,273	

* - Unaudited

16% of the fiscal year has elapsed



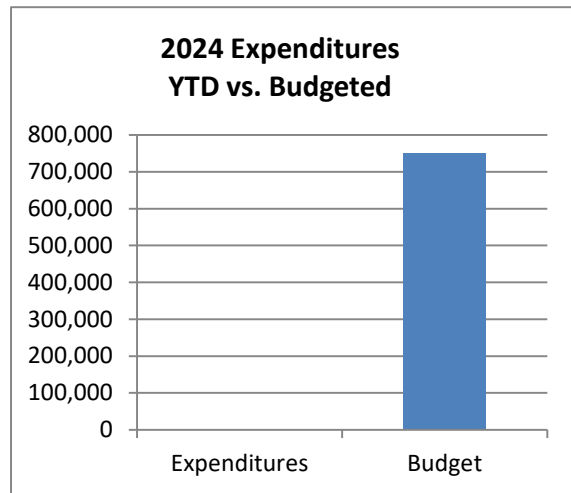
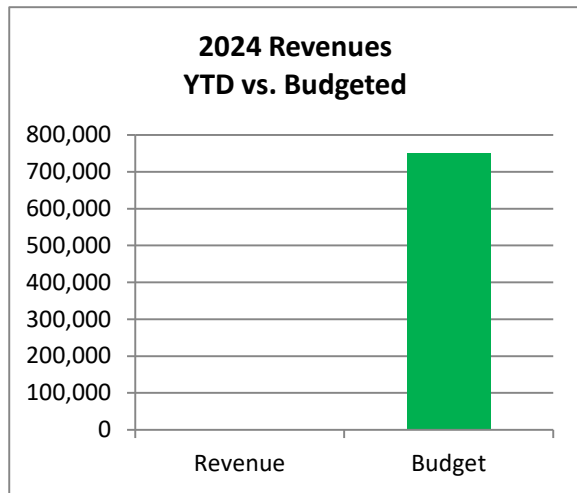
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Tax Allocation Fund
Period Ending February 29, 2024
Unaudited

Item #5.

Tax Allocation Fund	2024 Actuals February	2024 Adopted Budget	% Complete
Beginning Fund Balance*	41,435	41,435	
<u>Revenues:</u>			
Taxes & Fees	-	750,000	0.0%
Earnings on Investment	-	-	
Total Operating Revenues	-	750,000	0.0%
<u>Expenditures:</u>			
Miscellaneous	-	750,000	0.0%
Total Expenditures	-	750,000	0.0%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	-	-	
 Ending Fund Balance*	 41,435	 41,435	

* - Unaudited

16% of the fiscal year has elapsed



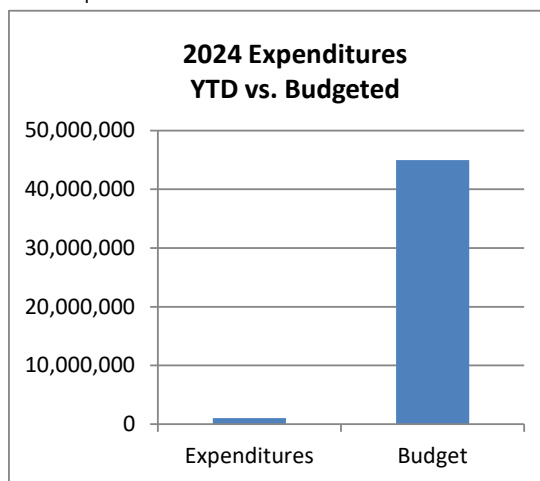
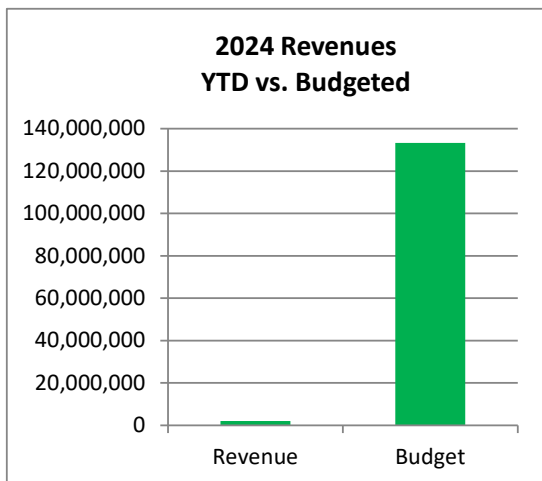
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Water Fund
Period Ending February 29, 2024
Unaudited

Item #5.

	2024 Actuals February	2024 Adopted Budget	% Complete
Water Fund			
Beginning Cash Balance*	23,133,505	23,133,505	
Revenues:			
Charges for Services	691,054	5,935,000	11.6%
Total Operating Revenues	691,054	5,935,000	11.6%
Expenses:			
Administration	20,374	304,100	6.7%
Operations	684,688	6,185,450	11.1%
Capital Outlay	148,134	37,477,500	0.4%
Depreciation	165,700	994,200	16.7%
Transfers Out	-	-	
Total Operating Expenses	1,018,895	44,961,250	2.3%
Operating Income (Loss)	(327,841)	(39,026,250)	
Non-Operating Revenues (Expenses)			
Tap Fees	609,419	1,397,933	43.6%
Capital Investment Fees	505,505	1,100,925	45.9%
Misc. Revenues	86,406	52,536,000	0.2%
Interest	142,911	250,000	57.2%
Debt Proceeds	0	72,000,000	0.0%
Total Non-Operating Revenues (Expenses)	1,344,241	127,284,858	1.1%
Excess (Deficiency) of Revenues and Other Sources over Expenses	1,016,401	88,258,608	
Ending Cash Balance*	24,149,906	\$ 111,392,113	

* - Unaudited

16% of the fiscal year has elapsed



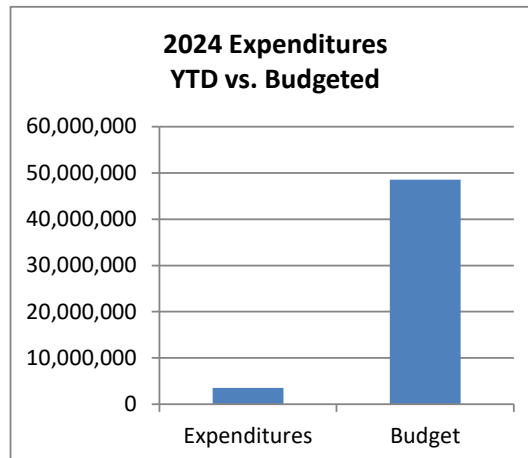
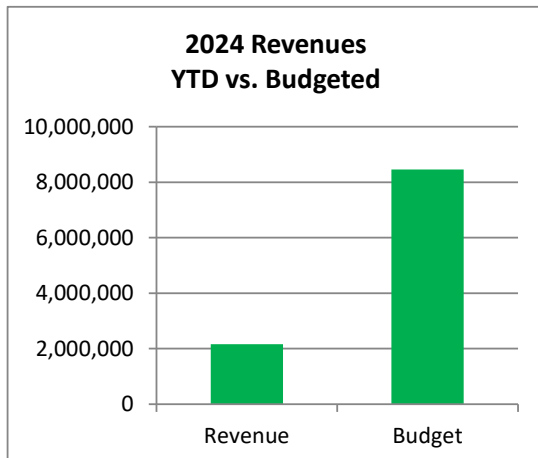
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Sewer Fund
Period Ending February 29, 2024
Unaudited

Item #5.

	2024 Actuals February	2024 Adopted Budget	%
Sewer Fund			% Complete
Beginning Cash Balance*	67,754,753	67,754,753	
Revenues:			
Charges for Services	624,282	3,795,000	16.5%
Total Operating Revenues	624,282	3,795,000	16.5%
Expenses:			
Administration	20,615	292,100	7.1%
Operations	326,730	2,626,440	12.4%
Capital Outlay	2,971,599	41,722,500	7.1%
Depreciation	187,550	1,125,300	16.7%
Debt Service	-	2,767,650	0.0%
	-	-	
Total Operating Expenses	3,506,494	48,533,990	7.2%
Operating Income (Loss)	(2,882,212)	(44,738,990)	
Non-Operating Revenues (Expenses)			
Capital Improvement Fees	969,489	4,138,775	23.4%
Misc. Revenues	-	25,000	0.0%
Interest	566,603	500,000	113.3%
Transfers In/(Out)	-	-	
Total Non-Operating Revenues (Expenses)	1,536,092	4,663,775	32.9%
Excess (Deficiency) of Revenues and Other Sources over Expenses	(1,346,121)	(40,075,215)	
Ending Cash Balance*	66,408,632	27,679,538	

* - Unaudited

16% of the fiscal year has elapsed



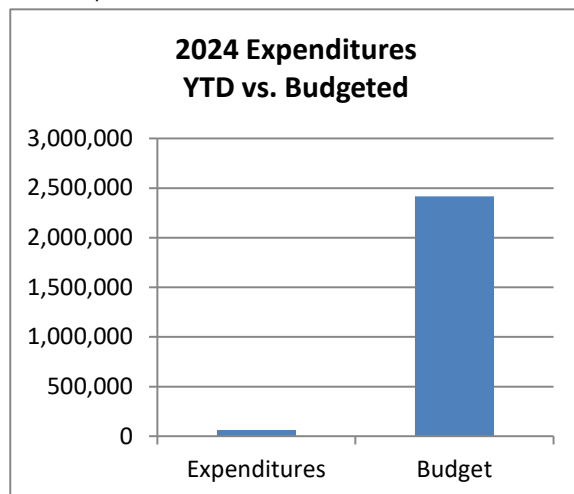
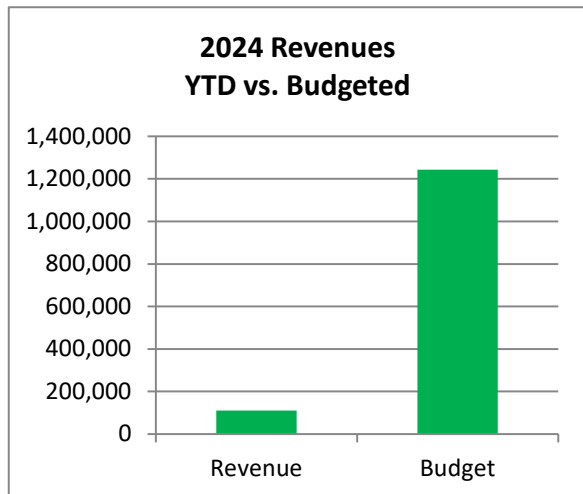
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Drainage Fund
Period Ending February 29, 2024
Unaudited

Item #5.

Drainage Fund	2024 Actuals February	2024 Adopted Budget	% Complete
Beginning Cash Balance*	4,247,725	4,247,725	
Revenues:			
Charges for Services	91,441	525,000	17.4%
Total Operating Revenues	91,441	525,000	17.4%
Expenses:			
Administration	16,351	164,390	9.9%
Operations	34,586	1,213,100	2.9%
Capital Improvements	11,323	1,038,400	1.1%
Transfer Out	-	-	
Total Operating Expenses	62,259	2,415,890	2.6%
Operating Income (Loss)	29,182	(1,890,890)	
Non-Operating Revenues (Expenses)			
Capital Revenues	-	220,000	0.0%
Misc. Revenues	-	457,560	0.0%
Interest	19,199	40,000	48.0%
Total Non-Operating Revenues (Expenses)	19,199	717,560	2.7%
Excess (Deficiency) of Revenues and Other Sources over Expenses	48,382	(1,173,330)	
Ending Cash Balance*	4,296,107	3,074,395	

* - Unaudited

16% of the fiscal year has elapsed



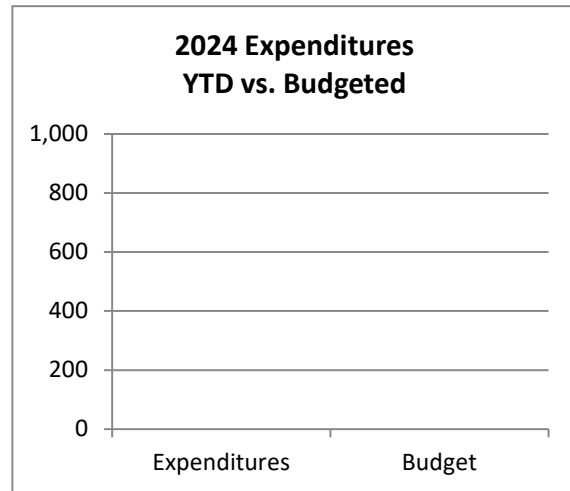
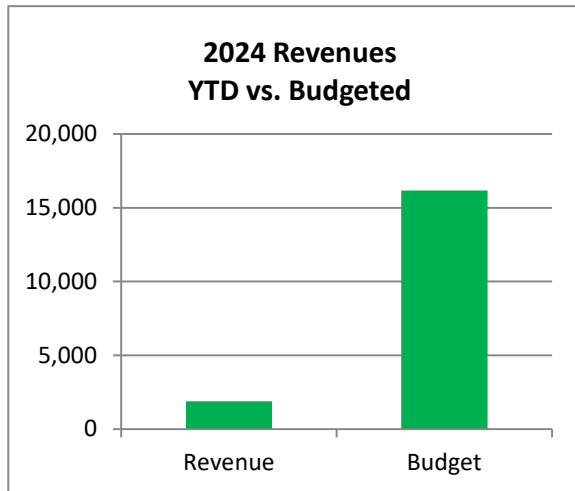
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Cemetery Perpetual Fund
Period Ending February 29, 2024
Unaudited

Item #5.

Cemetery Perpetual Fund	2024 Actuals February	2024 Adopted Budget	%
			Complete
Beginning Fund Balance*	186,411	186,411	
Revenues:			
Miscellaneous Revenue	765	12,560	6.1%
Earnings on Investment	1,123	3,600	31.2%
	1,888	16,160	
Total Operating Revenues	1,888	16,160	11.7%
Expenditures:			
Operations & Maintenance	-	-	
Capital Outlay	-	-	
Transfers Out	-	-	
	-	-	
Total Expenditures	-	-	
Excess (Deficiency) of Revenues and Other Sources over Expenditures	1,888	16,160	
Ending Fund Balance*	188,299	202,571	

* - Unaudited

16% of the fiscal year has elapsed



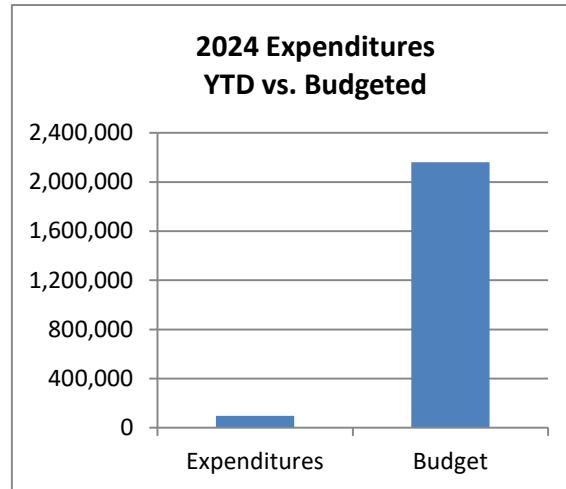
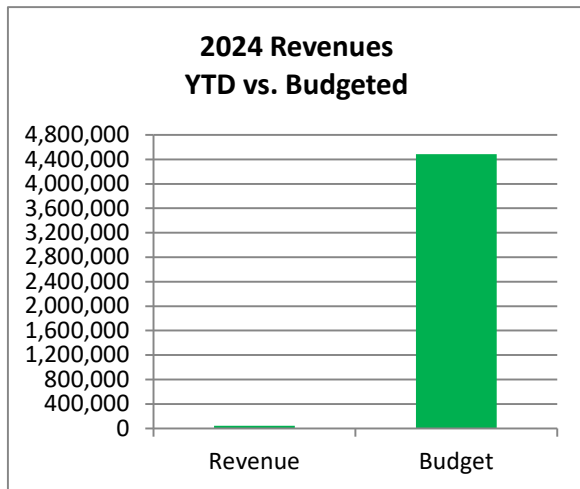
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Library Fund
Period Ending February 29, 2024
Unaudited

Item #5.

Library Fund	2024 Actuals February	2024 Adopted Budget	% Complete
Beginning Fund Balance*	10,477,955	10,477,955	
Revenues:			
Intergovernmental	-	1,292,842	0.0%
Miscellaneous Revenue	-	13,500	0.0%
Capital Investment Fees	77,973	373,950	20.9%
Interest	5,304	500,000	1.1%
<i>Transfers In</i>	<u>(38,987)</u>	<u>2,304,387</u>	-1.7%
Total Operating Revenues	<u>44,291</u>	<u>4,484,679</u>	1.0%
Expenditures:			
Operations	95,314	2,161,500	4.4%
Capital Outlay	<u>-</u>	<u>-</u>	
Total Expenditures	<u>95,314</u>	<u>2,161,500</u>	4.4%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>(51,023)</u>	<u>2,323,179</u>	
Ending Fund Balance*	<u><u>10,426,932</u></u>	<u><u>12,801,134</u></u>	

* - Unaudited

16% of the fiscal year has elapsed



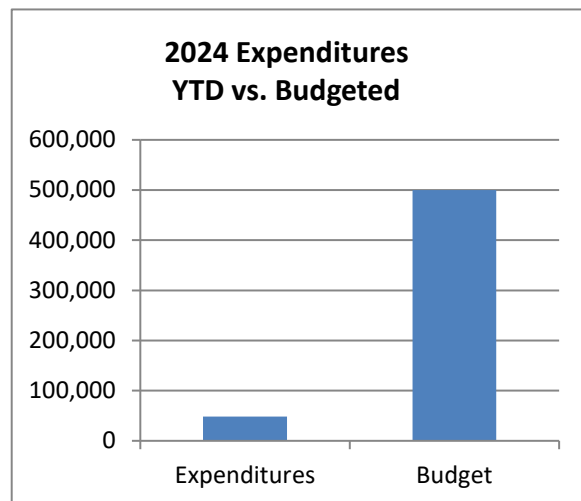
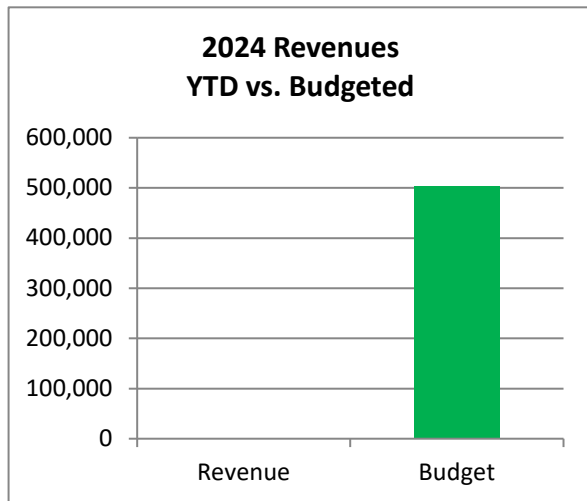
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Recreation Center Fund
Period Ending February 29, 2024
Unaudited

Item #5.

Recreation Center Fund	2024 Actuals February	2024 Adopted Budget	% Complete
Beginning Fund Balance*	(210,959)	(210,959)	
<u>Revenues:</u>			
State Grants	-	0	
Transfers In	-	503,000	0.0%
Earnings on Investment	-	-	
	-	-	
Total Operating Revenues	-	503,000	
<u>Expenditures:</u>			
Operations & Maintenance	48,546	500,000	9.7%
Capital Outlay	-	-	
	-	-	
Total Expenditures	48,546	500,000	9.7%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	(48,546)	3,000	
Ending Fund Balance*	(259,505)	(207,959)	

* - Unaudited

16% of the fiscal year has elapsed



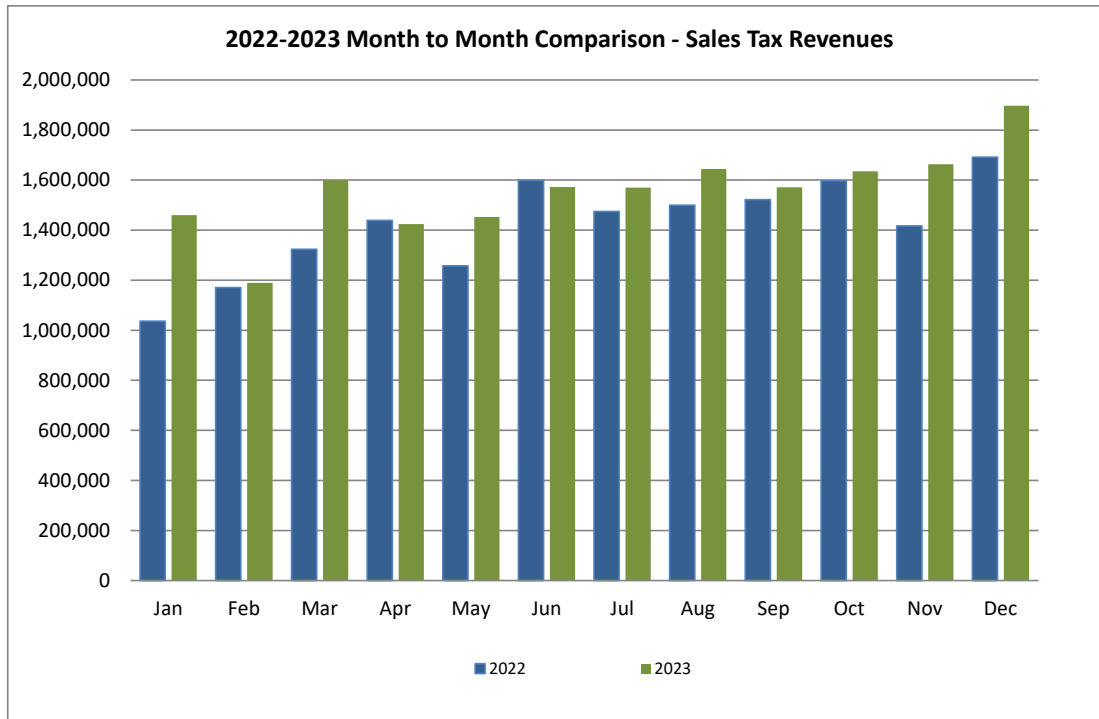
**Sales Tax Analysis and Comparison
2023**

Item #5.

<u>Month/Year</u>	<u>Sales Tax Collected*</u>	<u>Motor Vehicle Sales Tax Collected*</u>	<u>Total Sales Taxes Collected*</u>
Jan-22	860,076	176,235	1,036,312
Feb-22	1,039,339	131,014	1,170,353
Mar-22	1,140,339	183,753	1,324,092
Apr-22	1,225,967	212,749	1,438,716
May-22	1,081,813	175,308	1,257,121
Jun-22	1,387,474	211,390	1,598,864
Jul-22	1,314,434	159,699	1,474,133
Aug-22	1,301,869	197,915	1,499,784
Sep-22	1,339,168	182,866	1,522,033
Oct-22	1,333,815	263,755	1,597,569
Nov-22	1,228,245	188,305	1,416,551
Dec-22	1,506,874	184,930	1,691,804
2022 Total	14,759,413	2,267,919	17,027,332

Jan-23	1,253,344	206,448	1,459,793
Feb-23	1,031,160	158,696	1,189,856
Mar-23	1,371,163	228,725	1,599,889
Apr-23	1,207,378	216,749	1,424,127
May-23	1,221,469	231,435	1,452,904
Jun-23	1,357,563	214,427	1,571,991
Jul-23	1,367,884	201,692	1,569,576
Aug-23	1,378,748	265,284	1,644,032
Sep-23	1,406,057	164,870	1,570,927
Oct-23	1,380,649	254,030	1,634,679
Nov-23	1,503,878	159,736	1,663,613
Dec-23	1,706,666	189,961	1,896,626
2023 Total	16,185,959	2,492,054	18,678,013

Jan - Dec 2022	14,759,413	2,267,919	17,027,332
Jan - Dec 2023	16,185,959	2,492,054	18,678,013
% Increase (Decrease)	9.67%	9.88%	9.69%



* Amounts shown reflect different reporting periods for various entities.



450 S. Parish Avenue
Johnstown, CO 80534
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JohnstownCO.gov

TOWN COUNCIL AGENDA COMMUNICATIONS

- AGENDA DATE:** March 18, 2024
- SUBJECT:** Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado and District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado
- ACTION PROPOSED:** Consider (1) Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado and (2) District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado
- ATTACHMENTS:**
1. Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado
 2. District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado
- PRESENTED BY:** Town Attorney, Avi Rocklin, and Special Counsel, MaryAnn McGeady of McGeady Becher P.C.
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AGENDA ITEM DESCRIPTION: For consideration is the Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado (“Amended and Restated Agreement”) by and between the Town and the Johnstown Plaza Metropolitan District, a quasi-municipal corporation and political subdivision of the state of Colorado (“District”). If approved, for subsequent consideration is the District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado (“District/Developer Agreement”), by and between the District and the Johnstown Plaza, LLC, a Kansas liability company (“Developer”), whereby the Town would sign as a third-party beneficiary only.

On or about April 18, 2016, the Town and the District entered into that certain Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado (“Original Agreement”), concerning the District’s obligation to operate and maintain the public improvements

in Johnstown Plaza. The District desires to restructure the contractual obligation and contract with the Developer to operate and maintain the public improvements. The Developer anticipates obtaining funding for the improvements from the common area maintenance charges paid by the Developer's tenants. To recognize the restructured process, Town Staff is proposing that the Town Council consider the Amended and Restated Agreement. If approved, the District and Developer would thereafter enter into a separate agreement, the District/Developer Agreement, whereby the Developer would be obligated to undertake the operations and maintenance obligations.

The proposed Amended and Restated Agreement is similar to the Original Agreement in many respects. The District would still be required to ensure the proper operation and maintenance of the public improvements and would still be required to provide an annual maintenance report to the Town on or before April 1 of each year. In addition to the obligations set forth in the Original Agreement, the District would be required to provide an operations and maintenance budget to the Town on or before September 15 of each year and the Town would have thirty (30) days thereafter to review and provide comments regarding the status of the maintenance of the public improvements and the amount or source of the anticipated revenue to fund the operations and maintenance obligations.

The District/Developer Agreement recognizes that the District is contracting with the Developer to operate and maintain the public improvements and that the Developer is required to impose and collect common area maintenance charges from tenants to obtain funding for such obligations. The Town is not a party to that agreement but would sign as a third-party beneficiary, providing the Town with the right to enforce the obligations.

STRATEGIC PLAN ALIGNMENT:

- Healthy & Resilient Economy
 - *Drive projects and initiatives that promote Johnstown as a premier destination for business*
 - *Support the local labor market and work with partners to grow diverse employment opportunities*
- Quality Infrastructure & Facilities
 - *Establish and maintain levels of service*

LEGAL ADVICE:

The Town's Special Counsel, with review by the Town Attorney, prepared the Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado and the District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado.

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado and District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado.

SUGGESTED MOTIONS:

For Approval: I move to approve Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado, and the District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado, and authorize the Mayor to sign the agreements.

For Denial: I move to deny approval of the Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado, and the District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado.

Reviewed and Approved for Presentation,



Town Manager

**AMENDED AND RESTATED OPERATIONS AND MAINTENANCE
INTERGOVERNMENTAL AGREEMENT
FOR
JOHNSTOWN PLAZA
JOHNSTOWN, COLORADO**

THIS AMENDED AND RESTATED OPERATIONS AND MAINTENANCE INTERGOVERNMENTAL AGREEMENT FOR JOHNSTOWN PLAZA, JOHNSTOWN, COLORADO (“**Amended and Restated Operations and Maintenance Agreement**”) is made and entered into as of the Effective Date by and between THE TOWN OF JOHNSTOWN, COLORADO, a home-rule municipality of the Counties of Larimer and Weld, State of Colorado (“**Town**”), and JOHNSTOWN PLAZA METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the state of Colorado (“**District**”) (collectively, the “**Parties**”).

RECITALS

WHEREAS, Johnstown Plaza, LLC, a Kansas limited liability company (“**Developer**”) is the owner and Developer of the destination retail shopping center known as Johnstown Plaza in the District and in the Town containing many square feet of new retail uses on the property (“**Project**”);

WHEREAS, the District was formed pursuant to the applicable provisions of the Colorado Special District Act by Court Order in Larimer County, District Court, Case No. 15 CV 030779 and is subject to the service plan approved by the Town of Johnstown Town Council by resolution on September 21, 2015 as the same may be modified from time to time (“**Service Plan**”);

WHEREAS, the District is authorized to finance, design, plan, construct, install, complete, operate and maintain public improvements related to and necessitated by the Project;

WHEREAS, the Service Plan contemplates that the Parties execute an operations and maintenance intergovernmental agreement defining the duties and obligations of the District to operate, maintain, repair and replace the public improvements, authorizing the Town to undertake the unfulfilled duties of the District at the District’s expense and providing the Town with access for such undertakings and confirming the District’s authority to raise revenue to pay for such activities by, among other legally available means, compelling the District to impose a mill levy to reimburse the Town for any reasonable costs incurred in the event the Town undertakes the unfulfilled duties of the District;

WHEREAS, the Parties, together with the Developer, also entered into a Comprehensive Development Agreement, Funding Plan and Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado (“**Development and Funding Agreement**”), which provides that the Town and the District enter into an operations and maintenance intergovernmental agreement requiring, among other matters, that the District operate and maintain the public improvements in a condition comparable to the initial installation plans and specifications approved by the Town, authorizing the Town to enter the public spaces to provide repair, maintenance or replacement of

the public improvements in the event the District is in breach of its obligations and compelling the District to impose a mill levy to fund the reimbursement of the Town for costs incurred;

WHEREAS, at the election held on November 3, 2015, the District presented the following Ballot Issues 5B and 5R to its eligible electors:

SHALL JOHNSTOWN PLAZA METROPOLITAN DISTRICT TAXES BE INCREASED \$5,000,000 ANNUALLY, OR BY SUCH LESSER ANNUAL AMOUNT AS MAY BE NECESSARY TO PAY THE DISTRICT'S ADMINISTRATION, OPERATIONS, MAINTENANCE, AND OTHER EXPENSES: SUCH TAXES TO CONSIST OF AN AD VALOREM MILL LEVY IMPOSED ON ALL TAXABLE PROPERTY OF THE DISTRICT WITHOUT LIMITATION OF RATE OR WITH SUCH LIMITATIONS AS MAY BE DETERMINED BY THE DISTRICT BOARD OF DIRECTORS, AND IN AMOUNTS SUFFICIENT TO PRODUCE THE ANNUAL INCREASE SET FORTH ABOVE OR SUCH LESSER AMOUNT AS MAY BE NECESSARY, TO BE USED FOR THE PURPOSE OF PAYING THE DISTRICT'S OPERATIONS, MAINTENANCE, AND OTHER EXPENSES; AND SHALL THE PROCEEDS OF SUCH TAXES AND INVESTMENT INCOME THEREON BE COLLECTED AND SPENT BY THE DISTRICT AS A VOTER-APPROVED REVENUE CHANGE IN 2015 AND IN EACH YEAR THEREAFTER, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, THE LIMITS IMPOSED ON INCREASES IN PROPERTY TAXATION BY SECTION 29-1-301, C.R.S., OR ANY OTHER LAW WHICH PURPORTS TO LIMIT THE DISTRICT'S REVENUES OR EXPENDITURES, AS IT CURRENTLY EXISTS OR AS IT MAY BE AMENDED IN THE FUTURE, ALL WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE DISTRICT?;

SHALL JOHNSTOWN PLAZA METROPOLITAN DISTRICT BE AUTHORIZED TO ENTER INTO ONE OR MORE MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS EVIDENCED BY AN INTERGOVERNMENTAL AGREEMENT OR AGREEMENTS CONCERNING THE PROVISION OF PUBLIC IMPROVEMENTS WITH THE TOWN OF JOHNSTOWN, COLORADO OR ONE OR MORE OTHER GOVERNMENTAL UNITS OR GOVERNMENTALLY-OWNED ENTERPRISES, CONTAINING SUCH TERMS AND CONDITIONS AS THE BOARD OF DIRECTORS OF THE DISTRICT MAY DETERMINE TO BE NECESSARY AND APPROPRIATE AND PROVIDING FOR PAYMENTS BY THE DISTRICT IN AN AGGREGATE AMOUNT NOT TO EXCEED \$150,000,000 OF TAX REVENUES DERIVED FROM AN AD VALOREM MILL LEVY IMPOSED BY THE DISTRICT ON ALL TAXABLE PROPERTY?

WHEREAS, Ballot Issues 5B and 5R were approved by the eligible electors and, among other matters, authorize the District to impose a mill levy for the District’s operations and maintenance expenses and authorize the multiple fiscal year obligations of the District set forth in this Amended and Restated Operations and Maintenance Agreement;

WHEREAS, the Parties entered into that certain Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado on or about April 18, 2016 (the “**Original Agreement**”); and

WHEREAS, the Parties have determined to modify the terms of the Original Agreement pursuant to which the District will perform its operations and maintenance duties and how it will communicate with the Town regarding such performance; and

WHEREAS, the Parties desire to set forth these modifications in this Amended and Restated Operations and Maintenance Agreement: and

WHEREAS, on or about May 23, 2017, the Parties entered into that certain First Amendment to Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza Concerning Use of Public Right-of-Way (“**First Amendment to Public ROW Agreement**”); and

WHEREAS, the Parties do not intend, by execution of this Amended and Restated Operations and Maintenance Agreement, to modify or amend the terms of the First Amendment to Public ROW Agreement; and

WHEREAS, pursuant to C.R.S. § 29-1-203, the Parties are authorized to enter into cooperative agreements and contracts for certain specified purposes, and intend that this Amended and Restated Operations and Maintenance Agreement constitute such an intergovernmental agreement with respect to the operation and maintenance of the public improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Amended and Restated Operations and Maintenance Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The Recitals set forth above are incorporated herein by reference.
2. Definitions. For purposes of this Amended and Restated Operations and Maintenance Agreement, the following terms have the meanings indicated below and in the Recitals:
 - A. Annual Maintenance Report. As defined in Paragraph 4 below.
 - B. CAM. Means the cost of common area maintenance services provided by the Developer.

C. CAM Charges. Means the amount of the CAM that is required to be paid to the Developer by every tenant and property owner in the Property.

D. District/Developer Operations and Maintenance Agreement. That certain District/Developer Operations and Maintenance Agreement for Johnstown Plaza, Johnstown, Colorado between the District and the Developer dated as of March 18, 2024, pursuant to which the Developer has agreed to provide, or cause to be provided the maintenance of the Public Improvements to the Maintenance Standard and to fund this maintenance from revenues received from CAM Charges.

E. District Streets. The streets that will be constructed as a part of the Public Improvements that will not be dedicated to the Town.

F. Draft Operations and Maintenance Budget. The draft operations and maintenance budget for the District for the upcoming year, to be submitted to the Town on an annual basis, including all proposed expenditures and revenue sources for the payment of all expenditures to operate and maintain the Public Improvements to the Maintenance Standard. The Draft Operations and Maintenance Budget will also include the budgeted and actual revenues and expenditures from the previous year and the budgeted and estimated year end revenues and expenditures for the current year.

G. Effective Date. The date that this Amended and Restated Operations and Maintenance Agreement is fully executed by all the Parties, which shall be the date the Amended and Restated Operations and Maintenance Agreement is executed by the Town.

H. Final Operations and Maintenance Budget. The operations and maintenance budget adopted by the District for the upcoming year, to be submitted to the Town on an annual basis, including all proposed expenditures and revenue sources for the payment of all expenditures to operate and maintain the Public Improvements to the Maintenance Standard. The Final Operations and Maintenance Budget will also include the budgeted and actual revenues and expenditures from the previous year and the budgeted and estimated year end revenues and expenditures for the current year.

I. Maintenance Standard. Maintaining the Public Improvements in first-class condition to a level equivalent to the initial installation plans and specifications approved by the Town. The Maintenance Standard includes, in addition to maintenance of the Public Improvements, the requirement that the District ensure the Public Landscaping is consistently maintained to a high quality, to include, but not be limited to, regular grass cutting, tree trimming and seasonal flower planting.

J. Pedestrian Walkways and Trails. The sidewalks, walkways and trails constructed or, as appropriate, installed as a part of the Public Improvements that have not been dedicated to the Town.

K. Property. The property known as Johnstown Plaza within the boundaries of the District.

L. Public Art. The Art located in Public Spaces that has been acquired and installed as a part of the Public Improvements that have not be dedicated to the Town.

M. Public Improvements. The improvements owned and maintained by the District, including but not limited to Public Spaces, the Public Art, the Public Plazas, the Public Parking Facilities, the Pedestrian Walkways and Trails, District Streets and the Public Landscaping.

N. Public Landscaping. The landscaping constructed or, as appropriate, installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

O. Public Parking Facilities. The parking lots and structures constructed or installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

P. Public Plazas. The plazas constructed or installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

Q. Public Spaces. The property upon which the Public Art, Public Parking Facilities, Public Plazas, Public Streets and Pedestrian Walkways and Trails are located.

3. Operation and Maintenance of Public Improvements. The District shall maintain the Public Improvements to the Maintenance Standard. The District shall perform maintenance of the Public Improvements based on the Maintenance Standard at regular intervals to sustain the Maintenance Standard. The Town shall at all times retain the right to determine whether the District is properly operating and maintaining the Public Improvements as required herein.

- a. Without limiting the District's obligations to the Town as set forth in this Amended and Restated Operations and Maintenance Agreement, the District has entered into the District/Developer Operations and Maintenance Agreement of even date herewith pursuant to which the Developer will perform the operations and maintenance of the Public Improvements to the Maintenance Standard.
- a. The District may only amend the District/Developer Operations and Maintenance Agreement after receipt of the prior written approval of the amendment by the Town.
- b. The District may only agree to the assignment by the Developer of the Developer's obligations under the District/Developer Operations and Maintenance Agreement after receipt of the prior written approval of the assignment by the Town.
- c. The District may only enter into an agreement with a subsequent owner or owners of property within the Property, or affiliates of a subsequent owner or owners of property within the Property, related to the operations and

maintenance of the Public Improvements after receipt of prior written approval of the Town to such agreement.

4. Annual Maintenance Report. The District shall provide an Annual Maintenance Report to the Town by April 1 of each calendar year, documenting: (1) the dates of inspections of the Public Improvements during the prior calendar year; (2) the remedial actions, if any, undertaken during the prior calendar year; (3) the Public Improvements, if any, requiring modification, repair or reconstructive work during the current calendar year, the schedule to accomplish such work and the source of funding for such work; and (4) the plan for repair and replacement of the pavement associated with the District Streets, Pedestrian Walkways and Trails, Public Parking Facilities and Public Plazas for the next consecutive ten (10) years and the for the next consecutive three (3) years for the remaining Public Improvements. If the Town Manager objects to the schedule to accomplish the work set forth in subpart (3) above or the schedule proposed in the District's reserve plan, the District shall promptly, within fifteen (15) days, revise and resubmit the Annual Maintenance Report to address or conform to the Town's recommendations and requirements.

5. Annual Budget and Appropriations. The District agrees to budget and appropriate sufficient funds annually to operate and maintain the Public Improvements to the Maintenance Standard.

- a. Draft Operations and Maintenance Budget. On or before September 15th of every year beginning in 2024, the District shall send the Draft Operations and Maintenance Budget to the Town for the ensuing year. The Draft Operations and Maintenance Budget shall reflect the anticipated revenues to be available for the provision of the operations and maintenance, whether from the CAM Charge or the imposition of property taxes, or some combination of both.
- b. Town Comment Period. The Town shall have thirty (30) days after receipt of the Draft Operations and Maintenance Budget to provide written comments to the District regarding, among others:
 - i. Concerns or comments regarding the status of maintenance of the Public Improvements in the current year or what is proposed in the Draft Operations and Maintenance Budget, or both.
 - ii. Concerns or comments regarding the amount or source of the anticipated revenue for funding of the anticipated expenditures in the Draft Operations and Maintenance Budget.
- c. Final Operations and Maintenance Budget. The District shall adopt a Final Operations and Maintenance Budget as a part of its annual budget process, that includes the Draft Operations and Maintenance Budget for that fiscal year, with amendments required to address the concerns and comments received from the Town to the Town's satisfaction, and will appropriate the funds for expenditure as set forth in the Final Operations Maintenance Budget.

6. Town Inspection; Notice; Cure. The Town shall have the right to enter the Property at all reasonable times to inspect the Public Improvements. If, upon inspection, the Town, in its sole discretion, determines that the District has failed to properly operate, maintain, repair or replace the Public Improvements to the Maintenance Standard, the Town may provide written notice to the District of the default, requiring that corrective work be performed within thirty (30) days or, if the failure cannot be cured in thirty (30) days, then commenced in thirty (30) days, and diligently pursued to completion. The Town may, in its sole discretion, extend the time period for the corrective work. The Town's receipt of an Annual Maintenance Report shall not limit or otherwise act as a waiver of the Town's right to inspect the Public Improvements and require corrective work as set forth herein. The Town's rights hereunder shall exist regardless of whether the Town Manager requests a modification to the schedule as set forth in Paragraph 4.

7. Town Performance of Maintenance and District Reimbursement Obligation. If the corrective work is not performed or commenced and diligently pursued within the time specified in Paragraph 6 above, the Town may enter the Property and perform the corrective work to bring the applicable Public Improvements to the Maintenance Standard. Upon completion of the work, the Town shall provide written notice of the cost of the corrective work to the District, which may include, at the Town's discretion, the Town's administrative costs in the amount of ten percent (10%) of the cost and the Town's reasonable attorney's fees. The District shall reimburse the Town's costs within thirty (30) days of receipt of the written notice. Notwithstanding the foregoing, if the Town, in its sole discretion, determines that corrective work needs to be immediately performed to protect the public health or safety, the Town may undertake to complete such corrective work without providing notice to the District and shall be entitled to reimbursement for the costs of such work as set forth herein.

8. Imposition and Pledge of Mill Levy.

- a. If the Final Operations and Maintenance Budget anticipates revenue from property taxes, the District shall certify a mill levy in the amount set forth in the Final Operations and Maintenance Budget.
- b. If the District does not reimburse the Town prior to November 1 of the fiscal year in which the Town submits its invoice pursuant to Paragraph 7 above, and the District is unable to pay prior to the end of such fiscal year, then, by November 15 of such fiscal year, the District shall certify a mill levy that is sufficient, however in no event shall such mill levy exceed 20 mills, to fully reimburse the Town for the outstanding costs and for interest at the statutory rate, which shall be paid as soon as possible after the District's receipt of the tax revenue collected as a result of the mill levy. For invoices submitted on or after November 1 of any given year that are not paid pursuant to Paragraph 7 and the District is unable to pay, the District shall certify the mill levy, which mill levy shall not exceed 20 mills, by November 15 of the following fiscal year.
- c. In addition, if the revenue collected in any year that is included in the Final Operations and Maintenance Budget is not collected as budgeted, from either CAM Charges or property taxes, the District shall:

- i. Provide the Town with written notice as to the deficiency in revenue and the District's plan to fund the deficiency; and
- ii. Certify a mill levy that is sufficient to fund such deficiency in the following fiscal year if the deficiency is not funded as provided in the District's plan, however in no event shall the mill levy required to be imposed by this subsection exceed 20 mills minus any mill levy to be imposed to reimburse the Town pursuant to Section 8.a. above.

9. Legal Opinions. On or prior to the seventh day after the Effective Date, the District will deliver an opinion of its counsel addressed to the Town, solely with respect to this Amended and Restated Operations and Maintenance Agreement, which opinion will state in substance that, assuming this Amended and Restated Operations and Maintenance Agreement has been duly authorized, executed and delivered by the Parties hereto, the Amended and Restated Operations and Maintenance Agreement constitutes a valid and binding agreement of the District enforceable according to its terms, subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity. Such opinion may also contain additional exceptions or qualifications as are agreed to in writing by the Town and the District. From time to time, the Town may otherwise request a new opinion from the District's counsel at the Town's cost and expense.

10. Term. This Amended and Restated Operations and Maintenance Agreement shall commence on the date first shown above and, unless sooner terminated by mutual written consent of the Parties pursuant to the process set forth in Section 12, shall continue in perpetuity.

11. Town's Limited Obligations. Nothing in this Amended and Restated Operations and Maintenance Agreement shall be construed to require the Town to inspect, operate, maintain, repair or replace the Public Improvements. The Town's undertaking of any of the District's obligations as set forth in this Amended and Restated Operations and Maintenance Agreement shall not relieve the District from the continuing obligations to inspect, operate, maintain, repair or replace the Public Improvements as set forth in this Amended and Restated Operations and Maintenance Agreement, the Service Plan, the Development and Funding Agreement and as otherwise required.

12. Modification and Amendments. This Amended and Restated Operations and Maintenance Agreement, including but not limited to the Maintenance Standard referenced herein, may only be modified, amended, terminated or superseded in writing by the Parties in an amendment to this Amended and Restated Operations and Maintenance Agreement that is properly approved and executed in accordance with applicable law.

13. Notices. Any notice or communication required under this Amended and Restated Operations and Maintenance Agreement between the Parties must be in writing, and may be given either personally, sent by certified mail, return receipt requested, or delivered by electronic mail. If personally delivered, a notice will be deemed to have been given when delivered to the party to whom it is addressed. If given by certified mail, the same will be deemed to have been given and received on the first to occur of (i) actual receipt by any of the

addressees designated below as the Party to whom notices are to be sent, or (ii) three days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If sent by electronic mail, a notice will be deemed to have been given upon acknowledgement of receipt of the electronic mail by the intended recipient. A Party may, by giving written notice to the other Party, designate additional persons to whom notices or communications shall be given or designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the Town:

Matt LeCerf, Town Manager
Town of Johnstown
450 South Parish Avenue
Johnstown, CO 80534
mlecerf@johnstownco.gov

With a copy to:

Avi Rocklin, Town Attorney
19 Old Town Square, Suite 238
Fort Collins, CO 80524
avi@rocklinlaw.com

and

MaryAnn M. McGeady
Elisabeth A. Cortese
McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
legalnotices@specialdistrictlaw.com

If to the District:

Johnstown Plaza Metropolitan
District
c/o Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
doleary@spencerfane.com

With a copy to:

David O’Leary
Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
doleary@spencerfane.com

14. No Waiver. Delays in enforcement or the waiver of any one or more breaches of this Amended and Restated Operations and Maintenance Agreement shall not constitute a waiver of any of the remaining terms or obligations.

15. Assignment; Binding Effect. This Amended and Restated Operations and Maintenance Agreement shall be binding upon and, except as otherwise provided in this Amended and Restated Operations and Maintenance Agreement, shall inure to the benefit of the Parties’ successors in interest. The District may, subject to the Town’s prior written consent, assign its obligation to inspect, operate, maintain, repair and replace the Public Improvements under this Amended and Restated Operations and Maintenance Agreement. Notwithstanding the foregoing, the District shall remain liable for the obligation to reimburse the Town for the costs

of corrective work as set forth in Paragraph 7 of this Amended and Restated Operations and Maintenance Agreement.

16. No Joint Venture or Partnership. No form of joint venture or partnership exists between the Parties hereto, and nothing contained in this Amended and Restated Operations and Maintenance Agreement will be construed as making the Parties joint venturers or partners.

17. No Third Party Beneficiaries. No person or entity, other than a party to this Amended and Restated Operations and Maintenance Agreement, shall have any right of action under this Amended and Restated Operations and Maintenance Agreement including, but not limited to, lenders, lot buyers and materialmen, laborers or others providing work, services or materials for the Public Improvements.

18. Colorado Governmental Immunity Act. Nothing in this Amended and Restated Operations and Maintenance Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the Town, Town Officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as amended. Nothing in this Amended and Restated Operations and Maintenance Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the District, District Officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as amended.

19. Insurance. District shall, at a minimum, carry insurance in the types and amounts set forth below:

A. District shall acquire and maintain, during the entire term of the Amended and Restated Operations and Maintenance Agreement, statutory workers' compensation insurance coverage, commercial general liability insurance coverage and automobile liability insurance coverage in no less than the amounts set forth in subparagraph D below. Town shall be named as an additional insured on District's commercial general liability insurance and automobile liability insurance. Such additional insured coverage provides defense and indemnity coverage only for actions arising from District's acts, actions, omissions or neglect but shall not provide defense or indemnity coverage for Town's own acts, actions, omissions or neglect or for unproven allegations. Any such policy of insurance obtained to comply with this paragraph shall provide that Town shall receive thirty (30) days written notice prior to the policy's cancellation, non-renewal or modification to any provisions of such policy affecting the insurance coverage requirements under the Amended and Restated Operations and Maintenance Agreement.

B. Prior to commencing any work under the Amended and Restated Operations and Maintenance Agreement, District shall provide Town with a certificate or certificates evidencing the insurance required by this paragraph, as well as the amounts of coverage for the respective types of coverage. If the coverage required under this paragraph expires during the term of the Amended and Restated Operations and Maintenance Agreement,

District shall provide replacement certificate(s) evidencing the continuation of the required policies.

C. If any policy obtained by District is a claims-made policy, the following conditions shall apply: the policy shall provide District the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. District agrees to purchase this extended reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall not be later than the date the Amended and Restated Operations and Maintenance Agreement is signed by the Parties to the Amended and Restated Operations and Maintenance Agreement. If District purchases a subsequent claims-made policy in place of any prior policy, the retroactive date of such subsequent policy shall be no later than the date the Amended and Restated Operations and Maintenance Agreement is signed by the Parties to the Amended and Restated Operations and Maintenance Agreement.

D. District shall acquire and maintain during the entire term of the Amended and Restated Operations and Maintenance Agreement, statutory workers' compensation insurance coverage, comprehensive general liability insurance coverage, and automobile liability insurance coverage in the following amounts:

i. Workers' Compensation Insurance in accordance with applicable law, including employers' liability.

ii. Commercial general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$2,000,000.00 general aggregate. Coverage shall include all major divisions of coverage and be on a comprehensive basis including:

- a. premises operations;
- b. personal injury liability without employment exclusion;
- c. blanket contractual;
- d. broad form property damages;
- e. medical payments; and
- f. independent contractors coverage.

iii. Commercial automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident covering any auto.

iv. All coverages specified above shall waive any right of subrogation against Town and its Council members, officers, agents, and employees; such waiver of subrogation shall apply solely to acts, actions, omissions or neglect of District, and in

no way limits the right of subrogation for acts, actions, omissions or neglect of Town or others. The policies shall state: “Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation in accordance with the terms of the agreement provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder.”

20. District Indemnity. To the extent permitted by law, the District shall defend, indemnify, assume all responsibility for and hold the Town, its Council members, officers, agents, and employees, collectively the “Indemnified Parties” or singularly, each an “Indemnified Party”) harmless, including without limitation, for attorney’s fees and costs, from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the District’s activities undertaken pursuant to this Amended and Restated Operations and Maintenance Agreement.

A. If any claim relating to the matters indemnified against pursuant to this Amended and Restated Operations and Maintenance Agreement is asserted against an Indemnified Party that may result in any damage for which any Indemnified Party is entitled to indemnification under this Amended and Restated Operations and Maintenance Agreement, then the Indemnified Party shall promptly give notice of such claim to the District.

B. Upon receipt of such notice, the District shall have the right to undertake, by counsel or representatives of its own choosing, the good faith defense, compromise or settlement of the claim, such defense, compromise or settlement to be undertaken on behalf of the Indemnified Party.

C. The Indemnified Party shall cooperate with the District in such defense at the District’s expense and provide the District with all information and assistance reasonably necessary to permit the District to settle and/or defend any such claim.

D. The Indemnified Party may, but shall not be obligated to, participate at its own expense in a defense of the claim by counsel of its own choosing, but the District shall be entitled to control the defense unless the Indemnified Party has relieved the District from liability with respect to the particular matter.

E. If the District elects to undertake such defense by its own counsel or representatives, the District shall give notice of such election to the Indemnified Party within ten (10) days after receiving notice of the claim from the Indemnified Party.

F. If the District does not so elect or fails to act within such period of ten (10) days, the Indemnified Party may, but shall not be obligated to, undertake the sole defense thereof by counsel or other representatives designated by it, such defense to be at the expense of the District.

G. The assumption of such sole defense by the Indemnified Party shall in no way affect the indemnification obligations of the District.

21. Mediation. If a dispute arises under this Amended and Restated Operations and Maintenance Agreement that the Parties are not able to mutually resolve, prior to commencing

litigation, the non-breaching Party shall first submit the matter to mediation conducted by a neutral mediator. The Parties shall attempt to agree upon a mediator and shall endeavor to find a mediator having experience in construction-related matters. If the Parties are unable to agree upon a mediator, either Party may apply to the Judicial Arbitrator Group in Denver, Colorado, for appointment of a mediator. The cost of the mediation shall be shared equally by the Parties.

22. Governing Law and Venue. This Amended and Restated Operations and Maintenance Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado and Municipal Code of the Town of Johnstown. Venue for any claim, proceeding or action arising out of this Amended and Restated Operations and Maintenance Agreement shall be in Larimer or Weld County, Colorado.

23. Severability. If any term, provision, covenant or condition of this Amended and Restated Operations and Maintenance Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Amended and Restated Operations and Maintenance Agreement shall continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining or substantially deprive such Party of the benefit of its bargain under this Amended and Restated Operations and Maintenance Agreement. The Parties shall cooperate in reforming this Amended and Restated Operations and Maintenance Agreement to the extent required to most fully effect the intent of any such invalid, void or unenforceable term, provision, covenant or condition.

24. Costs and Attorneys' Fees. If the District breaches this Amended and Restated Operations and Maintenance Agreement, the District shall pay the Town's reasonable costs and expenses, including attorney's fees, incurred in the enforcement of the terms, conditions and obligations of this Amended and Restated Operations and Maintenance Agreement.

25. Entire Agreement. This Amended and Restated Operations and Maintenance Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements or understandings, except that this Amended and Restated Operations and Maintenance Agreement does not supersede, amend or replace the First Amendment to Public ROW Agreement.

26. No Presumption. Each party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Amended and Restated Operations and Maintenance Agreement and with respect to all matters set forth herein. In the event of any dispute, disagreement or controversy arising from this Amended and Restated Operations and Maintenance Agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any party because of authorship.

27. Findings. The Town hereby finds and determines that execution of this Amended and Restated Operations and Maintenance Agreement is in the best interests of the public health, safety and general welfare of the citizens of the Town and the provisions of this Amended and Restated Operations and Maintenance Agreement are consistent with the Comprehensive Plan and development laws, regulations and policies of the Town. The District Board finds that this

Amended and Restated Operations and Maintenance Agreement is in the best interests of the District.

28. Further Assurances. Each Party shall execute and deliver to the others all such other further instruments and documents as may be reasonably necessary or requested by another Party to confirm or clarify the intent of the provisions of this Amended and Restated Operations and Maintenance Agreement, and to carry out and effectuate this Amended and Restated Operations and Maintenance Agreement in order to provide and secure to the other Parties the full and complete enjoyment of their rights and privileges under this Amended and Restated Operations and Maintenance Agreement.

29. Authority. The signatories to this Amended and Restated Operations and Maintenance Agreement affirm and warrant that they are fully authorized to enter into and execute this Amended and Restated Operations and Maintenance Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Amended and Restated Operations and Maintenance Agreement have been made.

30. Compliance with the Law. The District shall comply with all federal, state and local laws and regulations in the performance of the obligations under this Amended and Restated Operations and Maintenance Agreement.

31. Headings. The paragraph headings herein are for the convenience and reference of the Parties and are not intended to define or limit the scope or intent of this Amended and Restated Operations and Maintenance Agreement.

32. Counterparts. This Amended and Restated Operations and Maintenance Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Amended and Restated Operations and Maintenance Agreement as of the set forth above.

[The Remainder of this Page Intentionally Left Blank]

JOHNSTOWN PLAZA METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the state of Colorado

Date: _____

By: _____
Its President

ATTEST:

Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Amended and Restated Operations and Maintenance Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado was acknowledged before me this ___ day of _____ 2024, by _____ as President and _____ as Secretary of JOHNSTOWN PLAZA METROPOLITAN DISTRICT, a quasi-municipal corporation of the state of Colorado.

Witness my hand and official seal.

My commission expires: _____

Notary Public

THE TOWN OF JOHNSTOWN
a home-rule municipality of the County of Weld,
State of Colorado

Date: _____

By: _____
Troy D. Mellon, Mayor

ATTEST:

Hannah Hill, Town Clerk

**DISTRICT/DEVELOPER OPERATIONS
AND MAINTENANCE AGREEMENT
FOR
JOHNSTOWN PLAZA
JOHNSTOWN, COLORADO**

THIS DISTRICT/DEVELOPER OPERATIONS AND MAINTENANCE AGREEMENT FOR JOHNSTOWN PLAZA, JOHNSTOWN, COLORADO (“Agreement”) is made and entered into as of the Effective Date by and between **JOHNSTOWN PLAZA METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the state of Colorado (“**District**”) and **JOHNSTOWN PLAZA, LLC**, a Kansas limited liability company (“**Developer**”) (collectively, the “**Parties**”).

RECITALS

WHEREAS, Developer is the owner and Developer of the destination retail shopping center known as Johnstown Plaza in the District and the Town of Johnstown, a home-rule municipality of the Counties of Larimer and Weld, State of Colorado (“**Town**”) containing many square feet of new retail uses on the property (“**Project**”); and

WHEREAS, the District was formed pursuant to the applicable provisions of the Colorado Special District Act by Court Order in Larimer County, District Court, Case No. 15 CV 030779 and is subject to the service plan approved by the Town of Johnstown Town Council by resolution on September 21, 2015 as the same may be modified from time to time (“**Service Plan**”); and

WHEREAS, the District is authorized to finance, design, plan, construct, install, complete, operate and maintain public improvements related to and necessitated by the Project; and

WHEREAS, the Service Plan contemplates that the District and the Town execute an operations and maintenance intergovernmental agreement defining the duties and obligations of the District to operate, maintain, repair and replace the public improvements, authorizing the Town to undertake the unfulfilled duties of the District at the District’s expense and providing the Town with access for such undertakings and confirming the District’s authority to raise revenue to pay for such activities by, among other legally available means, compelling the District to impose a mill levy to reimburse the Town for any reasonable costs incurred in the event the Town undertakes the unfulfilled duties of the District; and

WHEREAS, the Parties, together with the Town also entered into a Comprehensive Development Agreement, Funding Plan and Intergovernmental Agreement for Johnstown Plaza, Johnstown, Colorado (“**Development and Funding Agreement**”), which provides that the Town and the District enter into an operations and maintenance intergovernmental agreement requiring, among other matters, that the District operate and maintain the public improvements in a condition comparable to the initial installation plans and specifications approved by the Town, authorizing the Town to enter the public spaces to provide repair, maintenance or replacement of

the public improvements in the event the District is in breach of its obligations and compelling the District to impose a mill levy to fund the reimbursement of the Town for costs incurred; and

WHEREAS, the District and the Town have entered into that certain Amended and Restated Operations and Maintenance Agreement dated of even date herewith (the “**Amended and Restated Operations and Maintenance Agreement**”); and

WHEREAS, the Amended and Restated Operations and Maintenance Agreement provides that the District may contract with the Developer for the funding and operations and maintenance of the Public Improvements to the Maintenance Standard, as defined in the Amended and Restated Operations and Maintenance Agreement (the “**Maintenance Standard**”).

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The Recitals set forth above are incorporated herein by reference.
2. Definitions. For purposes of this Amended and Restated Agreement, the following terms have the meanings indicated below and in the Recitals:
 - A. Annual Maintenance Report. As defined in Paragraph 4 below.
 - B. CAM. Means the cost of common area maintenance services provided by the Developer.
 - C. CAM Charges. Means the amount of the CAM that is required to be paid to the Developer by every tenant and property owner in the Property.
 - D. District Streets. The streets that will be constructed as a part of the Public Improvements that will not be dedicated to the Town.
 - E. Draft Operations and Maintenance Budget. The draft operations and maintenance budget for the District for the upcoming year, to be submitted to the Town on an annual basis, including all proposed expenditures and revenue sources for the payment of all expenditures to operate and maintain the Public Improvements to the Maintenance Standard. The Draft Operations and Maintenance Budget will also include the budgeted and actual revenues and expenditures from the previous year and the budgeted and estimated year end revenues and expenditures for the current year.
 - F. Effective Date. March 18, 2024.
 - G. Final Operations and Maintenance Budget. The operations and maintenance budget adopted by the District for the upcoming year, to be submitted to the Town on an annual basis, including all proposed expenditures and revenue sources for the payment of

all expenditures to operate and maintain the Public Improvements to the Maintenance Standard. The Final Operations and Maintenance Budget will also include the budgeted and actual revenues and expenditures from the previous year and the budgeted and estimated year end revenues and expenditures for the current year.

A. Maintenance Standard. Maintaining the Public Improvements in first-class condition to a level equivalent to the initial installation plans and specifications approved by the Town. The Maintenance Standard includes, in addition to maintenance of the Public Improvements, the requirement that the District ensure the Public Landscaping is consistently maintained to a high quality, to include, but not be limited to, regular grass cutting, tree trimming and seasonal flower planting.

B. Pedestrian Walkways and Trails. The sidewalks, walkways and trails constructed or, as appropriate, installed as a part of the Public Improvements that have not been dedicated to the Town.

C. Property. The property known as Johnstown Plaza within the boundaries of the District.

D. Public Art. The Art located in Public Spaces that has been acquired and installed as a part of the Public Improvements that have not be dedicated to the Town.

E. Public Improvements. The improvements owned and maintained by the District, including but not limited to Public Spaces, the Public Art, the Public Plazas, the Public Parking Facilities, the Pedestrian Walkways and Trails, District Streets and the Public Landscaping.

F. Public Landscaping. The landscaping constructed or, as appropriate, installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

G. Public Parking Facilities. The parking lots and structures constructed or installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

H. Public Plazas. The plazas constructed or installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

I. Public Spaces. The property upon which the Public Art, Public Parking Facilities, Public Plazas, Public Streets and Pedestrian Walkways and Trails are located.

3. Operation and Maintenance of Public Improvements. The Developer acknowledges the obligation of the District under the Amended and Restated Operations and Maintenance Agreement to operate and maintain the Public Improvements to the Maintenance Standard. The Developer agrees to operate and maintain the Public Improvements to the Maintenance Standard or cause it to be done, as set forth in this Agreement and as required under the Amended and Restated Operations and Maintenance Agreement.

4. Annual Maintenance Report. The Developer acknowledges the obligation of the District to provide the Town with an Annual Maintenance Report under the terms of the Amended and Restated Operations and Maintenance Agreement and agrees to provide the District with the information required to assure the timely and comprehensive preparation and delivery of the required Annual Maintenance Report and any revisions that are required to address or conform to the Town's recommendations and requirements provided in response to the submitted Annual Maintenance Report.

5. Annual Budget and Appropriations. The Developer acknowledges the District's responsibility under the terms of the Amended and Restated Operations and Maintenance Agreement to prepare and annually submit a Draft Operations and Maintenance Budget and a Final Operations and Maintenance Budget to budget and appropriate sufficient funds to operate and maintain the Public Improvements to the Maintenance Standard. The Developer will provide the District with the information needed regarding the expenses related to the costs of operation and maintenance of the Public Improvements to the Maintenance Standard and the anticipated CAM Charges to be received for inclusion in the Draft Operations and Maintenance Budget and the Final Operations and Maintenance Budget.

6. CAM Charges.

- a. The Developer will impose, collect and spend the CAM Charges on the operation and maintenance of the Public Improvements as presented in the Final Operations and Maintenance Budget.
- b. If the amount actually collected in any fiscal year is less than what was budgeted, the Developer will provide the District with information regarding the revenues received and expended on the operations and maintenance of the Public Improvements to be used by the District in formulating a plan to address the deficiency to be submitted to the Town as required by the Amended and Restated Operations and Maintenance Agreement.

7. Legal Opinions. On or prior to the seventh day after the Effective Date, Developer will deliver an opinion of its counsel addressed to the District and the Town, solely with respect to this Agreement, which opinion will state in substance that, assuming this Agreement has been duly authorized, executed and delivered by the Parties hereto, the Agreement constitutes a valid and binding agreement of the Developer enforceable according to its terms, subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity. Such opinion may also contain additional exceptions or qualifications as are agreed to in writing by the Town and the District. From time to time, the District or the Town may request a new opinion from the Developer's counsel at such requesting party's cost and expense.

8. Term. This Agreement shall commence on the date first shown above and may be terminated by either the Developer or the District by the provision of no less than ninety (90) days prior written notice by the terminating party to the non-terminating Party. Provided, however, understanding the District will not have any funds from property taxes until the tax

collection cycle following the year of termination, no termination will be effective unless and until the District has received from the Developer a payment equal to the amount of CAM Charges in the District's Final Operations and Maintenance Budget for payment of operating and maintaining the Public Improvements to the Maintenance Standard in the year in which the termination notice is provided plus the amount of CAM Charges required to continue such operation and maintenance through May 1 of the following year.

9. Modification and Amendments. This Agreement, including but not limited to the Maintenance Standard referenced herein, may only be modified, amended, terminated or superseded in writing by the Parties, in an amendment to this Agreement that has been previously approved in writing by the Town, and properly approved and executed by the Parties, in accordance with applicable law.

10. Notices. Any notice or communication required under this Agreement must be in writing, and may be given either personally, sent by certified mail, return receipt requested or delivered by electronic mail. If personally delivered, a notice will be deemed to have been given when delivered to the party to whom it is addressed. If given by certified mail, the same will be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) three days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If sent by electronic mail, a notice will be deemed to have been given upon acknowledgement of receipt of the electronic mail by the intended recipient. A party may, by giving written notice to the other party, designate additional persons to whom notices or communications shall be given or designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to the Town:

Matt LeCerf, Town Manager
Town of Johnstown
450 South Parish Avenue
Johnstown, CO 80534
mlecerf@johnstownco.gov

With a copy to:

Avi Rocklin, Town Attorney
19 Old Town Square, Suite 238
Fort Collins, CO 80524
avi@rocklinlaw.com

and

MaryAnn M. McGeady
Elisabeth A. Cortese
McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
legalnotices@specialdistrictlaw.com

If to the District:

Johnstown Plaza Metropolitan
District
c/o Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
doleary@spencerfane.com

With a copy to:

David O'Leary
Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
doleary@spencerfane.com

If to the Developer:

Johnstown Plaza, LLC
c/o Michael Schlup
13725 Metcalf Ave.
Overland Park, KS 66223
mikeschlup@corbinparkop.com

With a copy to:

Allen D. Schlup, Esq.
A.D. Schlup Law, LLC
10950 W. 192nd PL.
Spring Hill, KS 66083
allen.schlup@adschluplaw.com

11. No Waiver. Delays in enforcement or the waiver of any one or more breaches of this Agreement shall not constitute a waiver of any of the remaining terms or obligations.

12. Assignment; Binding Effect. This Agreement shall not be assignable by the Developer without the prior written consent of the District and the Town and any attempted assignment without the District's and the Town's prior written consent will be void and without effect. The Developer may contract with other entities to cause the operation and maintenance of the Public Improvements to the Maintenance Standard so long as thirty (30) days prior written notice of the entity contracting to cause the operation and maintenance of the Public Improvements is provided to the District and the Town together with a copy of the contract.

13. No Joint Venture or Partnership. No form of joint venture or partnership exists between the Parties hereto, and nothing contained in this Agreement will be construed as making the Parties joint venturers or partners.

14. Town is a Third Party Beneficiary and There Are No Other Third Party Beneficiaries. The District and the Developer acknowledge that the Town is a third party beneficiary of the representations, warranties and covenants set forth in this Agreement and is entitled to notice if notice is to be provided to a Party under this Agreement and is entitled to enforce the terms of this Agreement as if it were an original party hereto. No person or entity, other than a Party to this Agreement and the Town, shall have any right of action under this Agreement including, but not limited to, lenders, lot buyers and materialmen, laborers or others providing work, services or materials for the Public Improvements. In its capacity as a third party beneficiary the Town has:

- a. No obligation to assert the rights of the District under this Agreement and its assertion of any or all of the rights of the District under this Agreement or its failure to assert any or all of the rights of the District under this Agreement shall not constitute a waiver or any of the District's obligations under the Amended and Restated Operations and Maintenance Agreement.

- b. No obligation to inspect, operate, maintain, repair or replace the Public Improvements. The Town's undertaking of any of the District's obligations as set forth in the Amended and Restated Operations and Maintenance Agreement shall not relieve the Developer from the continuing obligations to inspect, operate, maintain, repair or replace the Public Improvements as set forth in this Agreement.
- c. The right to enforce the obligation of the Developer to make payment of CAM Charges anticipated to be paid as set forth in a Final Operations and Maintenance Budget delivered to the Town under this Agreement.

15. Colorado Governmental Immunity Act.

- a. Nothing in this Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the District, District Board of Directors or Officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as amended.
- b. Nothing in this Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the Town, Town Officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as amended.

16. Insurance. Developer shall, at a minimum, carry insurance in the types and amounts set forth below:

- a. Developer shall acquire and maintain, during the entire term of the Agreement, statutory workers' compensation insurance coverage, commercial general liability insurance coverage and automobile liability insurance coverage in no less than the amounts set forth in subparagraph D below. The District and the Town shall be named as an additional insured on Developer's commercial general liability insurance and automobile liability insurance. Such additional insured coverage provides defense and indemnity coverage only for actions arising from Developer's acts, actions, omissions or neglect but shall not provide defense or indemnity coverage for either the District or the Town's own acts, actions, omissions or neglect or for unproven allegations. Any such policy of insurance obtained to comply with this paragraph shall provide that the District and the Town shall receive thirty (30) days written notice prior to the policy's cancellation, non-renewal or modification to any provisions of such policy affecting the insurance coverage requirements under the Agreement.

- b. Prior to commencing any work under the Agreement, Developer shall provide Town with a certificate or certificates evidencing the insurance required by this paragraph, as well as the amounts of coverage for the respective types of coverage. If the coverage required under this paragraph expires during the term of the Agreement, Developer shall provide replacement certificate(s) evidencing the continuation of the required policies.
- c. If any policy obtained by Developer is a claims-made policy, the following conditions shall apply: the policy shall provide Developer the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. Developer agrees to purchase this extended reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall not be later than the date the Agreement is signed by the parties to the Agreement. If Developer purchases a subsequent claims-made policy in place of any prior policy, the retroactive date of such subsequent policy shall be no later than the date the Agreement is signed by the parties to the Agreement.
- d. Developer shall acquire and maintain during the entire term of the Agreement, statutory workers' compensation insurance coverage, comprehensive general liability insurance coverage, and automobile liability insurance coverage in the following amounts:
 - i. Workers' Compensation Insurance in accordance with applicable law, including employers' liability.
 - ii. Commercial general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$2,000,000.00 general aggregate. Coverage shall include all major divisions of coverage and be on a comprehensive basis including:
 - a. premises operations;
 - b. personal injury liability without employment exclusion;
 - c. blanket contractual;
 - d. broad form property damages;
 - e. medical payments;
 - f. Independent contractor's coverage.
 - iii. Commercial automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident covering any auto.

- iv. All coverages specified above shall waive any right of subrogation against the District and Town and their respective Board of Directors and Council members, officers, agents, and employees; such waiver of subrogation shall apply solely to acts, actions, omissions or neglect of Developer, and in no way limits the right of subrogation for acts, actions, omissions or neglect of Town, the District or others. The policies shall state: “Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation in accordance with the terms of the agreement provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder.”

17. Developer Indemnity. The Developer will defend the District and the Town and the Developer shall defend, indemnify, assume all responsibility for and hold the District and the Town, and their respective Board and Council members, officers, agents, and employees, collectively the “**Indemnified Parties**” or singularly, each an “**Indemnified Party**”) harmless, including without limitation, for attorney’s fees and costs, from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the Developer’s activities undertaken pursuant to this Agreement.

- a. If any claim relating to the matters indemnified against pursuant to this Agreement is asserted against an Indemnified Party that may result in any damage for which any Indemnified Party is entitled to indemnification under this Agreement, then the Indemnified Party shall promptly give notice of such claim to the Developer.
- b. Upon receipt of such notice, the Developer shall have the right to undertake, by counsel or representatives of its own choosing, the good faith defense, compromise or settlement of the claim, such defense, compromise or settlement to be undertaken on behalf of the Indemnified Party.
- c. The Indemnified Party shall cooperate with the Developer in such defense at the Developer’s expense and provide the Developer with all information and assistance reasonably necessary to permit the Developer to settle and/or defend any such claim.
- d. The Indemnified Party may, but shall not be obligated to, participate at its own expense in a defense of the claim by counsel of its own choosing, but the Developer shall be entitled to control the defense unless the Indemnified Party has relieved the Developer from liability with respect to the particular matter.
- e. If the Developer elects to undertake such defense by its own counsel or representatives, the District shall give notice of such election to the Indemnified Party within ten (10) days after receiving notice of the claim from the Indemnified Party.

- f. If the Developer does not so elect or fails to act within such period of ten (10) days, the Indemnified Party may, but shall not be obligated to, undertake the sole defense thereof by counsel or other representatives designated by it, such defense to be at the expense of the Developer.
- g. The assumption of such sole defense by the Indemnified Party shall in no way affect the indemnification obligations of the Developer.

18. Mediation.

- a. If a dispute arises under this Agreement that the Parties and the Town are not able to mutually resolve, prior to commencing litigation, the non-breaching Party shall first submit the matter to mediation conducted by a neutral mediator. The Parties and the Town shall attempt to agree upon a mediator and shall endeavor to find a mediator having experience in construction-related matters. If the Parties and the Town are unable to agree upon a mediator, either Party or the Town may apply to the Judicial Arbitrator Group in Denver, Colorado, for appointment of a mediator. The cost of the mediation shall be shared equally by the Parties.
- b. If a dispute arises under the Amended and Restated Operations and Maintenance Agreement between the District and the Town, that the District and the Town are not able to mutually resolve, prior to commencing litigation, the District shall first submit the matter to mediation conducted by a neutral mediator and the Developer agrees to participate in the mediation to address issues relevant to the Developer's responsibilities under this Agreement and the dispute. The Developer acknowledges that the District and the Town will determine who the mediator is pursuant to the provisions of the Amended and Restated Operations and Maintenance Agreement. The Developer will share in the District's cost of the mediation required to be paid under the Amended and Restated Operations and Maintenance Agreement, including but not limited to the District's share of the Town's costs under the Mediation, if determined to be payable by the District by the Mediator.

19. Governing Law and Venue. This Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado and Municipal Code of the Town of Johnstown. Venue for any claim, proceeding or action arising out of this Agreement shall be in Larimer or Weld County, Colorado.

20. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining or substantially deprive such Party of the benefit of its bargain under this Agreement. The Parties shall cooperate in reforming this Agreement to the extent required to most fully effect the intent of any such invalid, void or unenforceable term, provision, covenant or condition.

21. Costs and Attorneys' Fees. If the Developer breaches this Agreement, the Developer shall pay the District's reasonable costs and expenses, including attorney's fees, incurred in the enforcement of the terms, conditions and obligations of this Agreement and the District's and the Town's reasonable costs and expenses, including attorneys fees, in enforcing the District's compliance with the District's responsibilities under the Amended and Restated Operations and Maintenance Agreement.

22. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements or understandings.

23. No Presumption. Each party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Agreement and with respect to all matters set forth herein. In the event of any dispute, disagreement or controversy arising from this Agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any party because of authorship.

24. Findings. The District hereby finds and determines that execution of this Agreement is in the best interests of the property owners and taxpayers of the District.

25. Further Assurances. Each Party shall execute and deliver to the others all such other further instruments and documents as may be reasonably necessary or requested by another Party to confirm or clarify the intent of the provisions of this Agreement, and to carry out and effectuate this Agreement in order to provide and secure to the other Parties the full and complete enjoyment of their rights and privileges under this Agreement.

26. Authority. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

27. Compliance with the Law. The Developer shall comply with all federal, state and local laws and regulations in the performance of the obligations under this Agreement.

28. Headings. The paragraph headings herein are for the convenience and reference of the Parties and are not intended to define or limit the scope or intent of this Agreement.

29. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the set forth above.

[The Remainder of this Page Intentionally Left Blank]

JOHNSTOWN PLAZA METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the state of Colorado

Date: _____

By: _____
Its President

ATTEST:

Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing District/Developer Operations and Maintenance for Johnstown Plaza, Johnstown, Colorado was acknowledged before me this ___ day of _____ 2024, by _____ as President and _____ as Secretary of JOHNSTOWN PLAZA METROPOLITAN DISTRICT, a quasi-municipal corporation of the state of Colorado.

Witness my hand and official seal.

My commission expires: _____

Notary Public

JOHNSTOWN PLAZA, LLC, a Kansas
limited liability company

By: _____
Managing Member

Date: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing District/Developer Operations and Maintenance Agreement was acknowledged before me this ____ day of _____, 2024, by _____, as _____ of Johnstown Plaza, LLC, a Kansas limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

THIRD PARTY BENEFICIARY:

THE TOWN OF JOHNSTOWN
a home-rule municipality of the County of Weld,
State of Colorado

Date: _____

By: _____
Troy D. Mellon, Mayor

ATTEST:

Hannah Hill, Town Clerk



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

TOWN COUNCIL AGENDA COMMUNICATIONS

- AGENDA DATE:** March 18, 2024
- SUBJECT:** Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado and District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado
- ACTION PROPOSED:** Consider (1) Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado and (2) District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado
- ATTACHMENTS:**
1. Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado
 2. District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado
- PRESENTED BY:** Town Attorney, Avi Rocklin, and Special Counsel, MaryAnn McGeady of McGeady Becher P.C.
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AGENDA ITEM DESCRIPTION: For consideration is the Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado (“Amended and Restated Agreement”) by and between the Town and the Ledge Rock Center Commercial Metropolitan District, a quasi-municipal corporation and political subdivision of the state of Colorado (“District”). If approved, for subsequent consideration is the District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado (“District/Developer Agreement”), by and between the District and the Ledge Rock Center Commercial, LLC, a Kansas liability company (“Developer”), whereby the Town would sign as a third-party beneficiary only.

On or about June 6, 2022, the Town and the District entered into that certain Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado (“Original Agreement”), concerning the District’s obligation to operate and maintain the public improvements in the Ledge Rock Center Commercial development. The District desires to restructure the contractual obligation and contract with the Developer to operate and maintain the public improvements. The Developer anticipates obtaining funding for the improvements from the common area maintenance charges paid by the Developer’s tenants. To recognize the restructured process, Town staff is proposing that the Town Council consider the Amended and Restated Agreement. If approved, the District and Developer would thereafter enter into a separate agreement, the District/Developer Agreement, whereby the Developer would be obligated to undertake the operations and maintenance obligations.

The proposed Amended and Restated Agreement is similar to the Original Agreement in many respects. The District would still be required to ensure the proper operation and maintenance of the public improvements and would still be required to provide an annual maintenance report to the Town on or before April 1 of each year. In addition to the obligations set forth in the Original Agreement, the District would be required to provide an operations and maintenance budget to the Town on or before September 15 of each year and the Town would have thirty (30) days thereafter to review and provide comments regarding the status of the maintenance of the public improvements and the amount or source of the anticipated revenue to fund the operations and maintenance obligations.

The District/Developer Agreement recognizes that the District is contracting with the Developer to operate and maintain the public improvements and that the Developer is required to impose and collect common area maintenance charges from tenants to obtain funding for such obligations. The Town is not a party to that agreement but would sign as a third-party beneficiary, providing the Town with the right to enforce the obligations.

STRATEGIC PLAN ALIGNMENT:

- Healthy & Resilient Economy
 - *Drive projects and initiatives that promote Johnstown as a premier destination for business*
 - *Support the local labor market and work with partners to grow diverse employment opportunities*
- Quality Infrastructure & Facilities
 - *Establish and maintain levels of service*

LEGAL ADVICE:

The Town’s Special Counsel, with review by the Town Attorney, prepared the Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado and the District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado.

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado and District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado.

SUGGESTED MOTIONS:

For Approval: I move to approve Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado, and the District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado, and authorize the Mayor to sign the agreements.

For Denial: I move to deny approval of the Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center Commercial, Johnstown, Colorado, and the District/Developer Operations and Maintenance Agreement for Ledge Rock Center Commercial, Johnstown, Colorado.

Reviewed and Approved for Presentation,



Town Manager

AMENDED AND RESTATED OPERATIONS AND MAINTENANCE
INTERGOVERNMENTAL AGREEMENT
FOR
LEDGE ROCK CENTER COMMERCIAL
JOHNSTOWN, COLORADO

THIS AMENDED AND RESTATED OPERATIONS AND MAINTENANCE INTERGOVERNMENTAL AGREEMENT FOR LEDGE ROCK CENTER COMMERCIAL, JOHNSTOWN, COLORADO (“**Amended and Restated Operations and Maintenance Agreement**”) is made and entered into on or about June 6, 2022 by and between THE TOWN OF JOHNSTOWN, COLORADO, a home-rule municipality of the Counties of Larimer and Weld, State of Colorado (“**Town**”), and LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the state of Colorado (“**District**”) (collectively, the “**Parties**”).

RECITALS

WHEREAS, Ledge Rock Center, LLC, a Kansas limited liability company (“**Developer**”) is the owner and Developer of the destination retail shopping center known as Ledge Rock Center in the District and in the Town containing many square feet of new retail uses on the property (“**Project**”);

WHEREAS, the District was formed pursuant to the applicable provisions of the Colorado Special District Act by Court Order in Weld County, District Court, Case No. 2021CV30566 and is subject to the service plan approved by the Town of Johnstown Town Council by resolution on September 8, 2021 as the same may be modified from time to time (“**Service Plan**”);

WHEREAS, the District is authorized to finance, design, plan, construct, install, complete, operate and maintain public improvements related to and necessitated by the Project;

WHEREAS, the Service Plan contemplates that the Parties execute an operations and maintenance intergovernmental agreement defining the duties and obligations of the District to operate, maintain, repair and replace the public improvements, authorizing the Town to undertake the unfulfilled duties of the District at the District’s expense and providing the Town with access for such undertakings and confirming the District’s authority to raise revenue to pay for such activities by, among other legally available means, compelling the District to impose a mill levy to reimburse the Town for any reasonable costs incurred in the event the Town undertakes the unfulfilled duties of the District;

WHEREAS, the Parties together with the Developer also entered into a Comprehensive Development Agreement, Funding Plan and Intergovernmental Agreement for Ledge Rock Center, Johnstown, Colorado (“**Development and Funding Agreement**”), which provides that the Town and the District enter into an operations and maintenance intergovernmental agreement requiring, among other matters, that the District operate and maintain the public improvements in a condition comparable to the initial installation plans and specifications approved by the Town, authorizing the Town to enter the public spaces to provide repair, maintenance or replacement of

the public improvements in the event the District is in breach of its obligations and compelling the District to impose a mill levy and to pledge PILOT Payment General Fund Revenues to fund the reimbursement of the Town for costs incurred;

WHEREAS, at the election held on November 3, 2015, the District presented the following Ballot Issues B and CC to its eligible electors:

SHALL LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT TAXES BE INCREASED \$10,000,000 ANNUALLY, COMMENCING IN 2021, OR BY SUCH GREATER OR LESSER ANNUAL AMOUNT AS MAY BE DERIVED FROM AN AD VALOREM MILL LEVY NOT IN EXCESS OF 25 MILLS ANNUALLY (PROVIDED THAT SUCH MAXIMUM MILL LEVY SHALL BE ADJUSTED UP OR DOWN TO ACCOUNT FOR CHANGES IN LAW OR THE METHOD BY WHICH ASSESSED VALUATION IS CALCULATED OCCURRING AFTER 2021, SO THAT TO THE EXTENT POSSIBLE, THE ACTUAL TAX REVENUES GENERATED BY THE MILL LEVY, AS ADJUSTED, ARE NEITHER DIMINISHED NOR ENHANCED AS A RESULT OF SUCH CHANGES), THE REVENUES THEREFROM TO BE USED FOR THE PURPOSE OF PAYING THE DISTRICT'S OPERATIONS, MAINTENANCE, AND OTHER EXPENSES; AND SHALL THE PROCEEDS OF SUCH TAXES AND INVESTMENT INCOME THEREON BE COLLECTED AND SPENT BY THE DISTRICT AS A VOTER-APPROVED REVENUE CHANGE IN 2021 AND IN EACH YEAR THEREAFTER, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, OR SECTION 29-1-301, COLORADO REVISED STATUTES, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE DISTRICT?

SHALL LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT BE AUTHORIZED TO ENTER INTO ONE OR MORE MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS EVIDENCED BY AN INTERGOVERNMENTAL AGREEMENT OR AGREEMENTS CONCERNING THE PROVISION OF PUBLIC IMPROVEMENTS WITH A REGIONAL AUTHORITY, THE TOWN OF JOHNSTOWN, COLORADO OR ONE OR MORE OTHER GOVERNMENTAL UNITS OR GOVERNMENTALLY-OWNED ENTERPRISES, CONTAINING SUCH TERMS AND CONDITIONS AS THE BOARD OF DIRECTORS OF THE DISTRICT MAY DETERMINE TO BE NECESSARY AND APPROPRIATE AND PROVIDING FOR PAYMENTS BY THE DISTRICT IN AN AGGREGATE AMOUNT NOT TO EXCEED \$173,785,200 OF TAX REVENUES DERIVED FROM AN AD VALOREM MILL LEVY IMPOSED BY THE DISTRICT ON ALL TAXABLE PROPERTY?

WHEREAS, Ballot Issues B and CC were approved by the eligible electors and, among other matters, authorize the District to impose a mill levy for the District’s operations and maintenance expenses and authorize the multiple fiscal year obligations of the District set forth in this Amended and Restated Operations and Maintenance Agreement;

WHEREAS, the Parties entered into that certain Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center, Johnstown, Colorado, on or about June 6, 2022 (the “**Original Agreement**”).

WHEREAS, the Parties have determined to modify the terms of the Original Agreement pursuant to which the District will perform its operations and maintenance duties and how it will communicate with the Town regarding such performance; and

WHEREAS, the Parties desire to set forth these modifications in this Amended and Restated Operations and Maintenance Agreement: and

WHEREAS, pursuant to C.R.S. § 29-1-203, the Parties are authorized to enter into cooperative agreements and contracts for certain specified purposes, and intend that this Amended and Restated Operations and Maintenance Agreement constitute such an intergovernmental agreement with respect to the operation and maintenance of the public improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Amended and Restated Operations and Maintenance Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The Recitals set forth above are incorporated herein by reference.
2. Definitions. For purposes of this Amended and Restated Operations and Maintenance Agreement, the following terms have the meanings indicated below and in the Recitals:
 - A. Annual Maintenance Report. As defined in Paragraph 4 below.
 - B. CAM. Means the cost of common area maintenance services provided by the Developer.
 - C. CAM Charges. Means the amount of the CAM that is required to be paid to the Developer by every tenant and property owner in the Property.
 - D. District/Developer Operations and Maintenance Agreement. That certain District/Developer Operations and Maintenance Agreement for Ledge Rock Center, Johnstown, Colorado between the District and the Developer dated as of March 18, 2024, pursuant to which the Developer has agreed to provide, or cause to be provided the maintenance of the Public

Improvements to the Maintenance Standard and to fund this maintenance from revenues received from CAM Charges.

E. District Streets. The streets that will be constructed as a part of the Public Improvements that will not be dedicated to the Town.

F. Draft Operations and Maintenance Budget. The draft operations and maintenance budget for the District for the upcoming year, to be submitted to the Town on an annual basis, including all proposed expenditures and revenue sources for the payment of all expenditures to operate and maintain the Public Improvements to the Maintenance Standard. The Draft Operations and Maintenance Budget will also include the budgeted and actual revenues and expenditures from the previous year and the budgeted and estimated year end revenues and expenditures for the current year.

G. Effective Date. The date that this Amended and Restated Operations and Maintenance Agreement is fully executed by all the Parties, which shall be the date the Amended and Restated Operations and Maintenance Agreement is executed by the Town.

H. Final Operations and Maintenance Budget. The operations and maintenance budget adopted by the District for the upcoming year, to be submitted to the Town on an annual basis, including all proposed expenditures and revenue sources for the payment of all expenditures to operate and maintain the Public Improvements to the Maintenance Standard. The Final Operations and Maintenance Budget will also include the budgeted and actual revenues and expenditures from the previous year and the budgeted and estimated year end revenues and expenditures for the current year.

I. Maintenance Standard. Maintaining the Public Improvements in first-class condition to a level equivalent to the initial installation plans and specifications approved by the Town. The Maintenance Standard includes, in addition to maintenance of the Public Improvements, the requirement that the District ensure the Public Landscaping is consistently maintained to a high quality, to include, but not be limited to, regular grass cutting, tree trimming and seasonal flower planting.

J. Pedestrian Walkways and Trails. The sidewalks, walkways and trails constructed or, as appropriate, installed as a part of the Public Improvements that have not been dedicated to the Town.

K. Property. The property known as Ledge Rock Center within the boundaries of the District.

L. Public Art. The Art located in Public Spaces that has been acquired and installed as a part of the Public Improvements that have not be dedicated to the Town.

M. Public Improvements. The improvements owned and maintained by the District, including but not limited to Public Spaces, the Public Art, the Public Plazas, the Public Parking Facilities, the Pedestrian Walkways and Trails, District Streets and the Public Landscaping.

N. Public Landscaping. The landscaping constructed or, as appropriate, installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

O. Public Parking Facilities. The parking lots and structures constructed or installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

P. Public Plazas. The plazas constructed or installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

Q. Public Spaces. The property upon which the Public Art, Public Parking Facilities, Public Plazas, Public Streets and Pedestrian Walkways and Trails are located.

3. Operation and Maintenance of Public Improvements. The District shall maintain the Public Improvements to the Maintenance Standard. The District shall perform maintenance of the Public Improvements based on the Maintenance Standard at regular intervals to sustain the Maintenance Standard. The Town shall at all times retain the right to determine whether the District is properly operating and maintaining the Public Improvements as required herein.

- a. Without limiting the District's obligations to the Town as set forth in this Amended and Restated Operations and Maintenance Agreement, the District has entered into the District/Developer Operations and Maintenance Agreement of even date herewith pursuant to which the Developer will perform the operations and maintenance of the Public Improvements to the Maintenance Standard.
- b. The District may only amend the District/Developer Operations and Maintenance Agreement after receipt of the prior written approval of the amendment by the Town.
- c. The District may only agree to the assignment by the Developer of the Developer's obligations under the District/Developer Operations and Maintenance Agreement after receipt of the prior written approval of the assignment by the Town.
- d. The District may only enter into an agreement with a subsequent owner or owners of property within the Property, or affiliates of a subsequent owner or owners of property within the Property, related to the operations and maintenance of the Public Improvements after receipt of prior written approval of the Town to such agreement.

4. Annual Maintenance Report. The District shall provide an Annual Maintenance Report to the Town by April 1 of each calendar year, documenting: (1) the dates of inspections of the Public Improvements during the prior calendar year; (2) the remedial actions, if any, undertaken during the prior calendar year; and (3) the Public Improvements, if any, requiring modification, repair or reconstructive work during the current calendar year, the schedule to accomplish such work and the source of funding for such work and (4) the plan for repair and

replacement of the pavement associated with the District Streets, Pedestrian Walkways and Trails, Public Parking Facilities and Public Plazas for the next consecutive ten (10) years and the for the next consecutive three (3) years for the remaining Public Improvements. If the Town Manager objects to the schedule to accomplish the work set forth in subpart (3) above or the schedule proposed in the District's reserve plan, the District shall promptly, within fifteen (15) days, revise and resubmit the Annual Maintenance Report to address or conform to the Town's recommendations and requirements

5. Annual Budget and Appropriations. The District agrees to budget and appropriate sufficient funds annually to operate and maintain the Public Improvements to the Maintenance Standard.

- a. Draft Operations and Maintenance Budget. On or before September 15th of every year beginning in 2024, the District shall send the Draft Operations and Maintenance Budget to the Town for the ensuing year. The Draft Operations and Maintenance Budget shall reflect the anticipated revenues to be available for the provision of the operations and maintenance, whether from the CAM Charge or the imposition of property taxes, or some combination of both.
- b. Town Comment Period. The Town shall have thirty (30) days after receipt of the Draft Operations and Maintenance Budget to provide written comments to the District regarding, among others:
 - i. Concerns or comments regarding the status of maintenance of the Public Improvements in the current year or what is proposed in the Draft Operations and Maintenance Budget, or both.
 - ii. Concerns or comments regarding the amount or source of the anticipated revenue for funding of the anticipated expenditures in the Draft Operations and Maintenance Budget.
- c. Final Operations and Maintenance Budget: The District shall adopt a Final Operations and Maintenance Budget as a part of its annual budget process, that includes the Draft Operations and Maintenance Budget for that fiscal year, with amendments required to address the concerns and comments received from the Town to the Town's satisfaction, and will appropriate the funds for expenditure as set forth in the Final Operations Maintenance Budget

6. Town Inspection; Notice; Cure. The Town shall have the right to enter the Property at all reasonable times to inspect the Public Improvements. If, upon inspection, the Town, in its sole discretion, determines that the District has failed to properly operate, maintain, repair or replace the Public Improvements to the Maintenance Standard, the Town may provide written notice to the District of the default, requiring that corrective work be performed within thirty (30) days or, if the failure cannot be cured in thirty (30) days, then commenced in thirty (30) days, and diligently pursued to completion. The Town may, in its sole discretion, extend the time period for the corrective work. The Town's receipt of an Annual Maintenance Report shall not limit or otherwise act as a waiver of the Town's right to inspect the

Public Improvements and require corrective work as set forth herein. The Town's rights hereunder shall exist regardless of whether the Town Manager requests a modification to the schedule as set forth in Paragraph 4.

7. Town Performance of Maintenance and District Reimbursement Obligation. If the corrective work is not performed or commenced and diligently pursued within the time specified in Paragraph 6 above, the Town may enter the Property and perform the corrective work to bring the applicable Public Improvements to the Maintenance Standard. Upon completion of the work, the Town shall provide written notice of the cost of the corrective work to the District, which may include, at the Town's discretion, the Town's administrative costs in the amount of ten percent (10%) of the cost and the Town's reasonable attorney's fees. The District shall reimburse the Town's costs within thirty (30) days of receipt of the written notice. Notwithstanding the foregoing, if the Town, in its sole discretion, determines that corrective work needs to be immediately performed to protect the public health or safety, the Town may undertake to complete such corrective work without providing notice to the District and shall be entitled to reimbursement for the costs of such work as set forth herein.

8. Imposition and Pledge of Mill Levy.

- a. If the Final Operations and Maintenance Budget anticipates revenue from property taxes, the District shall certify a mill levy in the amount set forth in the Final Operations and Maintenance Budget.
- b. If the District does not reimburse the Town prior to November 1 of the fiscal year in which the Town submits its invoice pursuant to Paragraph 7 above, and the District is unable to pay prior to the end of such fiscal year, then, by November 15 of such fiscal year, the District shall certify a mill levy that is sufficient, however in no event shall such mill levy exceed 20 mills, to fully reimburse the Town for the outstanding costs and for interest at the statutory rate, which shall be paid as soon as possible after the District's receipt of the tax revenue collected as a result of the mill levy. For invoices submitted on or after November 1 of any given year that are not paid pursuant to Paragraph 7 and the District is unable to pay, the District shall certify the mill levy, which mill levy shall not to exceed 20 mills, by November 15 of the following fiscal year.
- c. In addition, if the revenue collected in any year that is included in the Final Operations and Maintenance Budget is not collected as budgeted, from either CAM Charges or property taxes, the District shall:
 - i. Provide the Town with written notice as to the deficiency in revenue and the District's plan to fund the deficiency; and
 - ii. Certify a mill levy that is sufficient to fund such deficiency in the following fiscal year if the deficiency is not funded as provided in the District's plan, however in no event shall the mill levy required to be imposed by this subsection exceed 20 mills minus any mill levy to be

imposed to reimburse the Town pursuant to Section 8.a. above.

9. Legal Opinions. On or prior to the seventh day after the Effective Date, the District will deliver an opinion of its counsel addressed to the Town, solely with respect to this Amended and Restated Operations and Maintenance Agreement, which opinion will state in substance that, assuming this Amended and Restated Operations and Maintenance Agreement has been duly authorized, executed and delivered by the Parties hereto, the Amended and Restated Operations and Maintenance Agreement constitutes a valid and binding agreement of the District enforceable according to its terms, subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity. Such opinion may also contain additional exceptions or qualifications as are agreed to in writing by the Town and the District. From time to time, the Town may otherwise request a new opinion from the District's counsel at the Town's cost and expense.

10. Term. This Amended and Restated Operations and Maintenance Agreement shall commence on the date first shown above and, unless sooner terminated by mutual written consent of the Parties pursuant to the process set forth in Section 12, shall continue in perpetuity.

11. Town's Limited Obligations. Nothing in this Amended and Restated Operations and Maintenance Agreement shall be construed to require the Town to inspect, operate, maintain, repair or replace the Public Improvements. The Town's undertaking of any of the District's obligations as set forth in this Amended and Restated Operations and Maintenance Agreement shall not relieve the District from the continuing obligations to inspect, operate, maintain, repair or replace the Public Improvements as set forth in this Amended and Restated Operations and Maintenance Agreement, the Service Plan, the Development and Funding Agreement and as otherwise required.

12. Modification and Amendments. This Amended and Restated Operations and Maintenance Agreement, including but not limited to the Maintenance Standard referenced herein, may only be modified, amended, terminated or superseded in writing by the Parties in an amendment to this Amended and Restated Operations and Maintenance Agreement that is properly approved and executed in accordance with applicable law.

13. Notices. Any notice or communication required under this Amended and Restated Operations and Maintenance Agreement between the Parties must be in writing, and may be given either personally, sent by certified mail, return receipt requested, or delivered by electronic mail. If personally delivered, a notice will be deemed to have been given when delivered to the party to whom it is addressed. If given by certified mail, the same will be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) three days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If sent by electronic mail, a notice will be deemed to have been given upon acknowledgement of receipt of the electronic mail by the intended recipient. A Party may, by giving written notice to the other Party, designate additional persons to whom notices or communications shall be given or designate any other address in substitution of the address to

which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the Town:

Matt LeCerf, Town Manager
Town of Johnstown
450 South Parish Avenue
Johnstown, CO 80534
mlecerf@johnstownco.gov

With a copy to:

Avi Rocklin, Town Attorney
19 Old Town Square, Suite 238
Fort Collins, CO 80524
avi@rocklinlaw.com

and

MaryAnn M. McGeady
Elisabeth A. Cortese
McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
legalnotices@specialdistrictlaw.com

If to the District:

Ledge Rock Center Commercial
Metropolitan District
c/o Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
doleary@spencerfane.com

With a copy to:

David O'Leary
Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
doleary@spencerfane.com

14. No Waiver. Delays in enforcement or the waiver of any one or more breaches of this Amended and Restated Operations and Maintenance Agreement shall not constitute a waiver of any of the remaining terms or obligations.

15. Assignment; Binding Effect. This Amended and Restated Operations and Maintenance Agreement shall be binding upon and, except as otherwise provided in this Amended and Restated Operations and Maintenance Agreement, shall inure to the benefit of the Parties' successors in interest. The District may, subject to the Town's prior written consent, assign its obligation to inspect, operate, maintain, repair and replace the Public Improvements under this Amended and Restated Operations and Maintenance Agreement. Notwithstanding the foregoing, the District shall remain liable for the obligation to reimburse the Town for the costs of corrective work as set forth in Paragraph 7 of this Amended and Restated Operations and Maintenance Agreement.

16. No Joint Venture or Partnership. No form of joint venture or partnership exists between the Parties hereto, and nothing contained in this Amended and Restated Operations and Maintenance Agreement will be construed as making the Parties joint venturers or partners.

17. No Third Party Beneficiaries. No person or entity, other than a party to this Amended and Restated Operations and Maintenance Agreement, shall have any right of action under this Amended and Restated Operations and Maintenance Agreement including, but not limited to, lenders, lot buyers and materialmen, laborers or others providing work, services or materials for the Public Improvements.

18. Colorado Governmental Immunity Act. Nothing in this Amended and Restated Operations and Maintenance Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the Town, Town Officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as amended. Nothing in this Amended and Restated Operations and Maintenance Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the District, District Officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as amended.

19. Insurance. District shall, at a minimum, carry insurance in the types and amounts set forth below:

A. District shall acquire and maintain, during the entire term of the Amended and Restated Operations and Maintenance Agreement, statutory workers' compensation insurance coverage, commercial general liability insurance coverage and automobile liability insurance coverage in no less than the amounts set forth in subparagraph D below. Town shall be named as an additional insured on District's commercial general liability insurance and automobile liability insurance. Such additional insured coverage provides defense and indemnity coverage only for actions arising from District's acts, actions, omissions or neglect but shall not provide defense or indemnity coverage for Town's own acts, actions, omissions or neglect or for unproven allegations. Any such policy of insurance obtained to comply with this paragraph shall provide that Town shall receive thirty (30) days written notice prior to the policy's cancellation, non-renewal or modification to any provisions of such policy affecting the insurance coverage requirements under the Amended and Restated Operations and Maintenance Agreement.

B. Prior to commencing any work under the Amended and Restated Operations and Maintenance Agreement, District shall provide Town with a certificate or certificates evidencing the insurance required by this paragraph, as well as the amounts of coverage for the respective types of coverage. If the coverage required under this paragraph expires during the term of the Amended and Restated Operations and Maintenance Agreement, District shall provide replacement certificate(s) evidencing the continuation of the required policies.

C. If any policy obtained by District is a claims-made policy, the following conditions shall apply: the policy shall provide District the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. District agrees to purchase this extended reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall not be later than the date the Amended and Restated Operations and Maintenance Agreement is signed by the Parties to the Amended and Restated Operations and Maintenance Agreement. If District purchases a subsequent claims-made policy in place of any prior policy, the retroactive date of such subsequent policy shall be no later than the date the Amended and Restated Operations and Maintenance Agreement is signed by the Parties to the Amended and Restated Operations and Maintenance Agreement.

D. District shall acquire and maintain during the entire term of the Amended and Restated Operations and Maintenance Agreement, statutory workers' compensation insurance coverage, comprehensive general liability insurance coverage, and automobile liability insurance coverage in the following amounts:

i. Workers' Compensation Insurance in accordance with applicable law, including employers' liability.

ii. Commercial general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$2,000,000.00 general aggregate. Coverage shall include all major divisions of coverage and be on a comprehensive basis including:

- a. premises operations;
- b. personal injury liability without employment exclusion;
- c. blanket contractual;
- d. broad form property damages;
- e. medical payments;
- f. independent contractors coverage.

iii. Commercial automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident covering any auto.

iv. All coverages specified above shall waive any right of subrogation against Town and its Council members, officers, agents, and employees; such waiver of subrogation shall apply solely to acts, actions, omissions or neglect of District, and in no way limits the right of subrogation for acts, actions, omissions or neglect of Town or others. The policies shall state: "Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation in accordance with the terms of the

agreement provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder.”

20. District Indemnity. To the extent permitted by law, the District shall defend, indemnify, assume all responsibility for and hold the Town, its Council members, officers, agents, and employees, collectively the “Indemnified Parties” or singularly, each an “Indemnified Party”) harmless, including without limitation, for attorney’s fees and costs, from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the District’s activities undertaken pursuant to this Amended and Restated Operations and Maintenance Agreement.

A. If any claim relating to the matters indemnified against pursuant to this Amended and Restated Operations and Maintenance Agreement is asserted against an Indemnified Party that may result in any damage for which any Indemnified Party is entitled to indemnification under this Amended and Restated Operations and Maintenance Agreement, then the Indemnified Party shall promptly give notice of such claim to the District.

B. Upon receipt of such notice, the District shall have the right to undertake, by counsel or representatives of its own choosing, the good faith defense, compromise or settlement of the claim, such defense, compromise or settlement to be undertaken on behalf of the Indemnified Party.

C. The Indemnified Party shall cooperate with the District in such defense at the District’s expense and provide the District with all information and assistance reasonably necessary to permit the District to settle and/or defend any such claim.

D. The Indemnified Party may, but shall not be obligated to, participate at its own expense in a defense of the claim by counsel of its own choosing, but the District shall be entitled to control the defense unless the Indemnified Party has relieved the District from liability with respect to the particular matter.

E. If the District elects to undertake such defense by its own counsel or representatives, the District shall give notice of such election to the Indemnified Party within ten (10) days after receiving notice of the claim from the Indemnified Party.

F. If the District does not so elect or fails to act within such period of ten (10) days, the Indemnified Party may, but shall not be obligated to, undertake the sole defense thereof by counsel or other representatives designated by it, such defense to be at the expense of the District.

G. The assumption of such sole defense by the Indemnified Party shall in no way affect the indemnification obligations of the District.

21. Mediation. If a dispute arises under this Amended and Restated Operations and Maintenance Agreement that the Parties are not able to mutually resolve, prior to commencing litigation, the non-breaching Party shall first submit the matter to mediation conducted by a neutral mediator. The Parties shall attempt to agree upon a mediator and shall endeavor to find a mediator having experience in construction-related matters. If the Parties are unable to agree upon a

mediator, either Party may apply to the Judicial Arbitrator Group in Denver, Colorado, for appointment of a mediator. The cost of the mediation shall be shared equally by the Parties.

22. Governing Law and Venue. This Amended and Restated Operations and Maintenance Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado and Municipal Code of the Town of Johnstown. Venue for any claim, proceeding or action arising out of this Amended and Restated Operations and Maintenance Agreement shall be in Larimer or Weld County, Colorado.

23. Severability. If any term, provision, covenant or condition of this Amended and Restated Operations and Maintenance Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Amended and Restated Operations and Maintenance Agreement shall continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining or substantially deprive such Party of the benefit of its bargain under this Amended and Restated Operations and Maintenance Agreement. The Parties shall cooperate in reforming this Amended and Restated Operations and Maintenance Agreement to the extent required to most fully effect the intent of any such invalid, void or unenforceable term, provision, covenant or condition.

24. Costs and Attorneys' Fees. If the District breaches this Amended and Restated Operations and Maintenance Agreement, the District shall pay the Town's reasonable costs and expenses, including attorney's fees, incurred in the enforcement of the terms, conditions and obligations of this Amended and Restated Operations and Maintenance Agreement.

25. Entire Agreement. This Amended and Restated Operations and Maintenance Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements or understandings, except that this Amended and Restated Operations and Maintenance Agreement does not supersede, amend or replace the First Amendment to Public ROW Agreement.

26. No Presumption. Each party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Amended and Restated Operations and Maintenance Agreement and with respect to all matters set forth herein. In the event of any dispute, disagreement or controversy arising from this Amended and Restated Operations and Maintenance Agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any party because of authorship.

27. Findings. The Town hereby finds and determines that execution of this Amended and Restated Operations and Maintenance Agreement is in the best interests of the public health, safety and general welfare of the citizens of the Town and the provisions of this Amended and Restated Operations and Maintenance Agreement are consistent with the Comprehensive Plan and development laws, regulations and policies of the Town. The District Board finds that this Amended and Restated Operations and Maintenance Agreement is in the best interests of the District.

28. Further Assurances. Each Party shall execute and deliver to the others all such other further instruments and documents as may be reasonably necessary or requested by another Party to confirm or clarify the intent of the provisions of this Amended and Restated Operations and Maintenance Agreement, and to carry out and effectuate this Amended and Restated Operations and Maintenance Agreement in order to provide and secure to the other Parties the full and complete enjoyment of their rights and privileges under this Amended and Restated Operations and Maintenance Agreement.

29. Authority. The signatories to this Amended and Restated Operations and Maintenance Agreement affirm and warrant that they are fully authorized to enter into and execute this Amended and Restated Operations and Maintenance Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Amended and Restated Operations and Maintenance Agreement have been made.

30. Compliance with the Law. The District shall comply with all federal, state and local laws and regulations in the performance of the obligations under this Amended and Restated Operations and Maintenance Agreement.

31. Headings. The paragraph headings herein are for the convenience and reference of the Parties and are not intended to define or limit the scope or intent of this Amended and Restated Operations and Maintenance Agreement.

32. Counterparts. This Amended and Restated Operations and Maintenance Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Amended and Restated Operations and Maintenance Agreement as of the set forth above.

[The Remainder of this Page Intentionally Left Blank]

LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the state of Colorado

Date: _____

By: _____
Its President

ATTEST:

Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Amended and Restated Operations and Maintenance Intergovernmental Agreement for Ledge Rock Center, Johnstown, Colorado was acknowledged before me this ____ day of _____ 2024, by _____ as President and _____ as Secretary of LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT, a quasi-municipal corporation of the state of Colorado.

Witness my hand and official seal.

My commission expires: _____

Notary Public

THE TOWN OF JOHNSTOWN
a home-rule municipality of the County of Weld,
State of Colorado

Date: _____

By: _____
Troy D. Mellon, Mayor

ATTEST:

Hannah Hill, Town Clerk

**DISTRICT/DEVELOPER OPERATIONS
AND MAINTENANCE AGREEMENT
FOR
LEDGE ROCK CENTER COMMERCIAL
JOHNSTOWN, COLORADO**

THIS DISTRICT/DEVELOPER OPERATIONS AND MAINTENANCE AGREEMENT FOR LEDGE ROCK CENTER COMMERCIAL, JOHNSTOWN, COLORADO (“Agreement”) is made and entered into as of the Effective Date by and between **LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the state of Colorado (“**District**”) and **LEDGE ROCK CENTER, LLC**, a Kansas limited liability company (“**Developer**”) (collectively, the “**Parties**”).

RECITALS

WHEREAS, Developer is the owner and Developer of the destination retail shopping center known as Ledge Rock Center in the District and the Town of Johnstown, a home-rule municipality of the Counties of Larimer and Weld, State of Colorado (“**Town**”) containing many square feet of new retail uses on the property (“**Project**”); and

WHEREAS, the District was formed pursuant to the applicable provisions of the Colorado Special District Act by Court Order in Weld County, District Court, Case No. 2021CV30566 and is subject to the service plan approved by the Town of Johnstown Town Council by resolution on September 8, 2021 as the same may be modified from time to time (“**Service Plan**”); and

WHEREAS, the District is authorized to finance, design, plan, construct, install, complete, operate and maintain public improvements related to and necessitated by the Project; and

WHEREAS, the Service Plan contemplates that the District and the Town execute an operations and maintenance intergovernmental agreement defining the duties and obligations of the District to operate, maintain, repair and replace the public improvements, authorizing the Town to undertake the unfulfilled duties of the District at the District’s expense and providing the Town with access for such undertakings and confirming the District’s authority to raise revenue to pay for such activities by, among other legally available means, compelling the District to impose a mill levy to reimburse the Town for any reasonable costs incurred in the event the Town undertakes the unfulfilled duties of the District; and

WHEREAS, the Parties, together with the Town also entered into a Comprehensive Development Agreement, Funding Plan and Intergovernmental Agreement for Ledge Rock Center, Johnstown, Colorado (“**Development and Funding Agreement**”), which provides that the Town and the District enter into an operations and maintenance intergovernmental agreement requiring, among other matters, that the District operate and maintain the public improvements in a condition comparable to the initial installation plans and specifications approved by the Town, authorizing the Town to enter the public spaces to provide repair, maintenance or replacement of

the public improvements in the event the District is in breach of its obligations and compelling the District to impose a mill levy to fund the reimbursement of the Town for costs incurred; and

WHEREAS, the District and the Town have entered into that certain Amended and Restated Operations and Maintenance Agreement dated of even date herewith (the “**Amended and Restated Operations and Maintenance Agreement**”); and

WHEREAS, the Amended and Restated Operations and Maintenance Agreement provides that the District may contract with the Developer for the funding and operations and maintenance of the Public Improvements to the Maintenance Standard, as defined in the Amended and Restated Operations and Maintenance Agreement (the “**Maintenance Standard**”).

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. Recitals. The Recitals set forth above are incorporated herein by reference.
- 2. Definitions. For purposes of this Amended and Restated Agreement, the following terms have the meanings indicated below and in the Recitals:
 - A. Annual Maintenance Report. As defined in Paragraph 4 below.
 - B. CAM. Means the cost of common area maintenance services provided by the Developer.
 - C. CAM Charges. Means the amount of the CAM that is required to be paid to the Developer by every tenant and property owner in the Property.
 - D. District Streets. The streets that will be constructed as a part of the Public Improvements that will not be dedicated to the Town.
 - E. Draft Operations and Maintenance Budget. The draft operations and maintenance budget for the District for the upcoming year, to be submitted to the Town on an annual basis, including all proposed expenditures and revenue sources for the payment of all expenditures to operate and maintain the Public Improvements to the Maintenance Standard. The Draft Operations and Maintenance Budget will also include the budgeted and actual revenues and expenditures from the previous year and the budgeted and estimated year end revenues and expenditures for the current year.
 - F. Effective Date. March 18, 2024.
 - G. Final Operations and Maintenance Budget. The operations and maintenance budget adopted by the District for the upcoming year, to be submitted to the Town on an annual basis, including all proposed expenditures and revenue sources for the payment of

all expenditures to operate and maintain the Public Improvements to the Maintenance Standard. The Final Operations and Maintenance Budget will also include the budgeted and actual revenues and expenditures from the previous year and the budgeted and estimated year end revenues and expenditures for the current year.

A. Maintenance Standard. Maintaining the Public Improvements in first-class condition to a level equivalent to the initial installation plans and specifications approved by the Town. The Maintenance Standard includes, in addition to maintenance of the Public Improvements, the requirement that the District ensure the Public Landscaping is consistently maintained to a high quality, to include, but not be limited to, regular grass cutting, tree trimming and seasonal flower planting.

B. Pedestrian Walkways and Trails. The sidewalks, walkways and trails constructed or, as appropriate, installed as a part of the Public Improvements that have not been dedicated to the Town.

C. Property. The property known as Ledge Rock Center within the boundaries of the District.

D. Public Art. The Art located in Public Spaces that has been acquired and installed as a part of the Public Improvements that have not be dedicated to the Town.

E. Public Improvements. The improvements owned and maintained by the District, including but not limited to Public Spaces, the Public Art, the Public Plazas, the Public Parking Facilities, the Pedestrian Walkways and Trails, District Streets and the Public Landscaping.

F. Public Landscaping. The landscaping constructed or, as appropriate, installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

G. Public Parking Facilities. The parking lots and structures constructed or installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

H. Public Plazas. The plazas constructed or installed in the Public Spaces as a part of the Public Improvements that have not been dedicated to the Town.

I. Public Spaces. The property upon which the Public Art, Public Parking Facilities, Public Plazas, Public Streets and Pedestrian Walkways and Trails are located.

3. Operation and Maintenance of Public Improvements. The Developer acknowledges the obligation of the District under the Amended and Restated Operations and Maintenance Agreement to operate and maintain the Public Improvements to the Maintenance Standard. The Developer agrees to operate and maintain the Public Improvements to the Maintenance Standard or cause it to be done, as set forth in this Agreement and as required under the Amended and Restated Operations and Maintenance Agreement.

4. Annual Maintenance Report. The Developer acknowledges the obligation of the District to provide the Town with an Annual Maintenance Report under the terms of the Amended and Restated Operations and Maintenance Agreement and agrees to provide the District with the information required to assure the timely and comprehensive preparation and delivery of the required Annual Maintenance Report and any revisions that are required to address or conform to the Town's recommendations and requirements provided in response to the submitted Annual Maintenance Report.

5. Annual Budget and Appropriations. The Developer acknowledges the District's responsibility under the terms of the Amended and Restated Operations and Maintenance Agreement to prepare and annually submit a Draft Operations and Maintenance Budget and a Final Operations and Maintenance Budget to budget and appropriate sufficient funds to operate and maintain the Public Improvements to the Maintenance Standard. The Developer will provide the District with the information needed regarding the expenses related to the costs of operation and maintenance of the Public Improvements to the Maintenance Standard and the anticipated CAM Charges to be received for inclusion in the Draft Operations and Maintenance Budget and the Final Operations and Maintenance Budget.

6. CAM Charges.

- a. The Developer will impose, collect and spend the CAM Charges on the operation and maintenance of the Public Improvements as presented in the Final Operations and Maintenance Budget.
- b. If the amount actually collected in any fiscal year is less than what was budgeted, the Developer will provide the District with information regarding the revenues received and expended on the operations and maintenance of the Public Improvements to be used by the District in formulating a plan to address the deficiency to be submitted to the Town as required by the Amended and Restated Operations and Maintenance Agreement.

7. Legal Opinions. On or prior to the seventh day after the Effective Date, Developer will deliver an opinion of its counsel addressed to the District and the Town, solely with respect to this Agreement, which opinion will state in substance that, assuming this Agreement has been duly authorized, executed and delivered by the Parties hereto, the Agreement constitutes a valid and binding agreement of the Developer enforceable according to its terms, subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity. Such opinion may also contain additional exceptions or qualifications as are agreed to in writing by the Town and the District. From time to time, the District or the Town may request a new opinion from the Developer's counsel at such requesting party's cost and expense.

8. Term. This Agreement shall commence on the date first shown above and may be terminated by either the Developer or the District by the provision of no less than ninety (90) days prior written notice by the terminating party to the non-terminating Party. Provided, however, understanding the District will not have any funds from property taxes until the tax

collection cycle following the year of termination, no termination will be effective unless and until the District has received from the Developer a payment equal to the amount of CAM Charges in the District's Final Operations and Maintenance Budget for payment of operating and maintaining the Public Improvements to the Maintenance Standard in the year in which the termination notice is provided plus the amount of CAM Charges required to continue such operation and maintenance through May 1 of the following year.

9. Modification and Amendments. This Agreement, including but not limited to the Maintenance Standard referenced herein, may only be modified, amended, terminated or superseded in writing by the Parties, in an amendment to this Agreement that has been previously approved in writing by the Town, and properly approved and executed by the Parties, in accordance with applicable law.

10. Notices. Any notice or communication required under this Agreement must be in writing, and may be given either personally, sent by certified mail, return receipt requested or delivered by electronic mail. If personally delivered, a notice will be deemed to have been given when delivered to the party to whom it is addressed. If given by certified mail, the same will be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) three days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If sent by electronic mail, a notice will be deemed to have been given upon acknowledgement of receipt of the electronic mail by the intended recipient. A party may, by giving written notice to the other party, designate additional persons to whom notices or communications shall be given or designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the parties at their addresses set forth below:

If to the Town:

Matt LeCerf, Town Manager
Town of Johnstown
450 South Parish Avenue
Johnstown, CO 80534
mlecerf@johnstownco.gov

With a copy to:

Avi Rocklin, Town Attorney
19 Old Town Square, Suite 238
Fort Collins, CO 80524
avi@rocklinlaw.com

and

MaryAnn M. McGeady
Elisabeth A. Cortese
McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
legalnotices@specialdistrictlaw.com

If to the District:

Ledge Rock Center Metropolitan District
c/o Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
doleary@spencerfane.com

With a copy to:

David O’Leary
Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
doleary@spencerfane.com

If to the Developer:

Ledge Rock Center, LLC
c/o Michael Schlup
13725 Metcalf Ave.
Overland Park, KS 66223
mikeschlup@corbinparkop.com

With a copy to:

Allen D. Schlup, Esq.
A.D. Schlup Law, LLC
10950 W. 192nd PL.
Spring Hill, KS 66083
allen.schlup@adschluplaw.com

11. No Waiver. Delays in enforcement or the waiver of any one or more breaches of this Agreement shall not constitute a waiver of any of the remaining terms or obligations.

12. Assignment; Binding Effect. This Agreement shall not be assignable by the Developer without the prior written consent of the District and the Town and any attempted assignment without the District’s and the Town’s prior written consent will be void and without effect. The Developer may contract with other entities to cause the operation and maintenance of the Public Improvements to the Maintenance Standard so long as thirty (30) days prior written notice of the entity contracting to cause the operation and maintenance of the Public Improvements is provided to the District and the Town together with a copy of the contract.

13. No Joint Venture or Partnership. No form of joint venture or partnership exists between the Parties hereto, and nothing contained in this Agreement will be construed as making the Parties joint venturers or partners.

14. Town is a Third Party Beneficiary and There Are No Other Third Party Beneficiaries. The District and the Developer acknowledge that the Town is a third party beneficiary of the representations, warranties and covenants set forth in this Agreement and is entitled to notice if notice is to be provided to a Party under this Agreement and is entitled to enforce the terms of this Agreement as if it were an original party hereto. No person or entity, other than a Party to this Agreement and the Town, shall have any right of action under this Agreement including, but not limited to, lenders, lot buyers and materialmen, laborers or others providing work, services or materials for the Public Improvements. In its capacity as a third party beneficiary the Town has:

- a. No obligation to assert the rights of the District under this Agreement and its assertion of any or all of the rights of the District under this Agreement or its failure to assert any or all of the rights of the District under this Agreement shall not constitute a waiver or any of the District’s obligations under the Amended and Restated Operations and Maintenance Agreement.

- b. No obligation to inspect, operate, maintain, repair or replace the Public Improvements. The Town's undertaking of any of the District's obligations as set forth in the Amended and Restated Operations and Maintenance Agreement shall not relieve the Developer from the continuing obligations to inspect, operate, maintain, repair or replace the Public Improvements as set forth in this Agreement.
- c. The right to enforce the obligation of the Developer to make payment of CAM Charges anticipated to be paid as set forth in a Final Operations and Maintenance Budget delivered to the Town under this Agreement.

15. Colorado Governmental Immunity Act.

- a. Nothing in this Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the District, District Board of Directors or Officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as amended.
- b. Nothing in this Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the Town, Town Officials, employees, contractors, or agents, or any other person acting on behalf of the Town and, in particular, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., C.R.S., as amended.

16. Insurance. Developer shall, at a minimum, carry insurance in the types and amounts set forth below:

- a. Developer shall acquire and maintain, during the entire term of the Agreement, statutory workers' compensation insurance coverage, commercial general liability insurance coverage and automobile liability insurance coverage in no less than the amounts set forth in subparagraph D below. The District and the Town shall be named as an additional insured on Developer's commercial general liability insurance and automobile liability insurance. Such additional insured coverage provides defense and indemnity coverage only for actions arising from Developer's acts, actions, omissions or neglect but shall not provide defense or indemnity coverage for either the District or the Town's own acts, actions, omissions or neglect or for unproven allegations. Any such policy of insurance obtained to comply with this paragraph shall provide that the District and the Town shall receive thirty (30) days written notice prior to the policy's cancellation, non-renewal or modification to any provisions of such policy affecting the insurance coverage requirements under the Agreement.

- b. Prior to commencing any work under the Agreement, Developer shall provide Town with a certificate or certificates evidencing the insurance required by this paragraph, as well as the amounts of coverage for the respective types of coverage. If the coverage required under this paragraph expires during the term of the Agreement, Developer shall provide replacement certificate(s) evidencing the continuation of the required policies.
- c. If any policy obtained by Developer is a claims-made policy, the following conditions shall apply: the policy shall provide Developer the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. Developer agrees to purchase this extended reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall not be later than the date the Agreement is signed by the parties to the Agreement. If Developer purchases a subsequent claims-made policy in place of any prior policy, the retroactive date of such subsequent policy shall be no later than the date the Agreement is signed by the parties to the Agreement.
- d. Developer shall acquire and maintain during the entire term of the Agreement, statutory workers' compensation insurance coverage, comprehensive general liability insurance coverage, and automobile liability insurance coverage in the following amounts:
 - i. Workers' Compensation Insurance in accordance with applicable law, including employers' liability.
 - ii. Commercial general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$2,000,000.00 general aggregate. Coverage shall include all major divisions of coverage and be on a comprehensive basis including:
 - a. premises operations;
 - b. personal injury liability without employment exclusion;
 - c. blanket contractual;
 - d. broad form property damages;
 - e. medical payments;
 - f. Independent contractor's coverage.
 - iii. Commercial automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident covering any auto.

- iv. All coverages specified above shall waive any right of subrogation against the District and Town and their respective Board of Directors and Council members, officers, agents, and employees; such waiver of subrogation shall apply solely to acts, actions, omissions or neglect of Developer, and in no way limits the right of subrogation for acts, actions, omissions or neglect of Town, the District or others. The policies shall state: “Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation in accordance with the terms of the agreement provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder.”

17. Developer Indemnity. The Developer will defend the District and the Town and the Developer shall defend, indemnify, assume all responsibility for and hold the District and the Town, and their respective Board and Council members, officers, agents, and employees, collectively the “**Indemnified Parties**” or singularly, each an “**Indemnified Party**”) harmless, including without limitation, for attorney’s fees and costs, from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the Developer’s activities undertaken pursuant to this Agreement.

- a. If any claim relating to the matters indemnified against pursuant to this Agreement is asserted against an Indemnified Party that may result in any damage for which any Indemnified Party is entitled to indemnification under this Agreement, then the Indemnified Party shall promptly give notice of such claim to the Developer.
- b. Upon receipt of such notice, the Developer shall have the right to undertake, by counsel or representatives of its own choosing, the good faith defense, compromise or settlement of the claim, such defense, compromise or settlement to be undertaken on behalf of the Indemnified Party.
- c. The Indemnified Party shall cooperate with the Developer in such defense at the Developer’s expense and provide the Developer with all information and assistance reasonably necessary to permit the Developer to settle and/or defend any such claim.
- d. The Indemnified Party may, but shall not be obligated to, participate at its own expense in a defense of the claim by counsel of its own choosing, but the Developer shall be entitled to control the defense unless the Indemnified Party has relieved the Developer from liability with respect to the particular matter.
- e. If the Developer elects to undertake such defense by its own counsel or representatives, the District shall give notice of such election to the Indemnified Party within ten (10) days after receiving notice of the claim from the Indemnified Party.

- f. If the Developer does not so elect or fails to act within such period of ten (10) days, the Indemnified Party may, but shall not be obligated to, undertake the sole defense thereof by counsel or other representatives designated by it, such defense to be at the expense of the Developer.
- g. The assumption of such sole defense by the Indemnified Party shall in no way affect the indemnification obligations of the Developer.

18. Mediation.

- a. If a dispute arises under this Agreement that the Parties and the Town are not able to mutually resolve, prior to commencing litigation, the non-breaching Party shall first submit the matter to mediation conducted by a neutral mediator. The Parties and the Town shall attempt to agree upon a mediator and shall endeavor to find a mediator having experience in construction-related matters. If the Parties and the Town are unable to agree upon a mediator, either Party or the Town may apply to the Judicial Arbitrator Group in Denver, Colorado, for appointment of a mediator. The cost of the mediation shall be shared equally by the Parties.
- b. If a dispute arises under the Amended and Restated Operations and Maintenance Agreement between the District and the Town, that the District and the Town are not able to mutually resolve, prior to commencing litigation, the District shall first submit the matter to mediation conducted by a neutral mediator and the Developer agrees to participate in the mediation to address issues relevant to the Developer's responsibilities under this Agreement and the dispute. The Developer acknowledges that the District and the Town will determine who the mediator is pursuant to the provisions of the Amended and Restated Operations and Maintenance Agreement. The Developer will share in the District's cost of the mediation required to be paid under the Amended and Restated Operations and Maintenance Agreement, including but not limited to the District's share of the Town's costs under the Mediation, if determined to be payable by the District by the Mediator.

19. Governing Law and Venue. This Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado and Municipal Code of the Town of Johnstown. Venue for any claim, proceeding or action arising out of this Agreement shall be in Larimer or Weld County, Colorado.

20. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining or substantially deprive such Party of the benefit of its bargain under this Agreement. The Parties shall cooperate in reforming this Agreement to the extent required to most fully effect the intent of any such invalid, void or unenforceable term, provision, covenant or condition.

21. Costs and Attorneys' Fees. If the Developer breaches this Agreement, the Developer shall pay the District's reasonable costs and expenses, including attorney's fees, incurred in the enforcement of the terms, conditions and obligations of this Agreement and the District's and the Town's reasonable costs and expenses, including attorneys fees, in enforcing the District's compliance with the District's responsibilities under the Amended and Restated Operations and Maintenance Agreement.

22. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties and supersedes all prior agreements or understandings.

23. No Presumption. Each party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Agreement and with respect to all matters set forth herein. In the event of any dispute, disagreement or controversy arising from this Agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any party because of authorship.

24. Findings. The District hereby finds and determines that execution of this Agreement is in the best interests of the property owners and taxpayers of the District.

25. Further Assurances. Each Party shall execute and deliver to the others all such other further instruments and documents as may be reasonably necessary or requested by another Party to confirm or clarify the intent of the provisions of this Agreement, and to carry out and effectuate this Agreement in order to provide and secure to the other Parties the full and complete enjoyment of their rights and privileges under this Agreement.

26. Authority. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

27. Compliance with the Law. The Developer shall comply with all federal, state and local laws and regulations in the performance of the obligations under this Agreement.

28. Headings. The paragraph headings herein are for the convenience and reference of the Parties and are not intended to define or limit the scope or intent of this Agreement.

29. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the set forth above.

[The Remainder of this Page Intentionally Left Blank]

LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the state of Colorado

Date: _____

By: _____
Its President

ATTEST:

Secretary

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing District/Developer Operations and Maintenance for Ledge Rock Center, Johnstown, Colorado was acknowledged before me this ____ day of _____ 2024, by _____ as President and _____ as Secretary of LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT, a quasi-municipal corporation of the state of Colorado.

Witness my hand and official seal.

My commission expires: _____

Notary Public

LEDGE ROCK CENTER, LLC, a Kansas limited liability company

By: _____
Managing Member

Date: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing District/Developer Operations and Maintenance Agreement was acknowledged before me this ____ day of _____, 2024, by _____, as _____ of Ledge Rock Center, LLC, a Kansas limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

THIRD PARTY BENEFICIARY:

THE TOWN OF JOHNSTOWN
a home-rule municipality of the County of Weld,
State of Colorado

Date: _____

By: _____
Troy D. Mellon, Mayor

ATTEST:

Hannah Hill, Town Clerk



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: March 18, 2024

SUBJECT: Xcel Energy Off-Site Distribution Line Extension Agreements supporting the new Water Treatment Plant

ACTION PROPOSED: Consider Approval of the Xcel Energy Off-Site Distribution Line Extension Agreements Between the Town of Johnstown and Xcel Energy

ATTACHMENTS:

1. Xcel Off-Site Distribution Line Extension Agreements Packet
2. Xcel Off-Site Construction Drawings

PRESENTED BY: Ellen Hilbig, Utilities Director

AGENDA ITEM DESCRIPTION:

Enclosed for your review and consideration is a request to execute the attached packet of agreements with Xcel Energy for Off-Site Distribution Line Improvements in the amount of \$571,434,31 to support electrical infrastructure upgrades for the new Water Treatment Plant.

The electrical system at the current Water Treatment Plant is maxed out and requires infrastructure improvements to several locations along the Johnstown electrical grid to be able support the future electrical load of the new facility. The off-site improvements include upgrades at the substation located off of WCR 19, new underground electrical and supporting infrastructure along the south side of SH60 from Telep to Colorado Blvd and along Colorado Blvd to the plant.

The improvements included in these agreements only cover the off-site requirements of the project. There will be a second agreement executed with Xcel Energy for the facility site improvements required for the Water Treatment Plant project.

Documents included in Attachment 1 requiring signature are the following:

1. Off-Site Distribution Extension Agreement (Construction) **\$549,275.07**
2. Non-Refundable Quote Letter (Design & Cost Estimate) **\$22,059.24**
3. Frost Agreement
4. Contingency List

The Community that Cares

The Town budgeted \$30 million in the 2024 budget for the Water Treatment Plant project to cover construction costs and will be required to address project funding to cover the total project costs in the budget year 2025 & 2026.

STRATEGIC PLAN ALIGNMENT:

- Healthy & Resilient Economy
 - *Drive projects and initiatives that promote Johnstown as a premier destination for business*
 - *Cultivate local and regional partnerships that ensure the long term success and growth of Northern Colorado*
- Quality Infrastructure & Facilities
 - *Establish and maintain levels of service*
 - *Ensure future viability of infrastructure and facilities*
 - *Repair and maintain existing infrastructure, facilities and equipment*

LEGAL ADVICE:

Xcel’s Standard Contract

FINANCIAL ADVICE:

The Town budgeted \$30 million in the 2024 budget for the Water Treatment Plant project to cover construction costs and will be required to address project funding to cover the total project costs in the budget year 2025 & 2026.

RECOMMENDED ACTION: Staff supports approval of the Xcel Energy Off-Site Distribution Line Extension Agreements between the Town of Johnstown and Xcel Energy.

SUGGESTED MOTIONS:

For Approval: I move to approve the Xcel Energy Off-Site Distribution Line Extension Agreements in the amount of \$571,434,31 as presented and authorize the Town Manager to sign the Agreement.

For Denial: I move to deny the Xcel Energy Off-Site Distribution Line Extension Agreements as presented.

Reviewed and Approved for Presentation,



Town Manager

Account No. XX-0011889763-X
 Job No. 14167772
 Job Address COLORADO BLVD AND CR 46
JOHNSTOWN, CO 80534



Public Service Company of Colorado
 1901 East Horsetooth Road
 Fort Collins, CO 80525

Dear Town of Johnstown

Thank you for choosing Xcel Energy to be your energy provider. We appreciate your business, and our goal is to deliver you reliable service at an affordable price.

This letter contains important information about your requested service. Please read all details below as well as any accompanying information and respond accordingly to ensure your project is completed accurately and timely.

This letter relates to your request for
 * New Electric Distribution

Your portion of the cost of this project is \$571,434.31. A hard copy invoice will be sent to you via U.S. Mail Postal Service in the coming days. Please see the attached payment options document for more instructions. Upon receipt of payment and other required documentation as noted below, your project will be scheduled and you will be notified of the scheduled date. If paying by check, please note the account number identified at the top of this letter on your check to ensure accurate and timely payment processing.

Below is a list of additional documentation that you will need to review, sign, and return to the Xcel Energy Designer by email or U.S. Postal Service to their address listed at the bottom of the letter. Please retain a copy of all documentation for your records.

- **Documents to be returned to Xcel Energy:**
 - * Off-Site Distribution Extension Agreement (Electric)
 - * Non-Refundable Quote Letter
 - * Frost Agreement
 - * Contingency List

- **Additional enclosures:**
 - * Customer Payment Options

If you have any questions about the enclosures or about your specific job, please contact the design representative below and reference your account number and/or job number above.

We look forward to being your energy provider.

Sincerely,
 Chase Cronic
 Contractor, Prof Consultant
 1901 East Horsetooth Road
 Fort Collins, CO 80525
 Pike Engineering
 Chase.T.Cronic@xcelenergy.com
 9706222903



Customer Payment Options

Xcel Energy offers seven payment options to pay for your construction project. Please select the payment options that work best for you.

Payment options listed in order of quickest processing

MyAccount/eBill™

Register at xcelenergy.com to make a payment from your checking account. You can also enroll in eBill and an email will let you know your bill is ready to view at the MyAccount site in place of receiving a mailed paper bill statement. MyAccount also provides a convenient list of your bill statement and payment history and retains your banking information for future use. Each additional account number will have to be added to your list of managed accounts within MyAccount.

Pay by Phone

Make payment from your checking or savings account at no charge by using our automated phone system. Please call us at 800.895.4999.

Credit/Debit Card Payment

All Xcel Energy residential and business customers are now eligible for payment via credit or debit card. Most major credit and debit cards accepted. Apple Pay or Google Pay is available to customers with a mobile device.

To pay by phone, call our payment processing partner, Kubra EZ Pay, at **833.660.1365**

To pay online, visit www.xcelenergy.com/billing_and_payment and click on the **Pay with credit/debit card** link to make an online credit/debit card payment through Kubra EZ Pay.

Please note the current fees along with payment information:

- *Residential Customer Accounts*
 - *Payments accepted for up to \$1,000 in a single transaction*
 - *There is a \$1.80 fee per transaction*
 - *No fee for Wisconsin and Michigan residential customer accounts*
- *Non-Residential Customer Accounts*
 - *Payments accepted for up to \$100,000 in a single transaction*
 - *There is a 2.2% fee per transaction.*

All credit/debit card types allow a maximum 25 credit/debit card payments in a 28-rolling-day period, per Xcel Energy account, per credit/debit card.

*If you receive this message: "The information provided does not match our records please try again," while trying to make a payment, please try again the following day after 8am CST.

Overnight Payment Delivery Options

Send your payment and remittance stub including **account number (written on the memo line of your check)** via FedEx, UPS or USPS overnight delivery to:

Xcel Energy Attn: Remittance Processing
414 Nicollet Mall, 3rd Floor
Minneapolis, MN 55401-1993
Overnight delivery contact phone number: 612.330.5593

The following alternate zip-codes are also valid:

Minneapolis, MN 55401-1927
Minneapolis, MN 55401-4993

In-Person Pay Stations

Pay in-person at a location near you by visiting xcelenergy.com for pay station locations. **Please include the account number on the memo line of your check.**

Please note: A \$1.50 transaction fee applies. (\$1.45 for Western Union only in Colorado)

Pay by U.S Postal Service

When sending payment by U.S. mail, **please include the account number on the memo line of your check.** Do not combine this payment with any other Xcel Energy bill payments. Mail check payments to:

Xcel Energy
P.O. Box 9477
Minneapolis, MN 55484-9477

Electronic Funds Transfer (EFT) (Only available to business)

The Electronic Funds Transfer (EFT) payment process allows business customers to pay via Corporate Trade Exchange (CTX) formatted Automated Clearing House (ACH) (also referred to as EDI-820), the ability to electronically remit payment. The payments to Xcel Energy's bank accounts are initiated by the customer through a series of steps linked to the billing system. The CTX addenda records included with the funds transfer allow the posting of the payments to occur electronically to the account numbers provided by the customer. To obtain Xcel Energy's EFT bank account numbers and to provide transfer confirmation, please email CustReceive@xcelenergy.com.

Helpful hints to ensure accurate and timely processing of your payment:

- For all payment options, please have your account number available and note on any payment documentation.
- The hard copy invoice will be sent to you via U.S mail in the coming days. If you would like an electronic copy of our invoice prior to receiving the hard copy, please contact your Designer who is identified in the attached letter.
- In order to apply payment to the correct account and avoid unnecessary delays, please make separate payments for each individual project or invoice.
- Please note that depending on payment selection, it may take up to a few days to process your payment.

OFF-SITE DISTRIBUTION LINE EXTENSION AGREEMENT (ELECTRIC)

This Off-Site Distribution Line Extension Agreement (the “Agreement”), is dated as of February 7, 2024 (“Contract Origination Date”), by and between Public Service Company of Colorado, a Colorado corporation, d/b/a Xcel Energy (the “Company”) and Town of Johnstown (the “Applicant”). Applicant and Company are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.” This Agreement is subject to the Company’s Electric Service Distribution Extension Policy (the “Policy”) within Company’s electric tariff (the “Tariff”) and to the entirety of Company’s Tariff, as amended from time to time, and such Policy and Tariff are each incorporated herein by reference. The Policy and Tariff are available for inspection at the Colorado Public Utilities Commission and on Company’s website. Any capitalized term in this Agreement that is not expressly defined herein shall have the meaning set forth in the Policy or Tariff.

This Agreement sets forth the terms and conditions for the design, construction, installation, and payment for the Off-Site Distribution Line Extension (as defined herein), including without limitation the calculation of the Construction Payment to be paid by Applicant. Subject to the exceptions set forth herein and in the Policy and Tariff, the cost responsibility of Applicant will be based upon Company’s estimate of the cost of constructing and installing the facilities necessary to adequately supply the Off-Site Distribution Line Extension requested by Applicant, less an Off-Site Distribution Line Extension Credit. The Construction Payment shall be non-refundable as of the date that construction commences.

List of Exhibits	Included
Contingency List	Yes
Cost Estimate Worksheet	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Frost and Ground Thawing Agreement	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

1. Service. Applicant has requested and Company has agreed that Company will design, construct, and install the necessary Off-Site Distribution Line Extension to provide electric service to serve COLORADO BLVD AND CR 46 in the City or Town of JOHNSTOWN in the County of WELD in the State of Colorado (“Service”). Such Service will have the following characteristics:

Category	Applicability
Type of Service	<input checked="" type="checkbox"/> Permanent <input type="checkbox"/> Indeterminate <input type="checkbox"/> Temporary
Network Service (choose one)	<input type="checkbox"/> Network <input checked="" type="checkbox"/> Non-Network
Voltage (choose one or both)	<input checked="" type="checkbox"/> Primary Voltage <input checked="" type="checkbox"/> Secondary Voltage
Underground/Overhead (choose one or both)	<input checked="" type="checkbox"/> Underground <input checked="" type="checkbox"/> Overhead
Phase (choose one)	<input type="checkbox"/> Single-Phase <input type="checkbox"/> Three-Phase <input checked="" type="checkbox"/> Combination Single- and Three-Phase
Additional Characteristics (choose any as applicable)	<input type="checkbox"/> Electric Vehicle Charging Station(s) <input type="checkbox"/> High Density Load <input type="checkbox"/> Solar <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> _____

2. Service Class of Applicant. Applicant **is** / **is not** a Governmental Entity. In accordance with the Policy and the Tariff, the Applicant shall accept Service under the following Service Class(es):

SERVICE CLASS	APPLICABILITY
RESIDENTIAL	
Schedules R, RE-TOU	<input type="checkbox"/>
Schedules RD, RD-TDR	<input type="checkbox"/>
COMMERCIAL/INDUSTRIAL	
Schedules C, NMTR	<input type="checkbox"/>
Schedules SGL, SG, SST, STOU, SPVTOU, SG-CPP	<input type="checkbox"/>
Schedules PG, PST, PTOU, PG-CPP	<input type="checkbox"/>

3. Associated Agreements. Except as expressly set forth in this Agreement, this Agreement does not encompass any engineering design, facilities, costs, or payments that may be specified in the associated On-Site Distribution Extension Agreement, the Residential Service Lateral Agreement, or the Commercial Service Lateral Agreement that may be entered into by the Parties and that are associated with the provisions of Service hereunder (collectively, the “Associated Agreements”). The Parties acknowledge that such additional engineering design, facilities, costs, or payments specified in the Associated Agreements may be necessary to fully effectuate the provision of Service contemplated herein, and the engineering design, facilities, costs, and payments with respect to those Associated Agreements will be calculated and contracted for separately from this Agreement.
4. Engineering Design of Off-Site Distribution Line Extension. Based on the information provided by Applicant, Company has completed an engineering design and cost estimate to construct and install the facilities necessary to adequately supply the requested Off-Site Distribution Line Extension. The facilities described below do not encompass any engineering design or facilities identified in the Associated Agreements. Company’s engineering design for the Off-Site Distribution Line Extension includes the following:

Category	Project-Specific Information
Point of Interconnection between Off-Site Distribution Line Extension with Company’s electric distribution system	1st St and CR 15
Point of Interconnection between Off-Site Distribution Line Extension facilities and On-Site Distribution Extension facilities	n/a
ADDITIONAL CIRCUMSTANCES*	
Distribution Reinforcements (if any)	n/a
Excess Facilities (if any)	n/a
Uneconomic Extensions (if any)	n/a
ATO/MTO Dual Feeder Service (if any)	n/a
Other Considerations/Special Items (if any)	n/a
* Additional considerations for the following special circumstances, including cost calculation requirements, are set forth in the Policy and Tariff: Distribution Reinforcements; Excess Facilities; Uneconomic Extensions; and provision of ATO/MTO Dual Feeder Service. Such additional circumstances may require execution of additional ancillary agreements.	

Applicant acknowledges that, in the event that other utilities or facilities will be installed jointly with the Off-Site Distribution Line Extension, Applicant shall arrange for the installation of and payment for any such facilities with the local telephone company, the local cable television company, or any other utility company, as applicable.

5. Construction Obligations; Permit Obligations. Applicant shall comply with all construction obligations, as those obligations are set forth in the Contingency List. The Agreement and all Associated Agreements are contingent upon acquisition of all required permits and approvals, as those permits and approvals are set forth in the Contingency List.
6. Estimated Construction Cost.
- a. In General. The estimated cost of all facilities necessary to construct and install the Off-Site Distribution Line Extension is calculated in accordance with the Policy and the Tariff (the “Estimated Construction Cost”). The Estimated Construction Cost may include, without limitation, the estimated cost of all materials, labor, rights-of-way, trench and backfill in non-rock conditions or in known rock conditions, permitting, and tree trimming, together with all incidental and overhead expenses connected therewith. “Trench and backfill in rock conditions” shall include any construction activities that require the use of special construction techniques or special equipment.
- b. Special Provisions for Reinforcement. Where Distribution Reinforcement is required for serving an existing customer’s electric service from Company, Company shall make such Distribution Reinforcement as follows:
- i. for a Residential or Small Commercial Customer that receives service under a rate schedule which is not based on Kilowatt Demand, relating to the Customer's total load requirements, other than a High Density Load, Company may make such Reinforcements at its expense.
 - ii. For all applicants that receive service under a rate schedule which is based on Kilowatt Demand other than a High Density Load, such Distribution Reinforcement shall be an Off-Site Distribution Line Extension where the Construction Costs shall include the Company’s cost to reinforce the system necessary to serve Applicant’s total load and the Construction Allowance shall be based on the difference between the Applicant’s current maximum Demand over the previous twelve (12) months and Company’s estimate of Applicant’s projected total load.
 - iii. Where Distribution Reinforcement is required to serve a High Density Load Customer that in whole or in part with another High Density Load Customer causes system capacity to be exceeded or Company’s facilities to be overloaded, the Customer shall be required to pay Company the necessary costs for the upgrade or Reinforcement needed to correct the condition.
 - iv. Where Distribution Reinforcement is required for serving new applicants for electric service from Company, Company may make such Reinforcement as part of a new On-Site Distribution Extension or Off-Site Distribution Line Extension where the Estimated Construction Cost shall include Company’s cost to reinforce the system as well as new Distribution Extension Facilities necessary to serve Applicant’s total load and the Construction Allowance and Off-Site Distribution Line Extension Credit if applicable shall be applicable to the total Estimated Construction Cost.
 - v. For conversion from single-phase to three-phase service and all other classes of service with Kilowatt Demand based distribution portion Construction Allowances, any required Reinforcement shall generally recognize the Construction Cost, Construction Allowance, and Off-Site Distribution Line Extension Credit if applicable for the applicant’s additional load
- and applicant’s Construction Payment provisions of the Policy in accordance with individual agreements between the applicant and Company based upon the amount, character, and permanency of the load. For purposes of this section, all Reinforcement for land development shall be considered non-residential and the land developer shall be responsible for Reinforcement costs.

- c. Special cost calculation considerations affecting the total Estimated Construction Cost, including for any Reinforcement, Excess Facilities, ATO/MTO Dual Feeders, and Uneconomic Extensions may be included in the Cost Estimate Worksheet, and additional terms and conditions are provided in the Policy and the Tariff.
- d. The Estimated Construction Cost is: \$ 845,192.42

7. Calculation of Total Credit: Off-Site Distribution Line Extension Credit and Excess Construction Allowance.

- a. Off-Site Distribution Line Extension Credit/Excess Construction Allowance. The Off-Site Distribution Line Extension Credit and the excess Construction Allowance are each calculated as provided by this Agreement, the Associated Agreements, the Policy, and the Tariff. The Off-Site Distribution Line Extension Credit is a thirty-five percent (35%) credit applied to Applicant's Estimated Construction Costs for the Off-Site Distribution Line Extension. To the extent applicable, the calculation of the Off-Site Distribution Line Extension Credit shall not consider any alternate feeders. **The Off-Site Distribution Line Extension Credit is available if Permanent Service or Indeterminate Service is designated, but is not available if Temporary Service is designated** (see Section 1 above).

To the extent there is excess Construction Allowance arising out of and pursuant to an associated On-Site Distribution Extension Agreement by and between the same Parties as this Agreement and for the purpose of effectuating the same Service as contemplated hereunder, then the Off-Site Distribution Line Extension Credit, as applicable, shall be applied only after the excess Construction Allowance has been first applied. In no event shall the total amount credited to Applicant exceed the total Construction Payment made by Applicant.

The calculation of the Off-Site Distribution Line Extension Credit is as follows:

Line	Calculation of Off-Site Distribution Line Extension Credit*	Amount
1	Estimated Construction Cost (see Section 6 above)	\$ 845,192.42
2	Estimated Cost of Alternate Feeder(s) (if any)**	
3	Excess Construction Allowance from On-Site Distribution Extension requested by the same Applicant (if applicable)*** (as calculated in accordance with Applicant's associated On-Site Distribution Extension Agreement)	
4	Subtract Lines 2 and 3 from Line 1	\$ 845,192.42
5	Multiply Line 4 by <u>35%</u>	(x <u>35%</u>)
6	Off-Site Distribution Line Extension Credit	\$ 295,817.35
<p>* The Off-Site Distribution Line Extension Credit is not available if Temporary Service is designated (see Section 1 above).</p> <p>** Additional considerations for Alternate Feeder(s) may be warranted if Applicant has designated Network Service or ATO/MTO Service. In such circumstance, Applicant may be required to execute a separate network service agreement or ATO/MTO service agreement.</p> <p>*** The Excess Construction Allowance is not available if Indeterminate Service or Temporary Service is designated (see Section 1 above).</p>		

- b. Calculation of Total Credit. The calculation of the Total Credit for this Agreement is as follows:

Line	Calculation of Total Credit	Amount
1	Excess Construction Allowance as set forth in Line 3 above (if applicable)**	
2	Off-Site Distribution Line Extension Credit as set forth in Line 6 above (if applicable)*	\$ 295,817.35
3	TOTAL CREDIT (Sum of Lines 1 & 2)	\$ 295,817.35
* The Off-Site Distribution Line Extension Credit is not available if Temporary Service is designated (see Section 1 above). ** The Excess Construction Allowance is not available if Indeterminate Service or Temporary Service is designated (see Section 1 above).		

8. Construction Payment.

- a. Permanent Service. If the Off-Site Distribution Line Extension is designated to provide Permanent Service (see Section 1 above), then Applicant shall pay to Company as a Construction Payment an amount equal to the Estimated Construction Cost (as set forth in Section 6 above), less the Total Credit, as applicable (as set forth in Section 7 above, such payment amount subject to Company's approval, not to be unreasonably withheld.
- b. Indeterminate Service. If the Off-Site Distribution Line Extension is designated to provide Indeterminate Service (see Section 1 above), then Applicant shall pay to Company as a Construction Payment an amount equal to the Estimated Construction Cost (as set forth in Section 6 above), less the Off-Site Distribution Line Extension Credit, as applicable (as set forth in Section 7 above), such payment amount subject to Company's approval, not to be unreasonably withheld.
- c. Temporary Service. If the Off-Site Distribution Line Extension is designated to provide Temporary Service (see Section 1 above), then Applicant shall pay to Company as a Construction Payment an amount equal to the estimated cost of installing and removing all necessary overhead or underground electric Off-Site Distribution Line Extension facilities, such payment amount subject to Company's approval, not to be unreasonably withheld.
- d. Calculation of Construction Payment. The Construction Payment under this Agreement is calculated as follows:

Line	Category	Amount
1	Total Estimated Construction Cost (see Section 6 above)	\$ 845,192.42
2	As applicable, the sum of the Total Credit (see Section 7 above)	\$ 295,817.35
3	Line 1 minus Line 2: TOTAL CONSTRUCTION PAYMENT (If value is a negative number, enter \$0.)	\$ 549,375.07

- e. **For non-Governmental Entities** (see Section 2 above). Payment of the Construction Payment shall be made within sixty (60) days of the Contract Origination Date. The Construction Payment shall be non-refundable to Applicant as of the date that construction commences on the Off-Site Distribution Line Extension.

- f. **For Governmental Entities** (see Section 2 above). To the extent allowable by law, payment may be made in accordance with Section 8.e or governmental Applicant may elect to have Company advance the Construction Payment for the duration of the construction period as follows: Company shall charge the governmental Applicant interest applied to the Construction Payment amount for the applicable construction period at the Company's Allowance For Funds Used During Construction (AFUDC) rate. Company shall bill Applicant for the Construction Costs and the interest within thirty (30) days after the Extension Completion Date. Applicant shall pay Company within ninety (90) days after the Extension Completion Date.
9. **Surcharges.** Surcharges in excess of the Construction Payment may be assessed for items not otherwise accounted for or incorporated into the original Off-Site Distribution Line Extension or Construction Payment, including without limitation any Applicant-associated delays; obstructions; permit fees; or any special item required to meet construction conditions, including but not limited to Frost Conditions and rock conditions. Company shall separately invoice Applicant for any surcharges as a non-refundable contribution in aid of construction or in accordance with the terms of any separate ancillary agreement, and such invoice shall be paid by Applicant no later than thirty (30) days following the invoice date.
10. **Construction in Frost Conditions.** Applicant **authorizes** / **does not authorize** Company to perform construction activities in Frost Conditions.
- For the purpose of this Agreement, "Frost Conditions" exist if ground frost conditions deeper than six (6) inches are encountered at the time of installation of the Distribution Extension Facilities. Applicant is encouraged to have a representative present during Company's trenching operation to confirm frost depth.
- If Applicant authorizes Company to perform construction activities in Frost Conditions, then Applicant agrees to pay, as applicable, the Frost Condition Fees, Ground Thawing Fees, or additional fees, as set forth in the Frost and Ground Thawing Agreement, which shall be incorporated herein by reference.
- If Applicant does not authorize Company to perform construction activities in Frost Conditions, then Applicant acknowledges that Applicant's project may be delayed until Frost Conditions have ceased and there is no further chance of encountering frost.
11. **Circumstances Requiring a New Agreement.** If Company reasonably determines that design changes made either prior to construction or in the field exceed the scope of this Agreement, this Agreement shall be terminated and a new agreement may be entered into in accordance with the new project scope. If and only if a new agreement is executed by the Parties for a replacement project, any amounts already paid by Applicant as a Construction Payment, may, at Company's sole reasonable discretion, be either refunded to Applicant or carried over and netted against any newly calculated Construction Payment, less reasonable charges to account for the project scope change.
12. **Right-of-Way Agreement.** Applicant agrees to execute Company's standard right-of-way agreement granting, free of charge to Company, any rights-of-way upon, over, or under Applicant's property that may be required for Company to provide Service hereunder; and to obtain from other persons or entities as may be required such other rights-of-way, free of charge and on terms satisfactory to Company. Applicant acknowledges that Company's ability to perform under this Agreement is contingent upon obtaining any and all rights-of-way from Applicant and from other persons or entities, as necessary. Company shall not be required to expend more than commercially reasonable efforts to assist Applicant in the acquisition of any third-party rights-of-way. All necessary rights-of-way must be provided to Company at least ten (10) days prior to the commencement of construction.
13. **Conditions to Company Work Order, Scheduling, and Construction Commencement.** The Parties acknowledge that Company shall not be obligated to issue a work order, release for scheduling, or commence construction of the Off-Site Distribution Line Extension unless and until the following requirements have been satisfied:

- a. execution by Applicant of this Agreement and all Associated Agreements, and of any other Exhibits and ancillary agreements, as applicable;
- b. receipt by Company of the applicable Construction Payment(s) under this Agreement, under all Associated Agreements, and under any ancillary agreements;
- c. receipt of one-line diagrams, load information, plats and any other information required by Company to calculate Company's estimate of Applicant's load and to determine the appropriate facilities necessary under this Agreement, the Associated Agreements, and any ancillary agreements;
- d. receipt of confirmation from Applicant that Applicant has satisfied all Construction Obligations as set forth in Section 5 above, and in the Contingency List, such obligations subject to Company's approval, with such approval not to be unreasonably withheld.

Upon the acceptance of the terms and conditions of this Agreement, Applicant must return all applicable documents to Public Service Company of Colorado, at the address provided on the signature page of this Agreement.

14. Estimated Installation Timeframes.

- a. Time to Accept Agreement. The Estimated Construction Cost and Construction Payment set forth herein shall be effective for sixty (60) days from the Contract Origination Date. Should Applicant fail to execute and return this Agreement to Company and pay the Construction Payment within those sixty (60) days, Company's offer shall be deemed revoked and Applicant may request that Company recalculate the Estimated Construction Cost and Construction Payment. Notwithstanding the foregoing, the Parties may agree to extend the time period for Applicant to execute the Agreement on a date subsequent to the sixty (60)-day period, such extension period not to exceed ninety (90) days from the Contract Origination Date.
- b. Time to Complete Conditions. If Applicant fails to satisfy all conditions identified in Sections 5, 12, and 13 within sixty (60) days of Applicant's execution of the Agreement, Company reserves the right to re-calculate the Estimated Construction Cost and Construction Payment, and this Agreement may be terminated and may be replaced with a new agreement. Notwithstanding the foregoing, the sixty (60)-day period to complete the conditions identified in this subsection shall be tolled during any winter or other construction moratorium period implemented by a jurisdictional governmental entity.
- c. Estimated Time to Complete Construction. Applicant shall be notified of which week construction is scheduled to begin. Company shall make all reasonable efforts to complete construction within one hundred twenty (120) days under normal circumstances and conditions. The one hundred twenty (120)-day construction period shall not commence until Company certifies that Applicant has complied with all conditions identified in Sections 5, 12, and 13 ("Company Certification"). Notwithstanding the foregoing, the one hundred twenty (120)-day period to complete construction shall be tolled during any winter or other construction moratorium period implemented by a jurisdictional governmental entity, emergency system condition, extreme weather event, period of construction delay attributable to Frost Conditions, rock conditions, or other unanticipated construction condition, or unanticipated scheduling conflicts.

Any portion of this Off-Site Distribution Line Extension that is not completed in a normal manner, that is, by following accepted construction practices, within one hundred twenty (120) days after the Company Certification, shall be struck from this Agreement, and the Construction Payment shall be updated accordingly.

- If the failure to complete construction within the one hundred twenty (120)-day construction period is caused solely by Company, the uncompleted portion of the Off-Site Distribution Line Extension shall not be struck from this Agreement; Applicant's Construction Payment shall become interest bearing; and Company shall pay interest to Applicant at the rate Company currently pays on residential security deposits. Notwithstanding the foregoing, Company shall not be required to pay interest to Applicant if Company's performance under this Agreement is delayed on account of circumstances that are outside of Company's reasonable control, including without limitation, construction moratoria; emergency system conditions; extreme weather events; periods of construction delay attributable to Frost Conditions, rock conditions, or other unanticipated construction condition; or unanticipated scheduling conflicts.
- d. Status Updates on Construction Progress. Company shall provide periodic status updates to Applicant throughout the construction process and shall promptly notify Applicant if Company is reasonably certain that Company will require an extension of the estimated installation timeframe. Applicant may direct any questions regarding the status of the Off-Site Distribution Line Extension to Company by contacting the Company representative by telephone or e-mail.
15. Ownership. The facilities constructed under the terms of this Agreement on the electric supply side of the Point of Delivery shall be, at all times, the property of Company. The Point of Delivery is the point where Company's electric facilities are first connected to the electric facilities of the customer. The location of the Point of Delivery will be determined by Company in accordance with standard practice or as individual circumstances may dictate as set forth in the Xcel Energy Electric Standards for Installation and Use
16. Lien Waiver Prohibited. Applicant acknowledges that the Tariff prohibits Company from accepting payment with any sort of lien waiver. Accordingly, Applicant agrees that any attempt to create a lien waiver in such manner (including by any printed or stamped lien waiver on a check) shall be ineffective and void.
17. Insurance. Applicant shall purchase and maintain such insurance as shall protect Applicant and Company from claims that may in any way arise out of or be in any manner connected with the performance of the Agreement, whether such claims arise out of the act or failure to act of Applicant, Company, their respective contractors or subcontractors, or of the direct or indirect delegate, appointee, or employee of either.
18. Indemnification. **This Section 18 applies only if Applicant is not a Governmental Entity.** Each Party (the "Indemnifying Party") shall indemnify, defend, save, and hold harmless the other Party, its affiliates, and their respective directors, officers, employees, contractors, representatives and agents (each an "Indemnified Party") from any and all claims, demands, liabilities, damages, losses, actions, suits or judgments, fines, penalties, costs and expenses (including, without limitation, court costs, expert witness fees, and attorneys' fees) (collectively, "Losses") resulting from an injury to person or persons (including death) or damage to property arising out of or related to this Agreement to the extent caused by: a default under, or a failure to perform in accordance with the terms of, this Agreement by the Indemnifying Party; a violation or alleged violation of applicable laws by the Indemnifying Party; or the negligence, intentional acts or omissions, or other misconduct of the directors, officers, employees, contractors, representatives, agents or other person or entity acting on behalf of the Indemnifying Party. Applicant shall indemnify, defend, and hold Company harmless from and against all Losses arising out of or related to environmental conditions at the project site or the on-site or off-site management, transportation, storage, disposal, or exacerbation of contaminated soils, water, groundwater, or vapors encountered by Company at the project site. In respect of an indemnity obligation of a Party hereunder resulting from an injury to person or persons (including death) or damage to property, no Party shall be liable hereunder for an amount greater than that represented by the degree or percentage of the negligence or fault attributable to such Party that produced the injury or damage giving rise to indemnity obligation.

The Parties agree that the foregoing indemnity obligations shall be in addition to any insurance obligations herein and shall not be limited in any way by the amount of any insurance required hereunder. Further, these indemnity obligations shall not be construed to relieve any insurer of its obligation to pay claims consistent with the provisions of a valid insurance policy. Nothing in this Section shall enlarge or relieve either Party of any liability or obligations to the other for any breach of this Agreement.

19. Limitation of Liability. Neither Party shall be liable to the other Party for any special, incidental, indirect, punitive, or consequential loss or damage whether or not such loss or damage is caused by the fault or negligence of the Party, its employees, agents, or subcontractors. This exclusion of liability for special, incidental, punitive, or consequential loss or damage applies to loss of profits or revenue, costs of capital, loss of use of equipment or facilities, cost of purchased or replacement power or claims of customers due to loss of service. This exclusion does not apply to indemnification claims arising out Section 18 above, or if the Agreement is terminated for default pursuant to the Agreement.
20. No Partnership or Agency. This Agreement shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability upon either Party. Except as specifically provided for in this Agreement to the contrary, neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party. In no way is this Agreement, or Company's actions pursuant to this Agreement, to be construed to deem Company an agent of Applicant in any manner whatsoever.
21. Assignment. Applicant may not assign this Agreement without the prior written consent of Company.
22. Governing Law. The interpretation and performance of this Agreement and each of its provisions will be governed and construed in accordance with the laws of the State of Colorado, exclusive of conflict of laws principles. The Parties submit to the exclusive jurisdiction of the state courts of the State of Colorado, and venue is hereby stipulated as Denver or such other city as mutually agreed to by the Parties.
23. Exhibits. The Exhibits to this Agreement are hereby incorporated in this Agreement by reference and constitute a part of this Agreement.
24. Merger. This Agreement and the exhibits attached hereto, constitute the entire agreement between the Parties relating to the subject matter herein. There are no other provisions, terms, or conditions to this Agreement, whether written or oral, and all prior or contemporaneous agreements with respect to the subject matter herein are superseded by this Agreement.
25. Binding Effect. This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their respective successors, legal representatives, and assigns.
26. Third Party Beneficiaries. No provision of this Agreement shall in any way inure to the benefit of any third person so as to make any such person a third party beneficiary of this Agreement.
27. Severability. In the event any words, phrases, clauses, sentences, or other provisions hereof are invalid or violate any applicable law, such offending provision(s) shall be ineffective to the extent of such violation without invalidating the remainder of this Agreement, and the remaining provisions of this Agreement shall be construed consistent with the intent of the Parties hereto as closely as possible, and this Agreement, as reformed, shall be valid, enforceable, and in full force and effect.
28. Headings. The headings of Sections of this Agreement are for guidance and convenience of reference only and will not limit or otherwise affect any of the terms or provisions of this Agreement.
29. Counterparts. This Agreement may be executed in counterparts and each executed counterpart will have the same force and effect as an original instrument.
30. Amendment. This Agreement may not be amended except by written agreement between the Parties.
31. Term and Termination. This Agreement is effective on the Parties as of later of the Contract Origination Date or the date upon which both Parties execute the Agreement, and will terminate upon notice by Company to Applicant that (a) Applicant has failed to fulfill a condition precedent to Company's work as set forth in this Agreement; or (b) the Parties have satisfied all obligations as set forth in this Agreement. Sections 2, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 29, 30, 31 of this Agreement shall survive the termination of this Agreement.

[SIGNATURE PAGE FOLLOWS]

Applicant has reviewed and approved the terms and conditions of this Off-Site Distribution Line Extension Agreement (Electric) and accepts the cost of the Construction Payment of \$ 549,375.07 as calculated in Section 8. Applicant understands additional charges may arise in accordance with the Policy, Tariff, and Agreement. Applicant will send to Company an original signed copy of this Agreement together with any applicable ancillary agreements, Associated Agreements, or documents, as applicable.

Contract Origination Date: February 7, 2024

IN WITNESS WHEREOF, duly authorized representatives of the Parties have executed this Off-Site Distribution Line Extension Agreement (Electric).

Planner Name: Chase Cronic	Customer Phone: 970-227-0622
Planner Title: Contractor, Prof Consultant	Customer Email: JEFF@JENSENLAPLANTE.COM
Mailing Address: 1901 East Horsetooth Road	Mailing Address: 450 S parish Ave
City, State Zip: Fort Collins, CO 80525	City, State Zip: Johnstown, CO 80525

XCEL ENERGY SIGNATURE	CUSTOMER SIGNATURE
Public Service Company of Colorado	Legal Entity Name (if applicable):
By:	Authorized Signer (see signing options below*): <i>Signing Option 1</i> <input type="checkbox"/> AGREE <i>Signing Option 2</i> (Signature below) By:
Printed Name:	Printed Name:
Title:	Title (if applicable):
Date:	Date:

* **Signing Option 1 (just click to agree):** By clicking the AGREE checkbox above, you acknowledge that you are the customer or an authorized signer for the customer and have read, understand, and agree to the above-stated terms.
Signing Option 2: Add Electronic Signature and return by e-mail **OR** print, sign, scan and return by e-mail **OR** print and sign and return by mail.

[SIGNATURE PAGE TO OFF-SITE DISTRIBUTION LINE EXTENSION AGREEMENT (ELECTRIC)]



February 7, 2024

Town of Johnstown
 450 S parish Ave
 Johnstown, CO 80525

Subject: Request for Electric reinforcement at
 COLORADO BLVD AND CR 46, JOHNSTOWN,
 WELD, Colorado

Dear Town of Johnstown,

I have completed the engineering design and cost estimate to provide Electric reinforcement based upon information you have provided. This design is based upon Electric reinforcement, as shown on the enclosed drawing. The cost to provide the requested Electric reinforcement, is \$ 22,059.24, which is non-refundable and payable in advance.

This proposal is contingent upon the following:

- All work performed during our normal work hours.
- Obtaining "Right-of-Way" at no cost to us.
- Obtaining permits as needed.
- No frost, in the ground, during construction or agreeing to pay for additional costs during frost conditions.
- There is an additional charge to open the transformer.
- Providing final grade elevations, at our equipment locations.
- Grade at trench location to be within 6 inches of the final grade.

If necessary our right-of-way agent will mail the right-of-way or easement documents to the appropriate landowners for their signature. This proposal is contingent upon receiving easements at no cost to us. Our right-of-way agent will need a copy of the Warranty Deed, the legal description, and the site drawing in order to prepare the easement for the landowner's signature.

NOTE: You must personally contact the local telephone company, the local cable TV company and/or any other utility company to arrange for the installation and payment of any costs of their facilities if they need to be relocated or disconnected along with the reinforcement.

If you accept the above costs and system design, please sign and date the second page of this letter and return this document to Public Service Company of Colorado, at the address shown below. After the signed and dated documents and total payment of \$ 22,059.24 are received via the payment process, a work order will be issued and released so your project can be placed on the construction schedule. If a check is sent via the new payment process we are

unable to accept checks with any sort of Lien Waiver because our Tariffs do not make an allowance for PSCo to accept checks printed or stamped with a lien waiver. Our current lead-time to begin work after receiving the payment and signed documents is approximately 10 weeks. You will be notified of the week that our construction is scheduled to begin as soon as it is available.

This proposal will be valid until April 8, 2024. If you have any questions regarding this project, please call me at 303-437-7862.

Sincerely,
Chase Cronic

I have reviewed and approve of the enclosed design. I accept the cost of \$ 22,059.24 and this amount will be paid to Xcel Energy in full prior to the scheduled construction date. The Construction Cost stated above does not include special items such as but not limited to frost or rock conditions. In the event the Company encounters any special items during construction, the Company shall bill Applicant for such special items as a non-refundable contribution in aid of construction. I will send a signed copy of this letter with the applicable agreements.

Planner Name: Chase Cronic	Customer Phone: 970-227-0622
Planner Title: Contractor, Prof Consultant	Customer Email: JEFF@JENSENLAPLANTE.COM
Mailing Address: 1901 East Horsetooth Road	Mailing Address: 450 S parish Ave
City, State Zip: Fort Collins, CO 80525	City, State Zip: Johnstown, CO 80525

XCEL ENERGY SIGNATURE	CUSTOMER SIGNATURE
Public Service Company of Colorado	Legal Entity Name (if applicable):
By:	Authorized Signer (see signing options below*): <i>Signing Option 1</i> <input type="checkbox"/> AGREE <i>Signing Option 2</i> (Signature below) By:
Printed Name:	Printed Name:
Title:	Title (if applicable):
Date:	Date:

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February 7, 2024

Town of Johnstown
 450 S parish Ave
 Johnstown, CO 80525

RE: Frost Installation Conditions

Due to the possibility that ground frost conditions may exist during installation of your distribution facilities and if applicable, service laterals, it is necessary that Xcel Energy inform you of our policy regarding installation in frozen ground.

If frost conditions deeper than six inches (6") are encountered, additional costs will be charged at a cost of \$3.51 per linear foot. Also, if "select" backfill is required, Xcel Energy will charge an additional amount based on actual costs.

Charges for trenching in frost will be billed after the job has been completed; therefore, you may want to have a representative present during the trenching operation to confirm the frost depth.

If you prefer to avoid frost charges by waiting until frost depth is six inches (6") or less, you must notify me at the time of your application, otherwise please complete and return the attached Frost Agreement.

If you have any questions or comments, please call me at the number listed below.

Sincerely,

FROST AGREEMENT

For Installation of Gas and/or Electric Distribution and Service Laterals

Town of Johnstown, hereinafter referred to as “Customer”, having entered into an agreement with Public Service Company of Colorado, a Colorado corporation, d/b/a Xcel Energy to install gas and/or electric facilities into its project known as 14167772, located at (service address) COLORADO BLVD AND CR 46, JOHNSTOWN further agrees that if ground frost conditions deeper than six (6”) are encountered at the time of installation of the Gas and/or Electric Distribution and if applicable, Service Laterals, “Customer” hereby authorizes Xcel Energy to install the above facilities and to pay the actual additional non-refundable frost charges. By signing this Agreement, “Customer” requests to proceed with the installation regardless of frost conditions and such installation will be done with the actual frost charges billed by Xcel Energy and paid by the “Customer”. These charges are in addition to any previous extension charges and are not refundable. Such charges are due and payable within thirty (30) days after the billing.

Should the decision be made to defer installation until there is six inches (6”) or less frost in the ground, rescheduling of installation will be done with consideration made for previously scheduled installations. Notification of the approximate date of installation will be given by Xcel Energy as soon as practicable after frost conditions have ceased.

If this Frost Agreement includes Service Laterals for this project, please list addresses or lot and block numbers that are covered by this Agreement.

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Planner Title: Contractor, Prof Consultant	Customer Email: JEFF@JENSENLAPLANTE.COM
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City, State Zip: Fort Collins, CO 80525	City, State Zip: Johnstown, CO 80525

Lock Agreement

CUSTOMER SIGNATURE
Legal Entity Name (if applicable):
Authorized Signer (see signing options below*): <i>Signing Option 1</i> <input type="checkbox"/> AGREE <i>Signing Option 2</i> (Signature below)
By:
Printed Name:
Title (if applicable):
Date:

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Signing Option 2: Add Electronic Signature and return by e-mail **OR** print, sign, scan and return by e-mail **OR** print and

CONTINGENCY LIST

*CUSTOMER:	Town of Johnstown
ADDRESS:	COLORADO BLVD AND CR 46
CITY:	JOHNSTOWN
DESIGN NO:	1149704
SN:	14167772

Public Service Company of Colorado d/b/a Xcel Energy (the “Company”) has completed the engineering design and cost estimate for your electric and/or gas distribution request. The Company will install the facilities as shown in the attached engineering sketch(es), when all contractual obligations and customer-supplied conditions are met. The specified conditions listed below were used to determine the most effective design to meet your request. If, for any reason this design does not meet your request as intended, please review with the Company’s Engineering personnel. Engineering will discuss any possible revision and will expedite any necessary revised costs in order to meet your schedule as planned. (Please be aware that additional estimates may be subject to re-engineering charges.) The Company looks forward to completing the installation of these facilities for you and providing for any future needs you may have.

1. Disclaimer. Company shall not be responsible for the repair or replacement costs resulting from damage to items that are not marked prior to Company’s commencement of construction.
2. Construction Obligations. To the extent applicable, Customer shall confirm to Company, and Company shall certify, that the following construction obligations have been met prior to Company commencing construction on the project.
 - ❖ Customer must install curb and gutter prior to installation of electric and/or gas distribution facilities.
 - ❖ When construction consists of five (5) sites or fewer, all sites must be ready. For projects with more than five (5) sites, approximately fifty (50) percent of the sites must be ready.
 - ❖ As determined by Company, required property pins, necessary curve points, easements, proposed structures, and facility equipment locations must be staked and visible in the field.
 - ❖ If checked, Customer has agreed to install sleeves at crossings.
 - ❖ Water line, sewer lines septic systems, leach fields, and any other underground obstruction must be staked, flagged, and installed prior to Company gas and/or electric construction.
 - ❖ Transformers, switch cabinet locations, pedestals, gas regulator stations, meter installations, and other surface mounted equipment must be exact final grade. All other street/easements/service lateral routes must be within plus or minus six (6) inches of final grade.
 - ❖ Pouring/paving of driveways and landscaping must be delayed until after installation of facilities (services excluded).
 - ❖ Where existing slopes prohibit trenching, Customer must provide temporary grade for trenching equipment.
 - ❖ Construction route must be clear of all obstructions.
 - Construction material must be cleared from route.
 - Temporary trailers, buildings, and other obstacles must be moved.
 - Company will trim/clear trees along the construction route. Subject to Company’s approval, if Customer elects to trim/clear the trees on Customer’s own property, _____ will be deducted.
 - ❖ All roof drains must be directed away from Company equipment in a manner that prevents damage or settling of facilities, or both.
 - ❖ If transformers, switch cabinets, or gas meters require bumper protection, Customer must install protection at Customer’s sole cost. Customer must contact design engineer for bumper protection clearance requirements.
 - ❖ If Customer knows or suspects contaminants are present on the property where Company may be working, Customer must disclose its knowledge or suspicion to Company prior to Company commencing construction. If there are known contaminants on the subject property, Customer/developer/owner must remove the contaminants to any impacted soils or groundwater prior to Company commencing construction. If, prior to or during Company construction, contaminants are encountered that were previously unknown, all work will be stopped until Customer

remediates the site to ensure Company’s crews are working in non-contaminated soils and that all facilities are located upon or buried in non-contaminated soils. The Company may, in its sole discretion, agree to other appropriate alternatives to these remediation requirements that are protective of worker and public safety and that protect the Company from incurring environmental liabilities.

- ❖ The Customer/developer/owner shall comply with all applicable federal, state, and local laws, regulations, and ordinances (“Environmental Laws”) regarding environmental contamination, including without limitation any Environmental Laws pertaining to soil and/or debris excavated from the property that is contaminated with hazardous substances, hazardous or solid wastes, petroleum, or other similar regulated materials. Company shall not be liable or responsible for environmental conditions at or near the Project site, and Customer shall be responsible for environmental conditions and costs of properly managing any impacted media including, but not limited to, soils or groundwater. The Customer/developer/owner shall be responsible for any additional costs arising out of pre-existing contamination on the property, including but not limited to: (a) Company exacerbating pre-existing conditions; and/or (b) Company’s adoption of greater or different procedures for utility installation than its standard business practice when dealing with clean, uncontaminated soils.
- ❖ Customer will be responsible for replacing existing sod, shrubs, trees, etc., and for repairing existing paving, at no cost to Company.
- ❖ Customer must ensure that all Company facilities meet all local setback and zoning requirements, and remain accessible at all times for routine maintenance purposes.
- ❖ All areas of the door sides of transformers and/or switch cabinets must remain clear of obstructions for ten (10) feet minimum distance at all times for maintenance purposes.
- ❖ With regard to meters and service laterals:
 - The permanent address must be attached to the building before the permanent meter will be set.
 - Multiple unit structures must have each meter housing and fuel line, as applicable, permanently identified before the meter will be set.
 - Multiple unit structures with banked metering require separate trenches for any Customer-owned facilities.
 - No Customer-owned facilities will be allowed in any easement granted by the property owner to Company.
 - Customer is responsible to provide required clearances for all electric and gas metering equipment in accordance with the Xcel Energy Standard for Electric Installation and Use and applicable laws, regulations, and standards as determined by the Company.
 - Company will install all residential underground electric services in accordance with Company’s Electric Extension Standards.
 - All commercial electric underground services, complete to transformer, pedestal, or terminal pole shall be installed, owned, and maintained by Customer in accordance with Company’s Electric Extension Standards.
 - Adequate conduit under concrete, decks, and other obstructions shall be the responsibility of Customer.
 - Overhead to underground conversion of meters and risers, including all wiring and building repairs, shall be at Customer’s cost.
 - Company will install all gas services.
 - If checked, Customer must provide a concrete pad for gas meter support at no cost to Company.

Meter Pad Dimensions: _____ long X _____ wide X _____ thick.

3. Permit Obligations. The Agreement and all Associated Agreements are contingent upon acquisition of the following permits and/or approvals:

- Town Permit
- County Permit
- State Highway Crossing Permit
- Railroad Crossing Permit
- Bureau of Land Management (BLM) Approval
- Grading and Drainage Permit
- Water Board Crossing
- Special Permit
- Corps of Engineer’s Permit
- Other [Please specify.] _____

4. Trench Compaction Requirements. Company is required to provide the following trench specifications:

- Wheel Compaction _____ feet of trench
- 85% Standard Proctor Compaction _____ feet of trench
- 95% Standard Proctor Compaction _____ feet of trench
- 95% Modified Proctor Compaction _____ feet of trench
- Bore _____ feet of trench

Planner Name: Chase Cronic	Customer Phone: 970-227-0622
Planner Title: Contractor, Prof Consultant	Customer Email: JEFF@JENSENLAPLANTE.COM
Mailing Address: 1901 East Horsetooth Road	Mailing Address: 450 S parish Ave
City, State Zip: Fort Collins, CO 80525	City, State Zip: Johnstown, CO 80525

Lock Agreement

CUSTOMER SIGNATURE
Legal Entity Name (if applicable):
Authorized Signer (see signing options below*): <i>Signing Option 1</i> <input type="checkbox"/> AGREE <i>Signing Option 2</i> (Signature below)
By:
Printed Name:
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Signing Option 2: Add Electronic Signature and return by e-mail **OR** print, sign, scan and return by e-mail **OR** print and

* **Confidential Information**
 Customer is to return copy of signed document to your Xcel Energy Representative

Colorado Blvd CR 46 REIN

RECON COMMERCIAL OH AND UG Electric Distribution

INSTALL SUMMARY

- 2 - 35'5 POLE
- 1 - 45'3 POLE
- 5 - 50'2 POLE
- 5 - 55'2 POLE
- 65' OF 1/0 CONDUCTOR
- 25159' OF 1000 AL CONDUCTOR
- 1425' OF 795 AAC
- 475' OF 2/0 ACSR
- 225' OF #2 AL TRIPLEX
- 65' OF 1/0 AL TX
- 215' OF 350 AL TX
- 6 - MANHOLE - 6'W X 12'L
- 2 - 50 KVA 120/240V XFMRs
- 4 - PMH 10
- 2 - PMH 11
- 1 - PMH 9

REMOVAL SUMMARY

- 340' OF 2/0 ACSR
- 850' OF #2 ACSR
- 340' OF 336 ACSR
- 1460 OF #4 ACSR
- 610' OF 1/0 AL TRIPLEX
- 4 - 35'5 POLE
- 3- 40'3 POLE
- 4- 40'4 POLE
- 4- 45'3 POLE
- 1 - 15KVA 120/240V XFMR
- 1 - 25KVA 120/240V XFMR
- 610' OF 1/0 CONDUCTOR
- 740' OF 1000 AL CONDUCTOR
- 1 - PMH 9

Design Contact: Chase Cronin: 303-437-7862
chase.t.cronin@xcelenergy.com

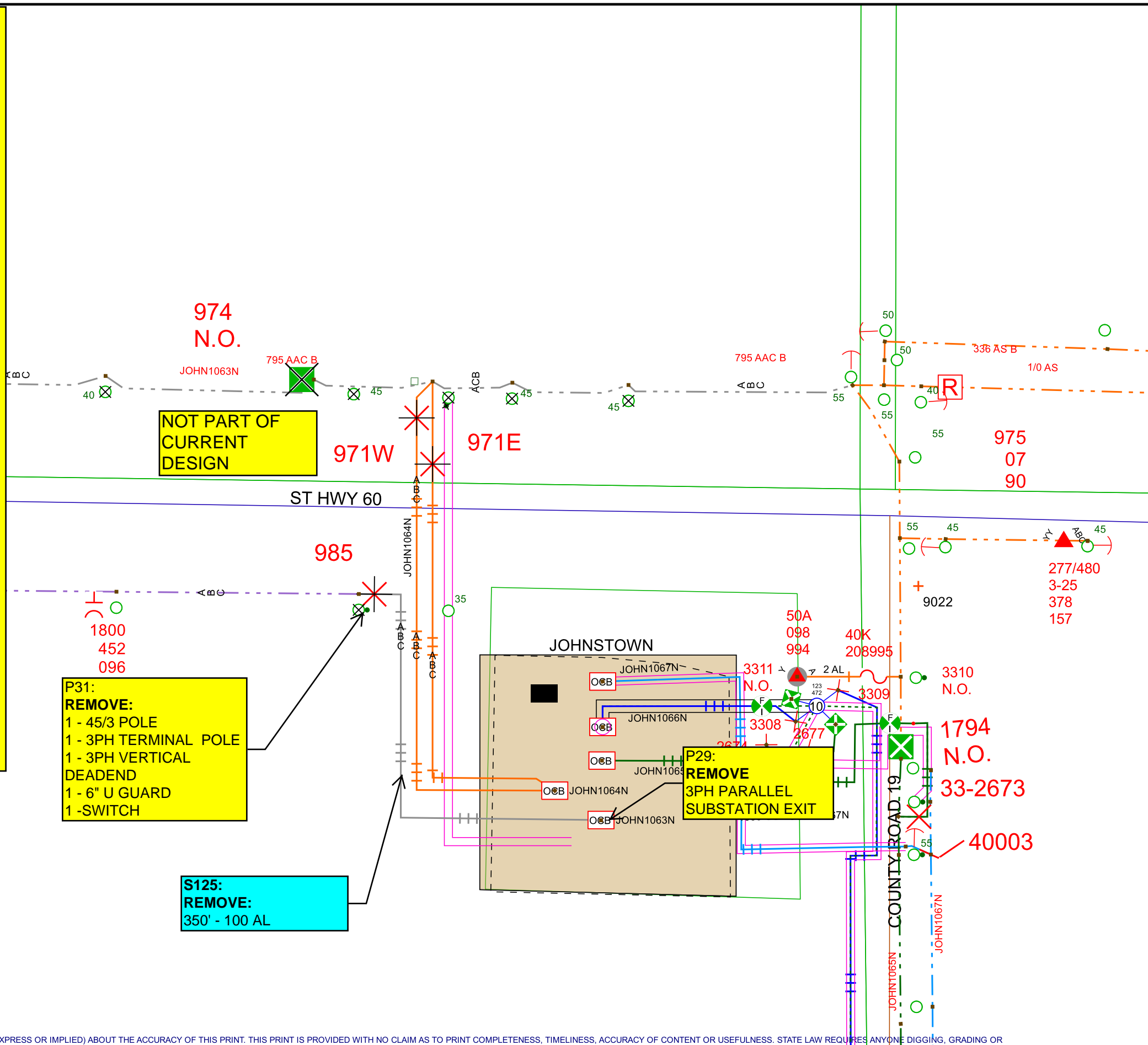
- Permit Required
- TCP Required
- Locates Required
- Restoration Required

P31:
REMOVE:
1 - 45'3 POLE
1 - 3PH TERMINAL POLE
1 - 3PH VERTICAL DEADEND
1 - 6" U GUARD
1 - SWITCH

S125:
REMOVE:
350' - 100 AL

NOT PART OF CURRENT DESIGN

P29:
REMOVE
3PH PARALLEL SUBSTATION EXIT



Work Order Information	
Service Request #	: 000013830321
Design Number	: 000001128792
Designer/Planner ID	: 214808
Designer/Planner Name	: Chase Cronin
Designer/Planner Ph #	: 303-437-7862
Manager Approval	: _____

Joint Utility	
E:	N/A
G:	N/A
T:	N/A
C:	N/A

Design Location	
Division	: HLP
County	: WELD
City	: GREELEY
Address	: CR 13 AND HWY 60
T: 4N	R: 67W S: 9
Map #	: 2169364 03
Permit	: CITY/CDOT

Electric	
Feeder: JOHN1064N	Voltage: 1247
Phase: ABC	Bkup Dev ID: N/A

Gas	
System	: N/A
Pressure	: N/A
Size	: N/A
Material	: N/A
Dead End	: N/A

Work Order # :
Date: 09/22/2023
Sketch: 1 of 14
Scale: 1" equals 100'



CONSTRUCTION USE ONLY

NO CHANGES (BUILT AS DESIGNED)
 CHANGES MADE AS INDICATED (ALL URD MUST HAVE ACTUAL MEASUREMENTS FROM THE FIELD SITE)

RFO
FOREMAN _____ DATE _____
TEAM LEADER _____

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Colorado Blvd CR 46 REIN

RECON COMMERCIAL OH AND UG Electric Distribution

INSTALL SUMMARY

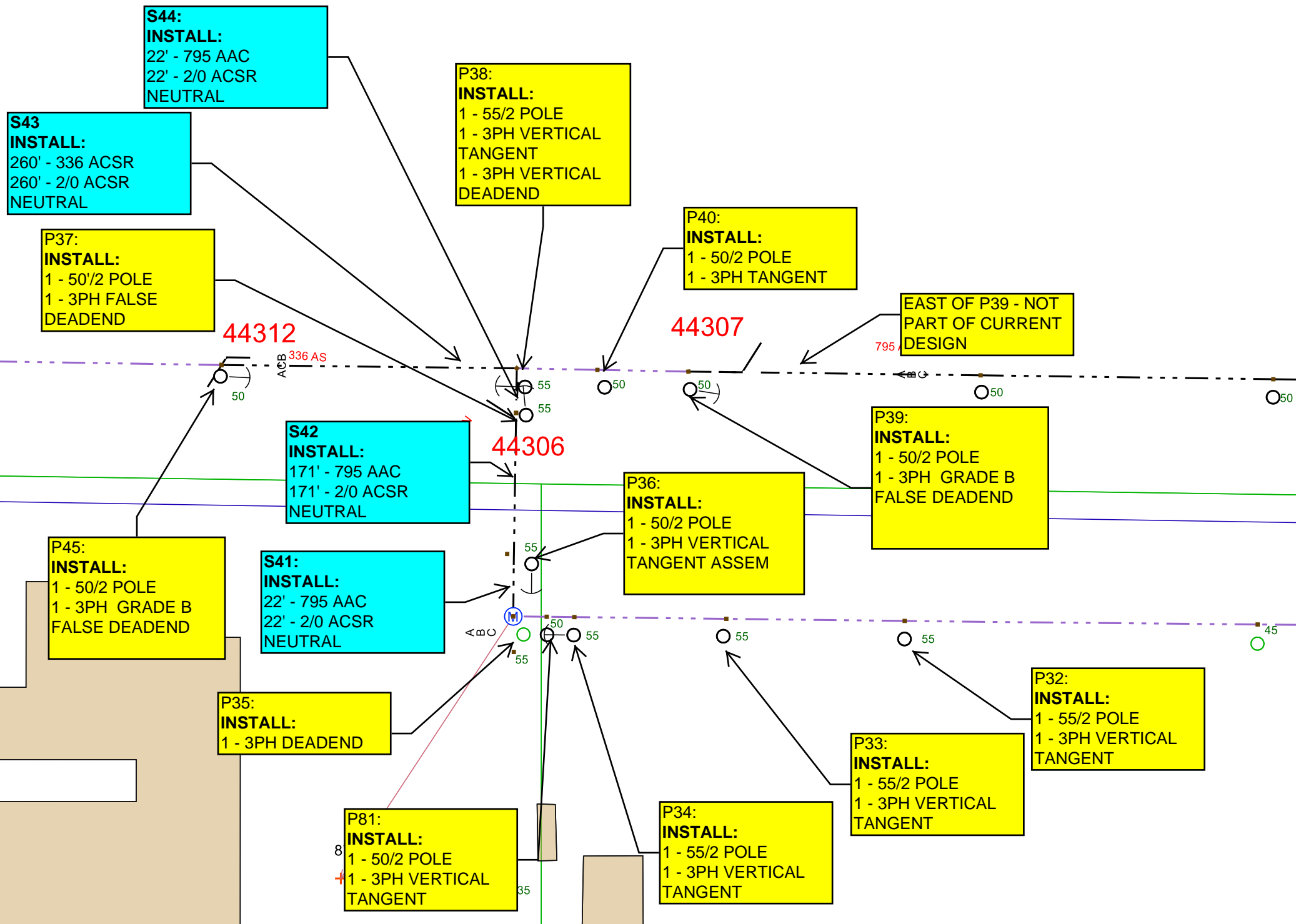
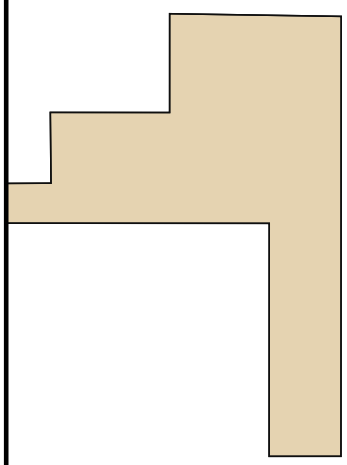
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- 215' OF 350 AL TX
- 6 - MANHOLE - 6'W X 12'L
- 2 - 50 KVA 120/240V XFMRs
- 4 - PMH 10
- 2 - PMH 11
- 1 - PMH 9

REMOVAL SUMMARY

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- 850' OF #2 ACSR
- 340' OF 336 ACSR
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- 610' OF 1/0 AL TRIPLEX
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- 610' OF 1/0 CONDUCTOR
- 740' OF 1000 AL CONDUCTOR
- 1 - PMH 9

Design Contact: Chase Cronic: 303-437-7862
chase.t.cronic@xcelenergy.com

- Permit Required
- TCP Required
- Locates Required
- Restoration Required



Item #8.

Work Order Information	
Service Request #	: 000013830321
Design Number	: 000001128792
Designer/Planner ID	: 214808
Designer/Planner Name	: Chase Cronic
Designer/Planner Ph #	: 303-437-7862
Manager Approval	: _____
Joint Utility	
E: N/A	G: N/A
T: N/A	C: N/A
Design Location	
Division	: HLP
County	: WELD
City	: GREELEY
Address	: CR 13 AND HWY 60
T: 4N	R: 67W S: 4
Map #	: 2169364 03 Permit : CITY/CDOT
Electric	
Feeder: JOHN1064N	Voltage: 1247
Phase: ABC	Bkup Dev ID: N/A
Gas	
System	: N/A Pressure : N/A
Size	: N/A Material : N/A
Dead End	: N/A
Work Order #	: _____
Date:	09/22/2023
Sketch:	1 of 14
Scale:	1" equals 100'

CONSTRUCTION USE ONLY

NO CHANGES (BUILT AS DESIGNED)

CHANGES MADE AS INDICATED (ALL URD MUST HAVE ACTUAL MEASUREMENTS FROM THE FIELD SITE)

RFO _____
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Colorado Blvd CR 46 REIN

RECON COMMERCIAL OH AND UG Electric Distribution

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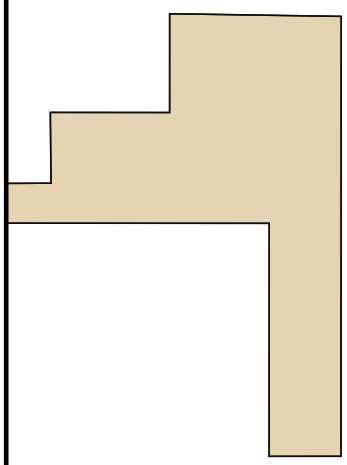
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- 610' OF 1/0 CONDUCTOR
- 740' OF 1000 AL CONDUCTOR
- 1 - PMH 9

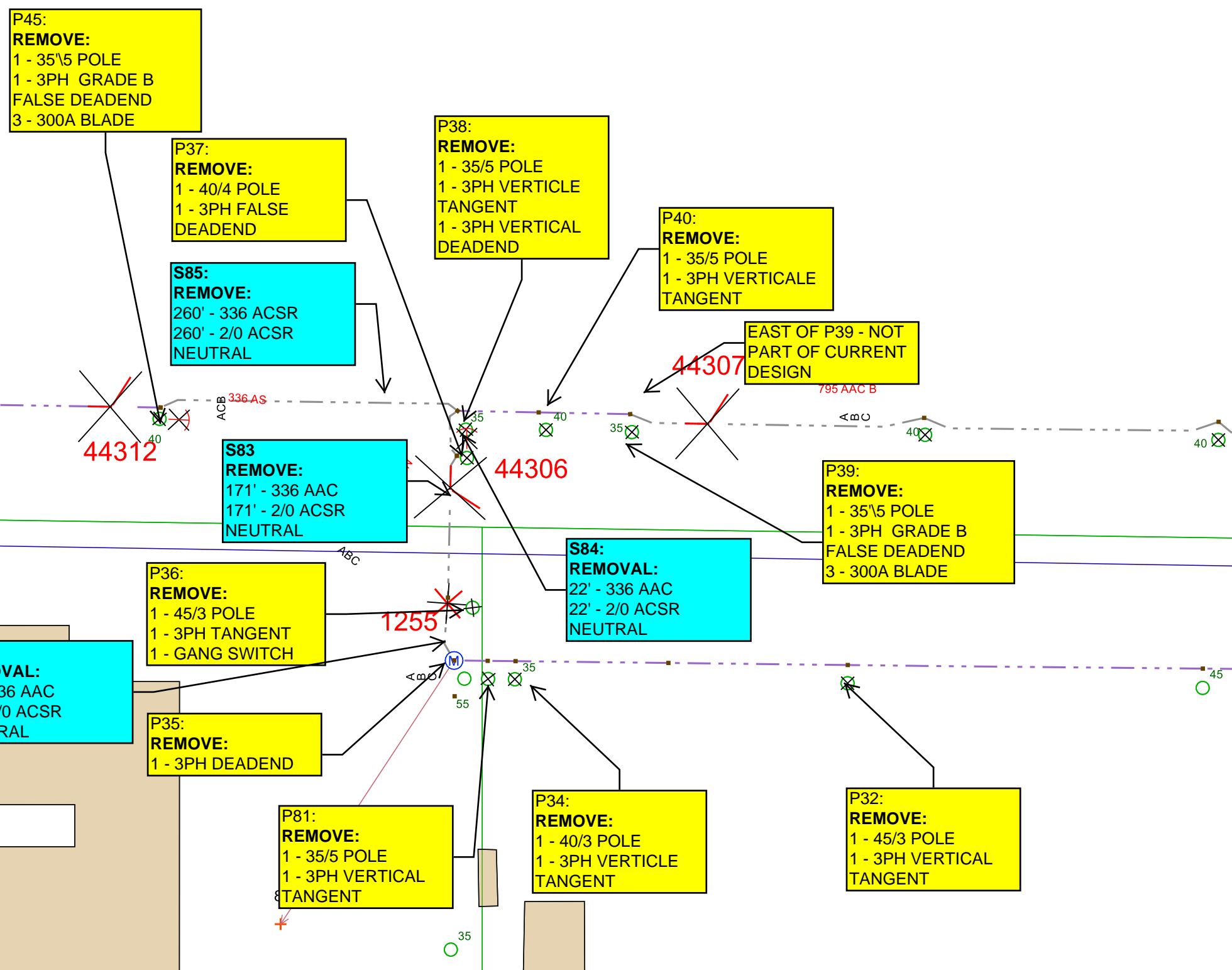
Design Contact: Chase Cronic: 303-437-7862
chase.t.cronic@xcelenergy.com

- Permit Required
- TCP Required
- Locates Required
- Restoration Required



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Work Order Information	
Service Request #	: 000013830321
Design Number	: 000001128792
Designer/Planner ID	: 214808
Designer/Planner Name	: Chase Cronic
Designer/Planner Ph #	: 303-437-7862
Manager Approval	: _____
Joint Utility	
E: N/A	G: N/A
T: N/A	C: N/A
Design Location	
Division	: HLP
County	: WELD
City	: GREELEY
Address	: CR 13 AND HWY 60
T: 4N	R: 67W S: 4
Map #	: 2169364 03
Permit	: CITY/CDOT
Electric	
Feeder: JOHN1064N	Voltage: 1247
Phase: ABC	Bkup Dev ID: N/A
Gas	
System	: N/A
Pressure	: N/A
Size	: N/A
Material	: N/A
Dead End	: N/A
Work Order #	: _____
Date:	09/22/2023
Sketch:	1 of 14
Scale:	1" equals 100'

CONSTRUCTION USE ONLY

NO CHANGES (BUILT AS DESIGNED)

CHANGES MADE AS INDICATED (ALL URD MUST HAVE ACTUAL MEASUREMENTS FROM THE FIELD SITE)

RFO _____

FOREMAN _____ DATE _____

TEAM LEADER _____

146

Colorado Blvd CR 46 REIN

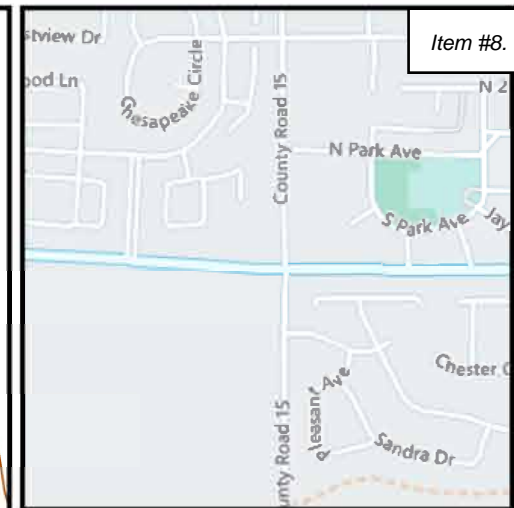
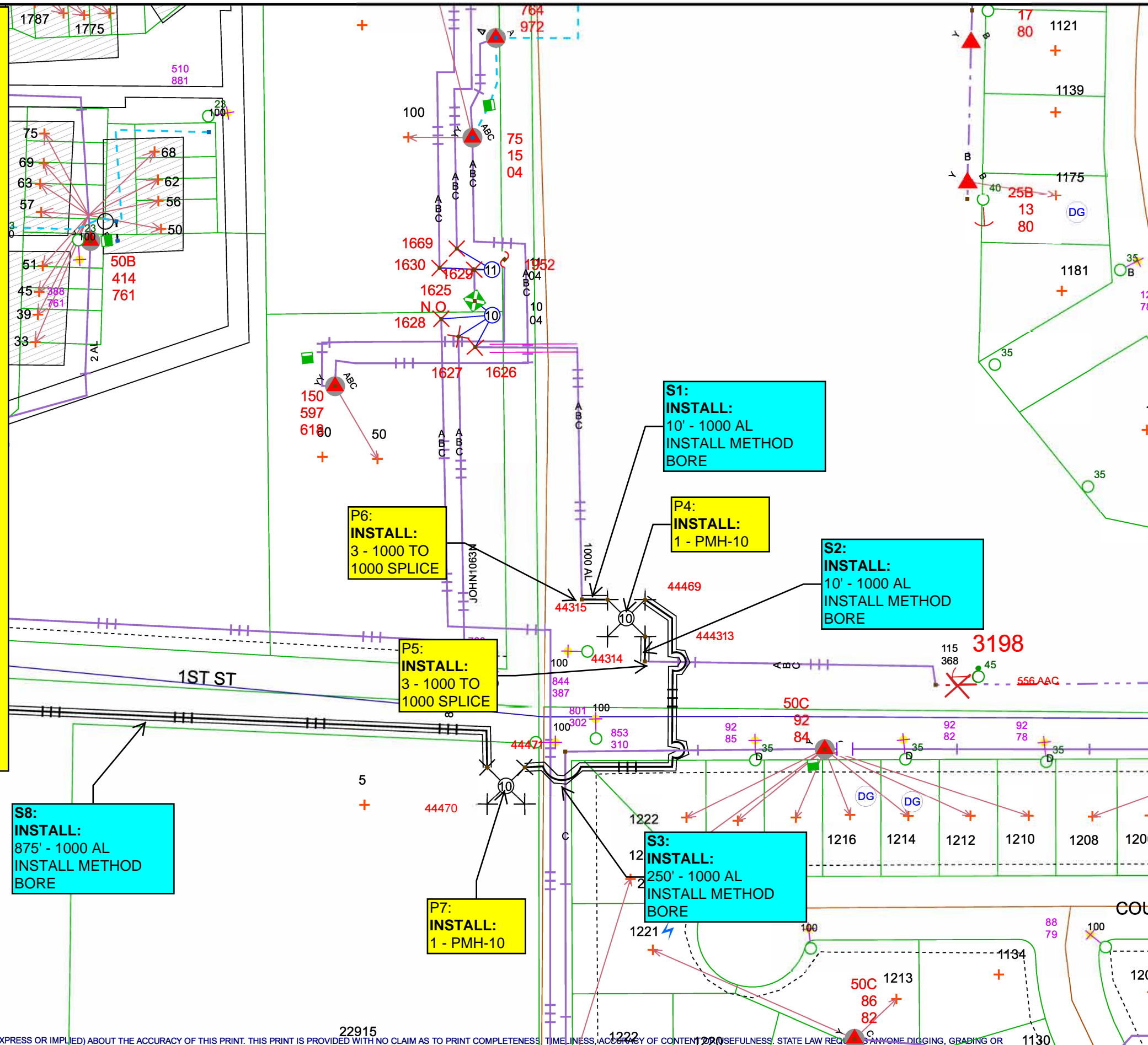
RECON COMMERCIAL OH AND UG Electric Distribution

INSTALL SUMMARY
 2 - 35/5 POLE
 1 - 45/3 POLE
 5 - 50/2 POLE
 5 - 55/2 POLE
 65' OF 1/0 CONDUCTOR
 25159' OF 1000 AL CONDUCTOR
 1425' OF 795 AAC
 475' OF 2/0 ACSR
 225' OF #2 AL TRIPLEX
 65' OF 1/0 AL TX
 215' OF 350 AL TX
 6 - MANHOLE - 6'W X 12'L
 2 - 50 KVA 120/240V XFMRs
 4 - PMH 10
 2 - PMH 11
 1 - PMH 9

REMOVAL SUMMARY
 340' OF 2/0 ACSR
 850' OF #2 ACSR
 340' OF 336 ACSR
 1460 OF #4 ACSR
 610' OF 1/0 AL TRIPLEX
 4 - 35/5 POLE
 3 - 40/3 POLE
 4 - 40/4 POLE
 4 - 45/3 POLE
 1 - 15KVA 120/240V XFMR
 1 - 25KVA 120/240V XFMR
 610' OF 1/0 CONDUCTOR
 740' OF 1000 AL CONDUCTOR
 1 - PMH 9

Design Contact: Chase Cronic: 303-437-7862
 chase.t.cronic@xcelenergy.com

Permit Required
 TCP Required
 Locates Required
 Restoration Required



Work Order Information	
Service Request #	000013830321
Design Number	000001128792
Designer/Planner ID	214808
Designer/Planner Name	Chase Cronic
Designer/Planner Ph #	303-437-7862
Manager Approval	

Joint Utility	
E: N/A	G: N/A
T: N/A	C: N/A

Design Location	
Division	HLP
County	WELD
City	GREELEY
Address	CR 13 AND HWY 60
T: 4N	R: 67W
S: 6	
Map #	2160364 03
Permit	CITY/CDOT

Electric	
Feeder: JOHN1064N	Voltage: 1247
Phase: ABC	Bkup Dev ID: N/A

Gas	
System	N/A
Pressure	N/A
Size	N/A
Material	N/A
Dead End	N/A

Work Order # :
 Date: 09/22/2023
 Sketch: 1 of 14
 Scale: 1" equals 100'



CONSTRUCTION USE ONLY	
<input type="checkbox"/>	NO CHANGES (BUILT AS DESIGNED)
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RFO
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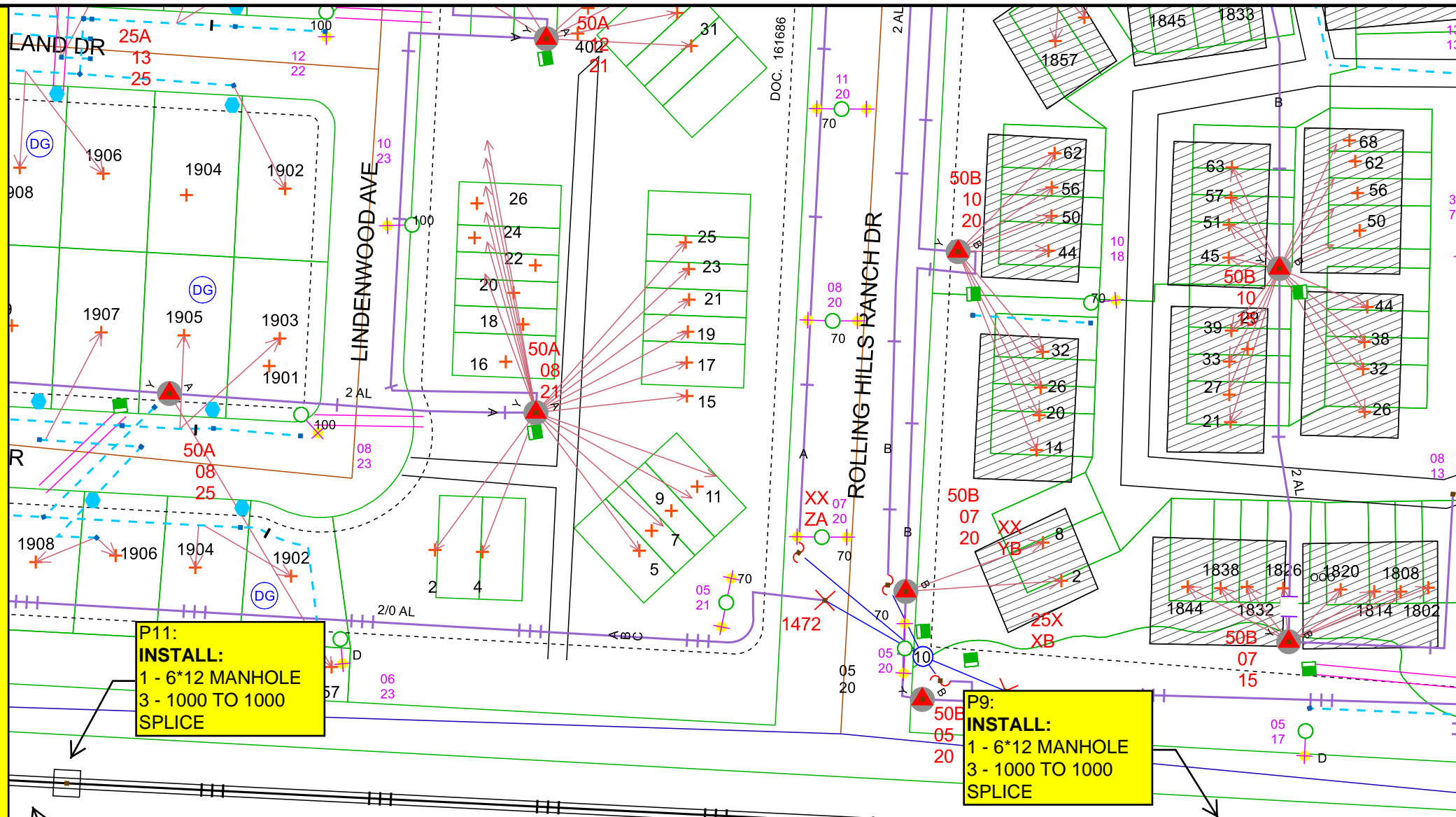
RECON COMMERCIAL OH AND UG Electric Distribution

- INSTALL SUMMARY**
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 5 - 50/2 POLE
 5 - 55/2 POLE
 65' OF 1/0 CONDUCTOR
 25159' OF 1000 AL CONDUCTOR
 1425' OF 795 AAC
 475' OF 2/0 ACSR
 225' OF #2 AL TRIPLEX
 65' OF 1/0 AL TX
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 6 - MANHOLE - 6'W X 12'L
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- REMOVAL SUMMARY**
 340' OF 2/0 ACSR
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 340' OF 336 ACSR
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 3- 40/3 POLE
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 610' OF 1/0 CONDUCTOR
 740' OF 1000 AL CONDUCTOR
 1 - PMH 9

Design Contact: Chase Cronin: 303-437-7862
 chase.t.cronin@xcelenergy.com

- Permit Required
 TCP Required
 Locates Required
 Restoration Required



**P11:
 INSTALL:
 1 - 6*12 MANHOLE
 3 - 1000 TO 1000
 SPLICE**

**P9:
 INSTALL:
 1 - 6*12 MANHOLE
 3 - 1000 TO 1000
 SPLICE**

**S12:
 INSTALL:
 905' - 1000 AL
 905' - 6" PE CONDUIT
 905' - 6" BORE**

**S10:
 INSTALL:
 870' - 1000 AL
 870' - 6" PE CONDUIT
 870' - 6" BORE**

**S8:
 INSTALL:
 875' - 1000 AL
 875' - 6" PE CONDUIT
 875' - 6" BORE**



Work Order Information	
Service Request #	: 000013830321
Design Number	: 000001128792
Designer/Planner ID	: 214808
Designer/Planner Name	: Chase Cronin
Designer/Planner Ph #	: 303-437-7862
Manager Approval	:

Joint Utility	
E:	N/A
G:	N/A
T:	N/A
C:	N/A

Design Location	
Division	: HLP
County	: WELD
City	: GREELEY
Address	: CR 13 AND HWY 60
T: 4N	R: 67W S: 6
Map #	: 2157364 03
Permit	: CITY/CDOT

Electric	
Feeder:	JOHN1064N
Voltage:	1247
Phase:	ABC
Bkup Dev ID:	N/A

Gas	
System	: N/A
Pressure	: N/A
Size	: N/A
Material	: N/A
Dead End	: N/A

Work Order # :
 Date: 09/22/2023
 Sketch: 1 of 14
 Scale: 1" equals 100'



CONSTRUCTION USE ONLY
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RFO
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 TEAM LEADER _____

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Colorado Blvd CR 46 REIN

RECON COMMERCIAL OH AND UG Electric Distribution

INSTALL SUMMARY

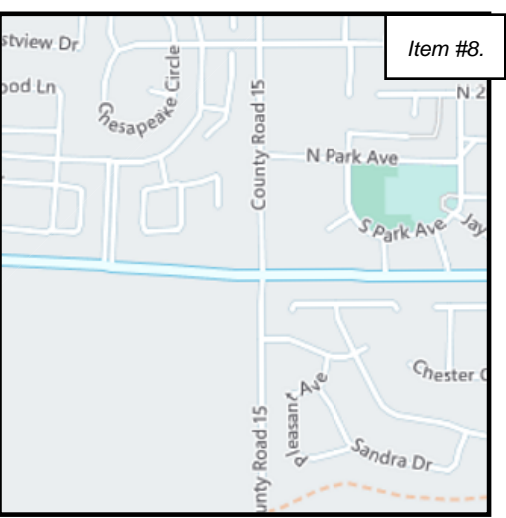
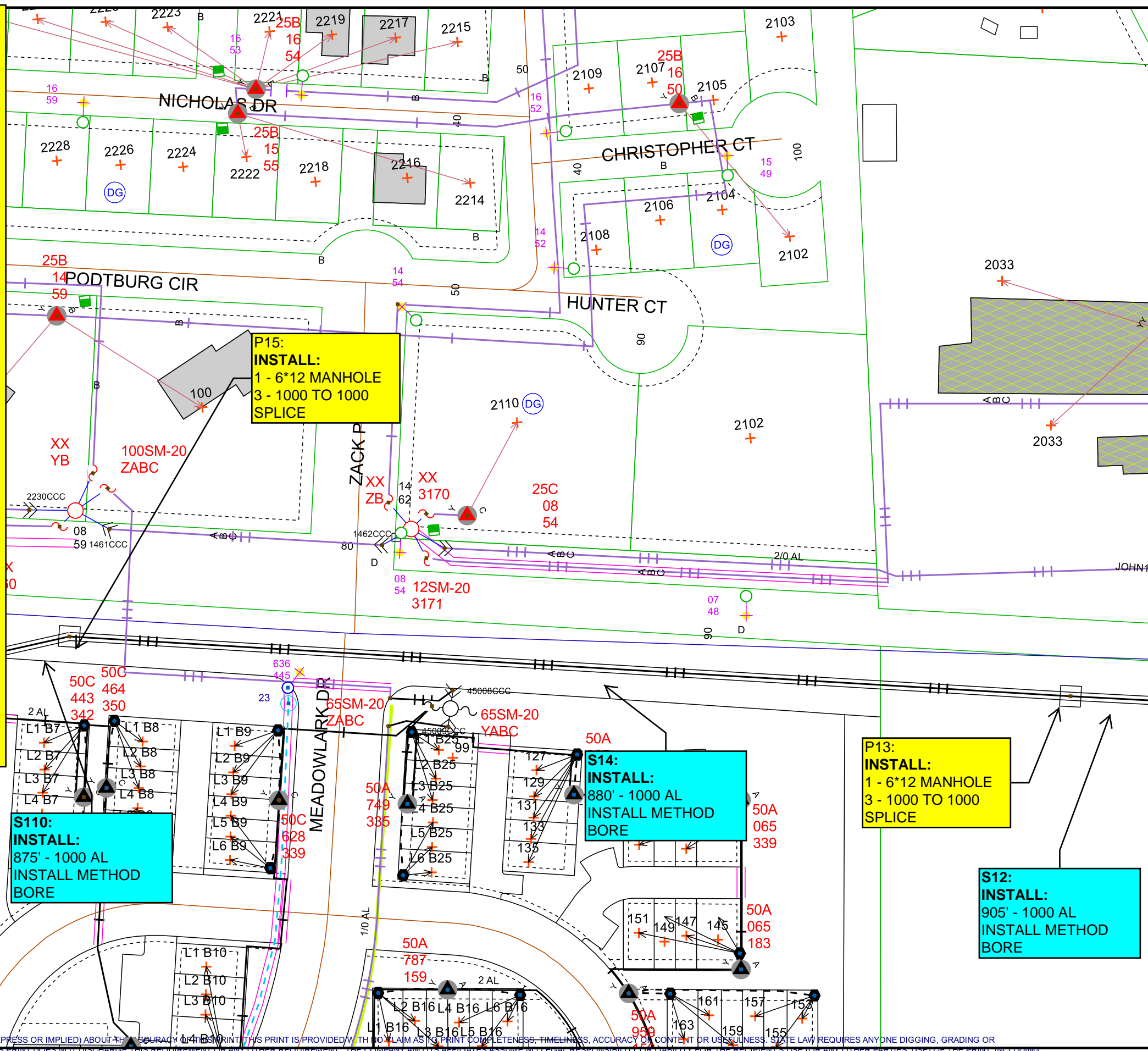
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- 2 - 50 KVA 120/240V XFMRs
- 4 - PMH 10
- 2 - PMH 11
- 1 - PMH 9

REMOVAL SUMMARY

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- 1 - 25KVA 120/240V XFMR
- 610' OF 1/0 CONDUCTOR
- 740' OF 1000 AL CONDUCTOR
- 1 - PMH 9

Design Contact: Chase Cronic: 303-437-7862 chase.t.cronic@xcelenergy.com

- Permit Required
- TCP Required
- Locates Required
- Restoration Required



Work Order Information	
Service Request #	: 000013830321
Design Number	: 000001128792
Designer/Planner ID	: 214808
Designer/Planner Name	: Chase Cronic
Designer/Planner Ph #	: 303-437-7862
Manager Approval	: _____

Joint Utility	
E:	N/A
T:	N/A
G:	N/A
C:	N/A

Design Location	
Division	: HLP
County	: WELD
City	: GREELEY
Address	: CR 13 AND HWY 60
T: 4N	R: 67W S: 6
Map #	: 2157364 03
Permit	: CITY/CDOT

Electric	
Feeder:	JOHN1064N
Voltage:	1247
Phase:	ABC
Bkup Dev ID:	N/A

Gas	
System	: N/A
Pressure	: N/A
Size	: N/A
Material	: N/A
Dead End	: N/A

Work Order # : _____
 Date: 09/22/2023
 Sketch: 1 of 14
 Scale: 1" equals 100'

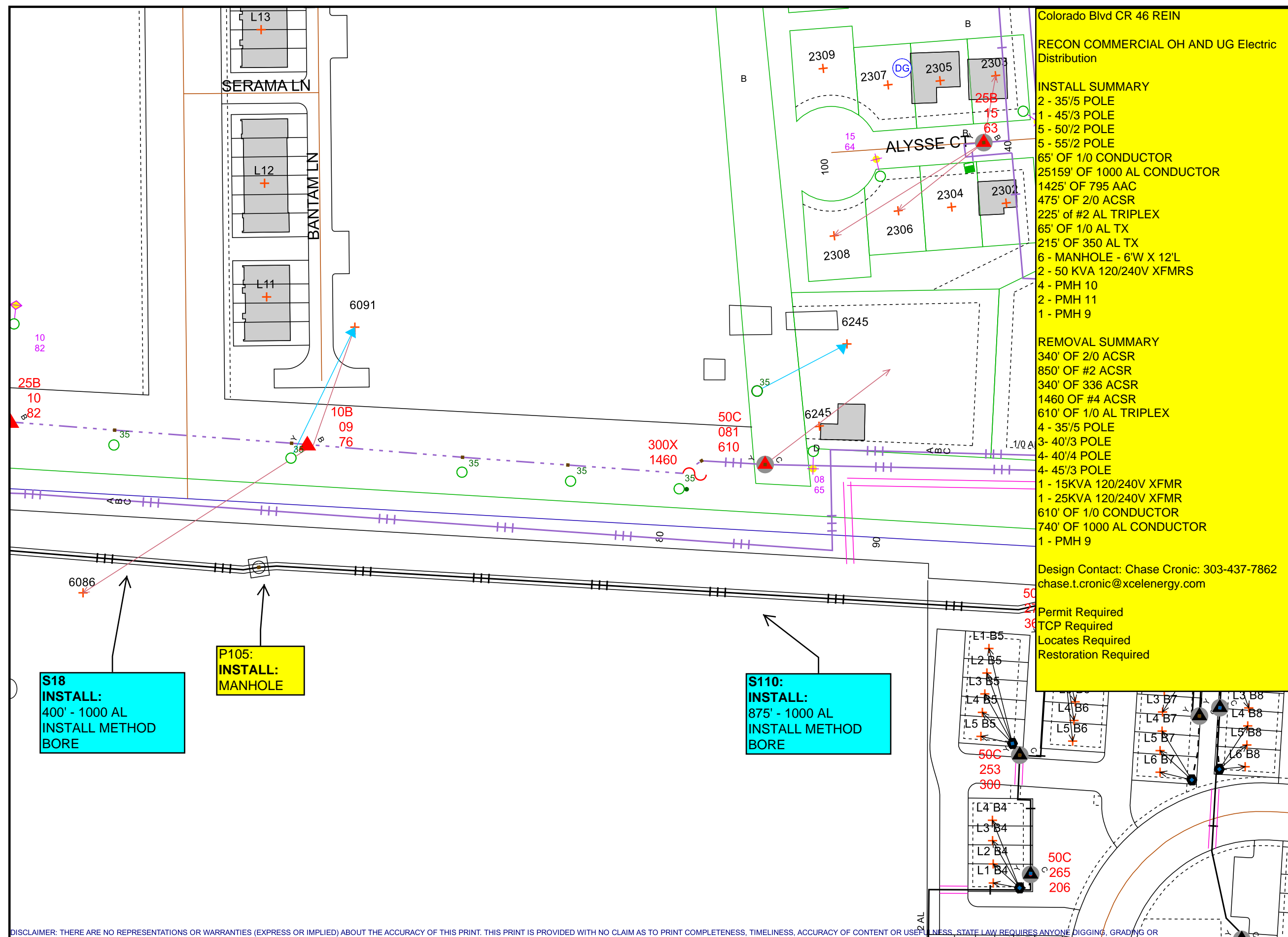


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 TEAM LEADER _____

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Colorado Blvd CR 46 REIN
RECON COMMERCIAL OH AND UG Electric Distribution

INSTALL SUMMARY
 2 - 35'/5 POLE
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 5 - 50'/2 POLE
 5 - 55'/2 POLE
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 1425' OF 795 AAC
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 1 - PMH 9

REMOVAL SUMMARY
 340' OF 2/0 ACSR
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 610' OF 1/0 CONDUCTOR
 740' OF 1000 AL CONDUCTOR
 1 - PMH 9

Design Contact: Chase Cronic: 303-437-7862
 chase.t.cronic@xcelenergy.com

Permit Required
 TCP Required
 Locates Required
 Restoration Required

**S18
 INSTALL:
 400' - 1000 AL
 INSTALL METHOD
 BORE**

**P105:
 INSTALL:
 MANHOLE**

**S110:
 INSTALL:
 875' - 1000 AL
 INSTALL METHOD
 BORE**



Item #8.

Work Order Information	
Service Request #	: 000013830321
Design Number	: 000001128792
Designer/Planner ID	: 214808
Designer/Planner Name	: Chase Cronic
Designer/Planner Ph #	: 303-437-7862
Manager Approval	:

Joint Utility	
E: N/A	G: N/A
T: N/A	C: N/A

Design Location	
Division	: NOR
County	: WELD
City	: JOHNSTOWN
Address	: COLORADO BLVD CR 46 REIN
T: 4N	R: 67W S: 6
Map #	: 2154364 03
Permit	: CITY/CDOT

Electric	
Feeder: JOHN1063N	Voltage: 1247
Phase: ABC	Bkup Dev ID: N/A

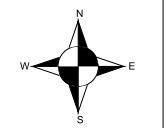
Gas	
System	: N/A
Pressure	: N/A
Size	: N/A
Material	: N/A
Dead End	: N/A

Work Order # :

Date: 10/03/2023

Sketch:

Scale: 1" equals 100'

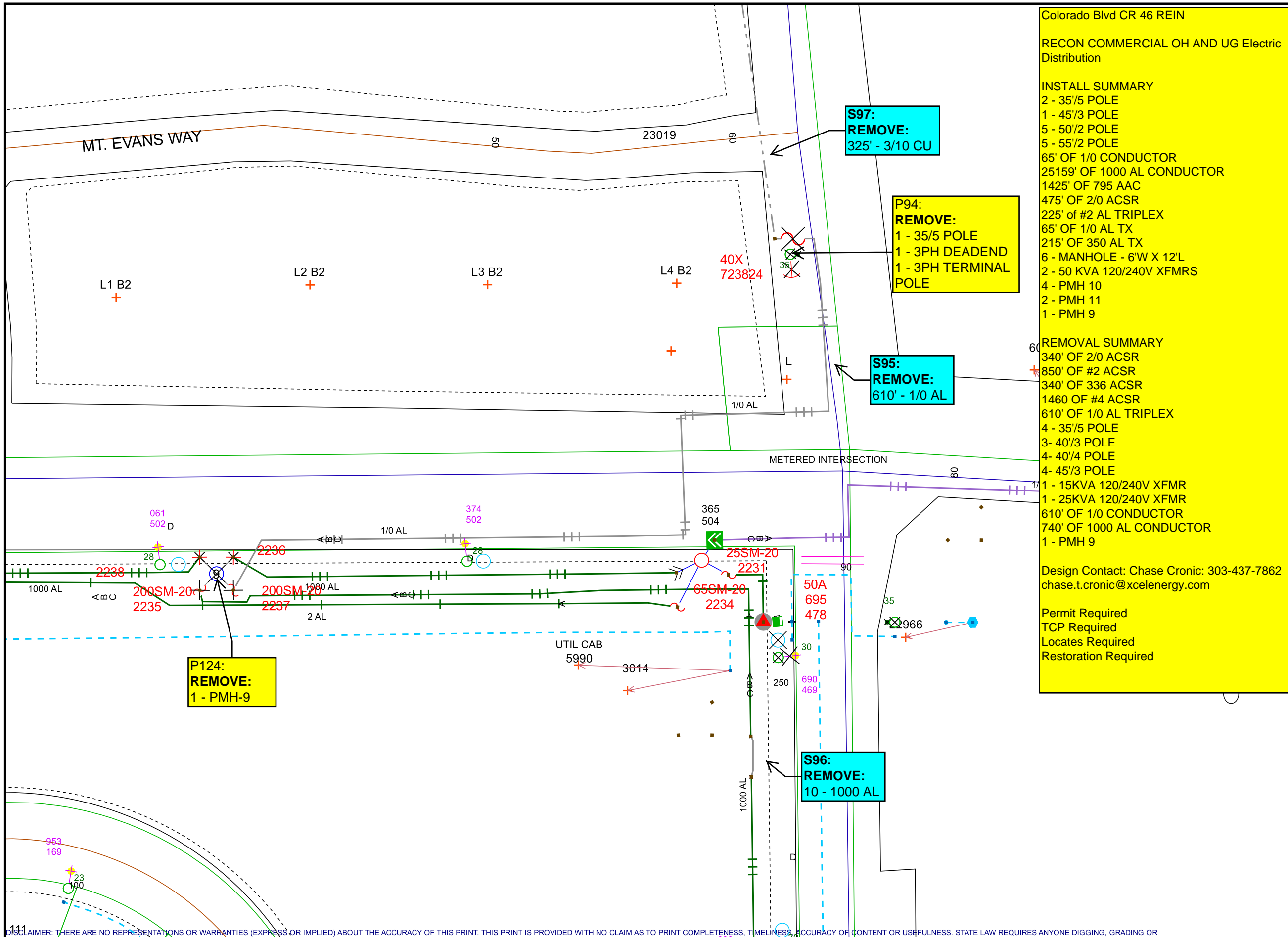


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RFO
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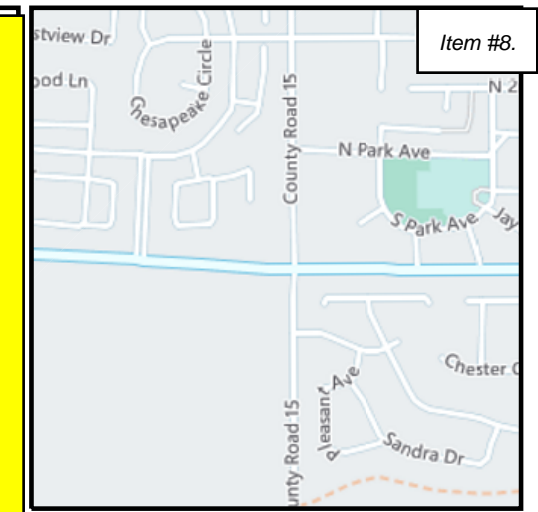
RECON COMMERCIAL OH AND UG Electric Distribution

INSTALL SUMMARY
 2 - 35/5 POLE
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Design Contact: Chase Cronic: 303-437-7862
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Permit Required
 TCP Required
 Locates Required
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Item #8.

Work Order Information	
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Design Number	: 000001128792
Designer/Planner ID	: 214808
Designer/Planner Name	: Chase Cronic
Designer/Planner Ph #	: 303-437-7862
Manager Approval	: _____
Joint Utility	
E: N/A	G: N/A
T: N/A	C: N/A
Design Location	
Division	: HLP
County	: WELD
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T: 4N	R: 68W S: 1
Map #	: 2154364 03
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Electric	
Feeder: JOHN1064N	Voltage: 1247
Phase: ABC	Bkup Dev ID: N/A
Gas	
System	: N/A
Pressure	: N/A
Size	: N/A
Material	: N/A
Dead End	: N/A
Work Order #	: _____
Date	: 09/22/2023
Sketch	: 1 of 14
Scale	: 1" equals 100'



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RFO _____
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 TEAM LEADER _____

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Colorado Blvd CR 46 REIN

RECON COMMERCIAL OH AND UG Electric Distribution

INSTALL SUMMARY

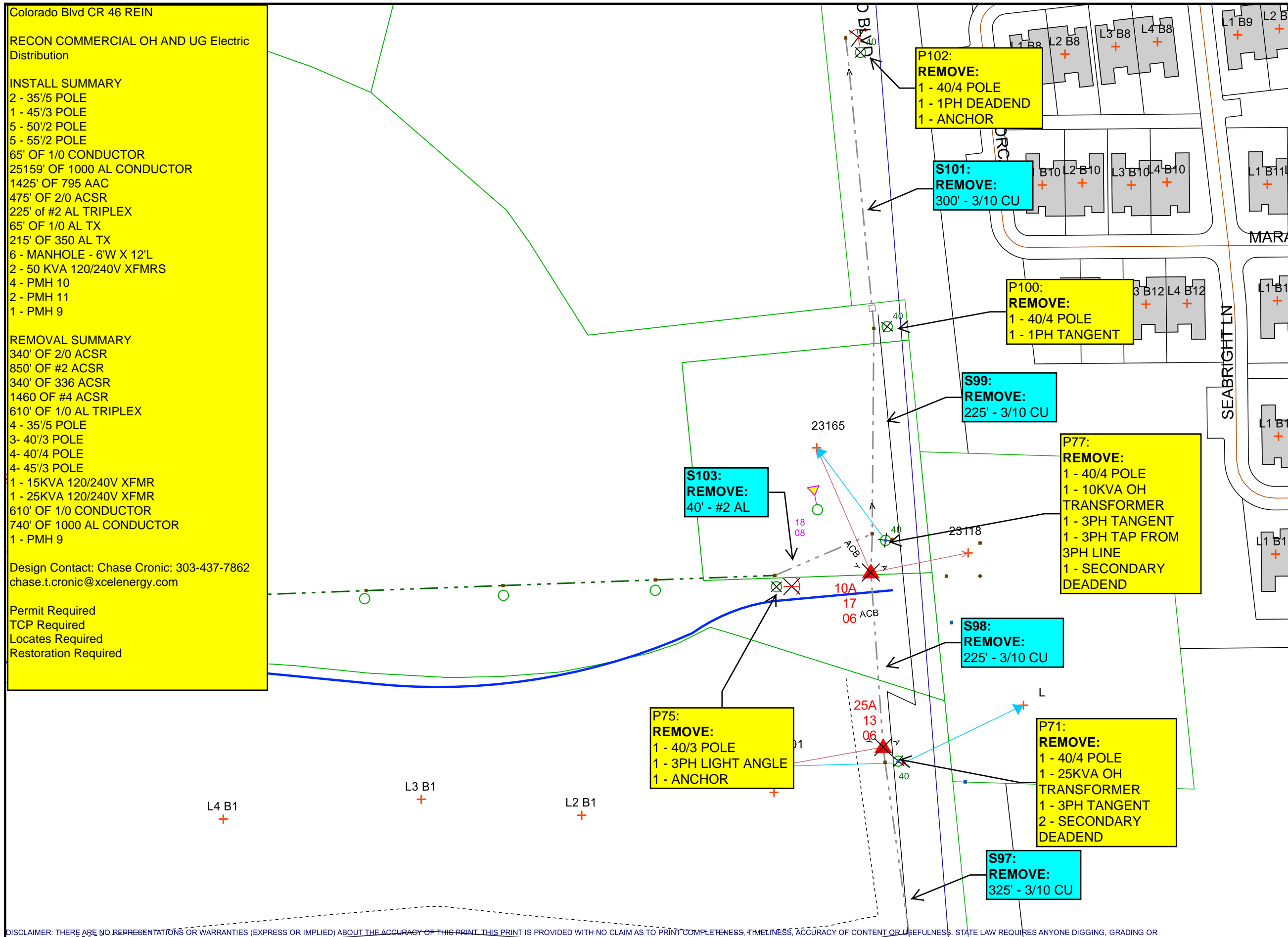
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- 610' OF 1/0 AL TRIPLEX
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Design Contact: Chase Cronin: 303-437-7862
chase.t.cronin@xcelenergy.com

- Permit Required
- TCP Required
- Locates Required
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Work Order Information	
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Designer/Planner ID	: 214808
Designer/Planner Name	: Chase Cronin
Designer/Planner Ph #	: 303-437-7862
Manager Approval	: _____

Joint Utility	
E:	N/A
G:	N/A
T:	N/A
C:	N/A

Design Location	
Division	: HLP
County	: WELD
City	: GREELEY
Address	: CR 13 AND HWY 60
T: 4N	R: 68W S: 1
Map #	: 2154366 03
Permit	: CITY/CDOT

Electric	
Feeder: JOHN1064N	Voltage: 1247
Phase: ABC	Bkup Dev ID: N/A

Gas	
System	: N/A
Pressure	: N/A
Size	: N/A
Material	: N/A
Dead End	: N/A

Work Order # :
Date: 09/22/2023
Sketch: 1 of 14
Scale: 1" equals 100'



- CONSTRUCTION USE ONLY**
- NO CHANGES (BUILT AS DESIGNED)
 - CHANGES MADE AS INDICATED (ALL URD MUST HAVE ACTUAL MEASUREMENTS FROM THE FIELD SITE)

RFO _____
FOREMAN _____ DATE _____
TEAM LEADER _____

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TOWN COUNCIL AGENDA COMMUNICATIONS

- AGENDA DATE:** March 18, 2024
- SUBJECT:** Presentation Proposing Shade Structure for the Johnstown YMCA
- ACTION PROPOSED:** Consider Request from Johnstown YMCA to Construct Shade Structure Adjacent to Existing Ball Fields.
- ATTACHMENTS:**
1. Cleary Building Proposal for YMCA
 2. YMCA Shade Structure Perspective
 3. Shade Structure Plot Plan
 4. Master Association Architectural Review Committee approval
- PRESENTED BY:** Tyler Smith, Planner II
-

AGENDA ITEM DESCRIPTION:

Enclosed for your review and consideration is a request from Pat Murray representing the Johnstown YMCA. The applicant is seeking approval from the Town Council to erect a shade structure. The proposed shade structure is to be located adjacent to the existing ball fields. (See attachment #3) The shade structure will provide a comfortable area for outdoor summer camp activities during summer months and serve as an outdoor event space. Funding for construction of the facility is being provided as part of a grant received by Northern Colorado YMCA and the Town is not providing or obligated for any financial participation in the project.

The shade structure will be constructed of steel and will have stone/tile architectural elements wrapping the bases of the support columns. The architectural elements will match the stonework of existing low walls that are prevalent throughout the site, so the new structure will appear as though it was included in the original development of the site (See attachment #2).

The Mountain View West Master Association Architectural Review Committee approved the plans for the proposed shade structure with one suggestion.

- Consider bidding into your budget a bird fence (netting) to keep birds out from under the facility as they have a habit of soiling things a bit. (See attachment #4)

STRATEGIC PLAN ALIGNMENT:

- Natural & Built Environment
 - *Invest in, enhance, conserve parks, open spaces, agricultural areas and natural environment*

LEGAL ADVICE:

NA

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve the construction of a shade structure on the Johnstown YMCA property.

Reviewed and Approved for Presentation,



Town Manager



P.O Box 930220
Verona, WI 53593-0220
Phone: (608) 845-9700
Fax: (608) 845-7070

12/15/2023
HIRSSIG, BRAD
Doc ID: 9912620231215132745

Cleary/Owner Project Proposal - Erected

Customer Information

Building Specification For:

HIRSSIG, BRAD
165 SETTLERS WAY
JOHNSTOWN, COLORADO 80534
Home Phone: (303) 304-6840
Email: cpellow@shamrockbuidlingsllc.com

Building Site Location:

Location: N/A
Tenant: N/A
165 SETTLERS WAY
JOHNSTOWN, COLORADO 80534
County: WELD

Cleary Contact Information

JACOB RENNINGER
CLEARY BUILDING CORP.
3801 WEICKER DRIVE
FORT COLLINS, COLORADO 80524
Phone Number: (970) 484-5355
Phone Number: (800) 373-5550
Email: office@ShamrockBuildingsLLC.com

Building Design Criteria

Property Elevation: 5000

Building Use: Park Shelter

Occupancy Use: U

- Yes No This building is occupied?
How many employees / household members: 0 How many patrons: 0
- Yes No This building contains restroom(s)?
- Yes No This building will be heated?
- Yes No This building will have a concrete floor within 3 months of construction?
- Yes No This building will have interior walls?
- Yes No This building will store hazardous materials or hazardous materials will be used in this building?
- Yes No This building will be attached to an existing building?

Building Code Enforced: IBC 2018

Wind Speed Enforced: 115

Wind Exposure: C

Plans Required: Stamped Plans

Roof Exposure: Partly exposed Every roof which does not fit under Sheltered or Fully exposed.

Soil Bearing: 4 Sand, silty sand, clayey sand, silty gravel, clayey gravel.

Building Snow Load Design: 30 psf Ground Snow Load

Intended Use: Park Shelter

100' Mark Verification form # C-030 becomes part of this document.

Is a building permit or other approval (HOA, Etc.) required for this project? Yes - County

Will a pull off charge be required for this building? No - No action required



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Cleary/Owner Project Proposal - Erected

This contract has not been reviewed for energy code compliance. Conformance to the International Energy Conservation Code (IECC) may necessitate additional costs not included in this contract.

Building Structure

Building Name: Building 1

Commercial – WxLxH: 24' 0" x 30' 0" x 9' 4" (See "Interior Clearances and Exterior Heights" Section)

Width: 24' 0"

Length: 3 Bays at 10' o.c. (Note: See drawing for any custom bay sizes)

Eave Height: 9' 4"

7' 8" Interior (Truss) Clearance from the Concrete Floor (See "Interior Clearances and Exterior Heights" Section)

Roof System: Truss (Standard Lower Chord)

Default Ceiling Design: Not Designed to Support a Ceiling

Roof Pitch: 3/12

Purlins: 2"x4" Continuous 2' 0" inch on center

Additional Accessories

Purlin Blocking: Both Endwalls are purlin blocked

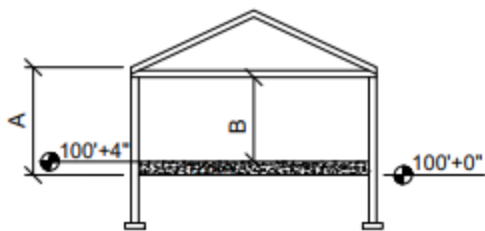
Roofline Wind Bracing

Foundation

Type: In Ground

Concrete Floor: Yes - Supplied by Cleary (Concrete not included unless otherwise noted in writing in the Additional Building Components section)

Interior Clearances and Exterior Heights



Standard Lower Chord Truss (SLC)

Interior Clearances:

"B"=Clearance from finished floor to bottom of truss: **7' 8"**
(Trusses not designed to support a ceiling)

Exterior Heights:

"A" = Actual Eave Height: **9' 4"**
Roof Peak Height: **12' 4"**
Roof Pitch: **3/12**

Top of concrete floor must be at 100'+4" for this foundation type. If thicker concrete floor is desired, the extra thickness will be below the 100'+0" mark.

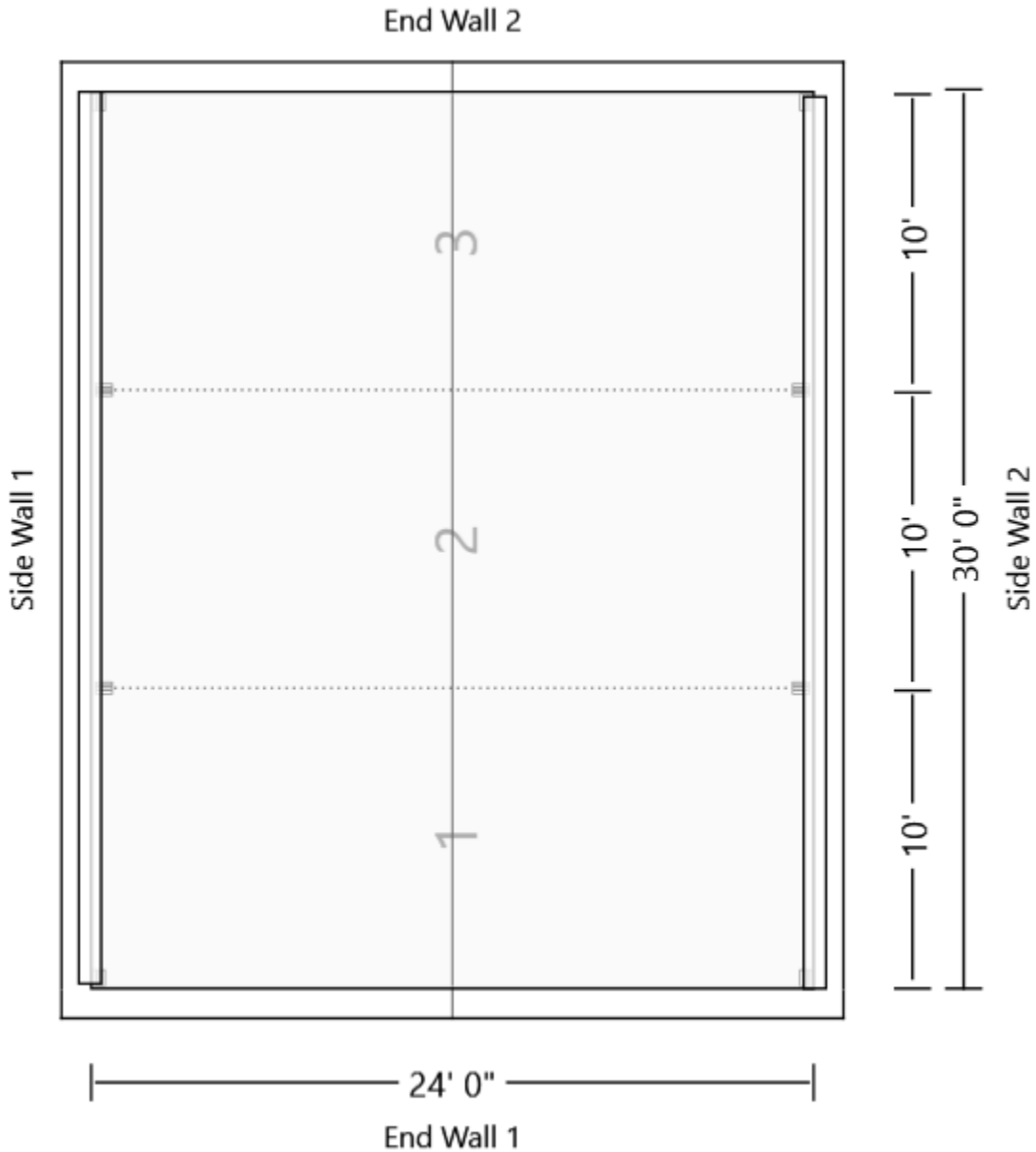


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Cleary/Owner Project Proposal - Erected

Floor Plan





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12/15/2023
HIRSSIG, BRAD
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Cleary/Owner Project Proposal - Erected

Roof Finish and Accessories for Building 1

Exterior Finishes

Roof: PLP Prime G90

Lifetime Film Integrity Warranty, 35 Year Fade and Chalk Warranty, and G-90 Galvanizing.

Ventilation

Roof

Ridge Cap

Standard Ridge Cap.

Marco LP2 Weather-Tite Ridge Vent "Low Profile" (Add ventilation to ridge).

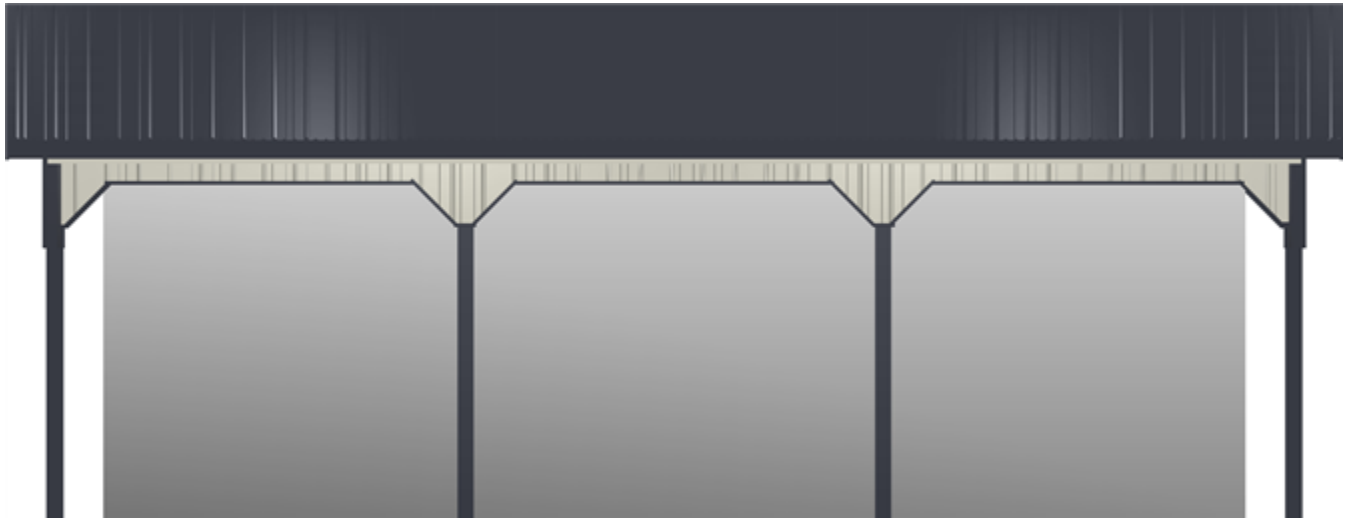
Accessories

Roof

Condensation Control for Building 1: None

Weathervane: Cleary weathervane not included with building

Elevations for Building 1



South Side Wall 1 on Building 1

Note: These colors are as close to the actual colors as permitted by printing. Actual metal samples must be reviewed with your Sales Specialist. Colors vary depending upon position and angles.

Exterior Finishes

Side Wall 1 on Building 1

Siding: PLP Prime G90

Lifetime Film Integrity Warranty, 35 Year Fade and Chalk Warranty, and G-90 Galvanizing.

Tyvek: None

Wainscot: None

Eave Filler Strips: None



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12/15/2023
HIRSSIG, BRAD
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Cleary/Owner Project Proposal - Erected

Treated Plank Filler Strips: None

Ventilation

Side Wall 1 on Building 1

Overhang: 12" Aluminum soffit (Sidewall) with vented soffit

Bird Screening for the interior to prevent birds from nesting in overhang.

Accessories

Side Wall 1 on Building 1

Open Wall Bay(s):

Open Wall Bay - All Bays - From 0' 0" to 30' 0" - J-Trim Included

Clearance Height: 8' 0"

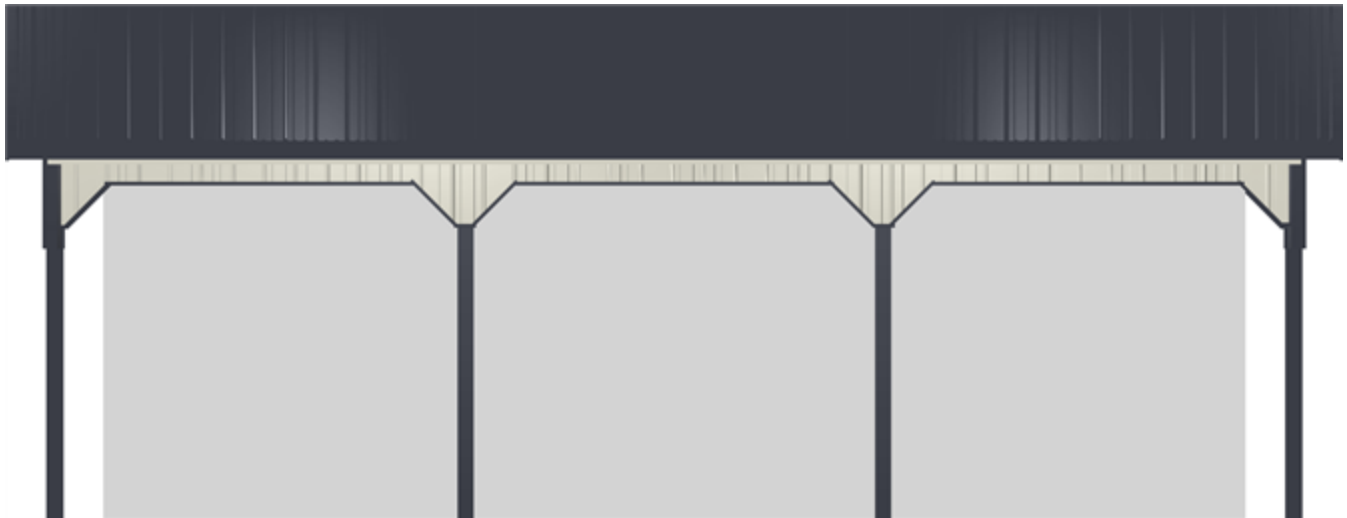
Column Wrap: Steel Trim Column Wrap for 10' Clearance

Interior Finishes / Insulation

Side Wall 1 on Building 1

Condensation Control: None

Insulation: None



North Side Wall 2 on Building 1

Note: These colors are as close to the actual colors as permitted by printing. Actual metal samples must be reviewed with your Sales Specialist. Colors vary depending upon position and angles.

Exterior Finishes

Side Wall 2 on Building 1

Siding: PLP Prime G90

Lifetime Film Integrity Warranty, 35 Year Fade and Chalk Warranty, and G-90 Galvanizing.

Tyvek: None

Wainscot: None

Eave Filler Strips: None

Treated Plank Filler Strips: None

Ventilation



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Cleary/Owner Project Proposal - Erected

Side Wall 2 on Building 1

Overhang: 12" Aluminum soffit (Sidewall) with vented soffit
 Bird Screening for the interior to prevent birds from nesting in overhang.

Accessories

Side Wall 2 on Building 1

Open Wall Bay(s):

Open Wall Bay - All Bays - From 0' 0" to 30' 0" - J-Trim Included

Clearance Height: 8' 0"

Column Wrap: Steel Trim Column Wrap for 10' Clearance

Interior Finishes / Insulation

Side Wall 2 on Building 1

Condensation Control: None

Insulation: None



East End Wall 1 on Building 1

Note: These colors are as close to the actual colors as permitted by printing. Actual metal samples must be reviewed with your Sales Specialist. Colors vary depending upon position and angles.

Exterior Finishes

End Wall 1 on Building 1

Siding: PLP Prime G90

Lifetime Film Integrity Warranty, 35 Year Fade and Chalk Warranty, and G-90 Galvanizing.

Tyvek: None

Wainscot: None

Gable Filler Strips: Gable filler strips not included.



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Cleary/Owner Project Proposal - Erected

Treated Plank Filler Strips: None

Open Endwall: Steel to the bottom of the truss, columns, girts, and treated plank are removed.

Ventilation

End Wall 1 on Building 1

Overhang: 12" Aluminum soffit (Endwall) with vented soffit

Accessories

End Wall 1 on Building 1

None

Interior Finishes / Insulation

End Wall 1 on Building 1

Condensation Control: None

Insulation: None



West End Wall 2 on Building 1

Note: These colors are as close to the actual colors as permitted by printing. Actual metal samples must be reviewed with your Sales Specialist. Colors vary depending upon position and angles.

Exterior Finishes

End Wall 2 on Building 1

Siding: PLP Prime G90

Lifetime Film Integrity Warranty, 35 Year Fade and Chalk Warranty, and G-90 Galvanizing.

Tyvek: None

Wainscot: None

Gable Filler Strips: Gable filler strips not included.

Treated Plank Filler Strips: None

Open Endwall: Steel to the bottom of the truss, columns, girts, and treated plank are removed.



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Cleary/Owner Project Proposal - Erected

Ventilation

End Wall 2 on Building 1
Overhang: 12" Aluminum soffit (Endwall) with vented soffit

Accessories

End Wall 2 on Building 1
None

Interior Finishes / Insulation

End Wall 2 on Building 1
Condensation Control: None
Insulation: None

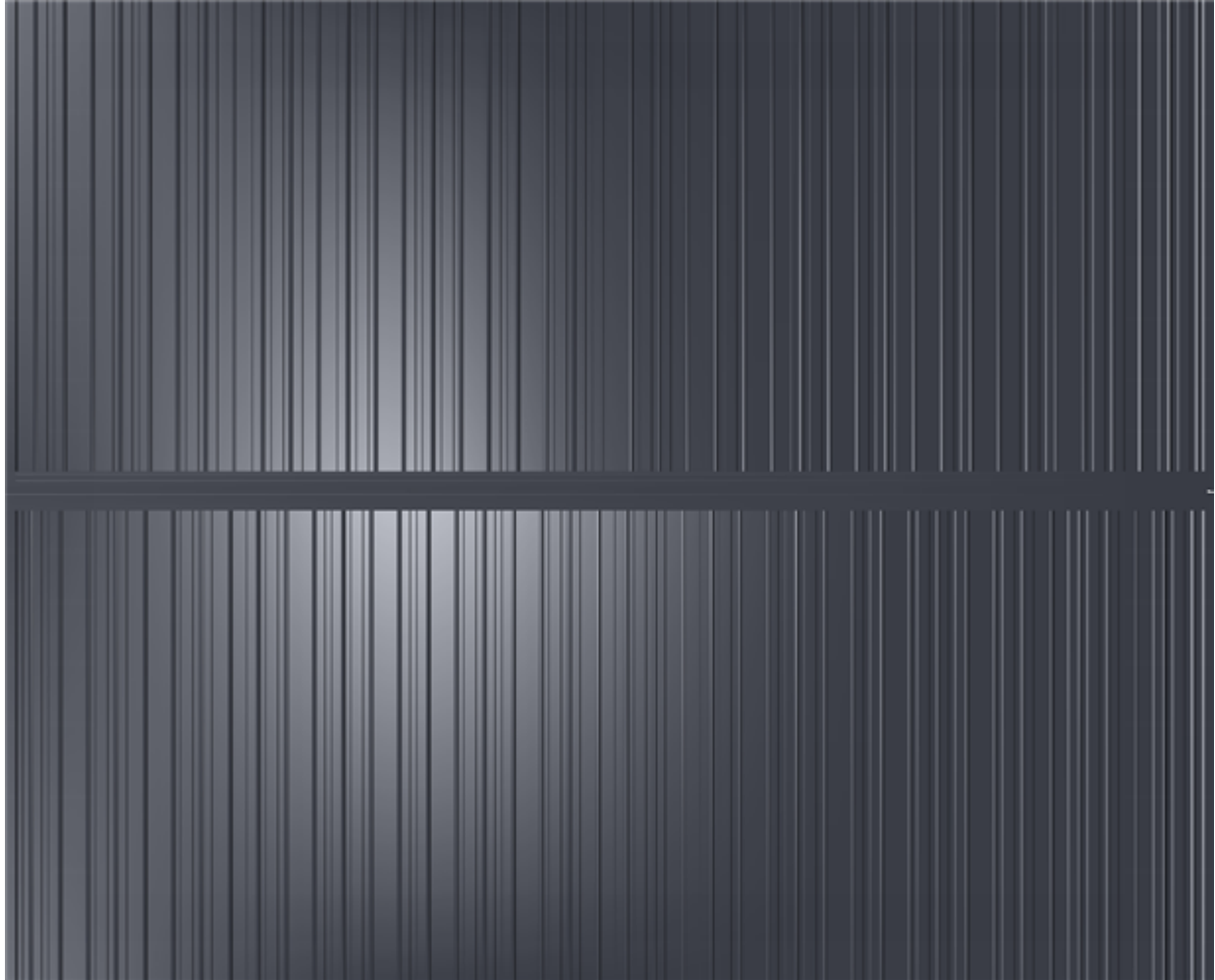


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Cleary/Owner Project Proposal - Erected

Aerial View



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Cleary/Owner Project Proposal - Erected

Project Colors

Building - Exterior

Siding

PLP Prime G90: Gray
Corner Trim: Charcoal Gray
Bottom Trim: Charcoal Gray

Roof

PLP Prime G90: Charcoal Gray

Trim

Gable: Charcoal Gray
Eave/Fascia: Charcoal Gray
Column Wrap: Charcoal Gray
Ridge Cap: Charcoal Gray
Trim Color Unless Otherwise Specified: Charcoal Gray

Overhangs

Soffit: Charcoal Gray
WallToSoffitTrim: Gray
CeilingEnclosureTrim: Charcoal Gray

Project Color Chip Review

All applicable Wall Steel, Roof Steel, and Trim colors have been reviewed using steel color chips.

Purchaser Initials

Purchaser and BSS to meet at a later date to confirm colors with color chips. This will be documented with a change order.

Purchaser Initials

Additional Building Components

Concrete Floor

720SF: 4" enforced concrete floor with wire
128SF: 4" enforced concrete sidewalk with wire

Other

Permit

Excavating/Site Prep

Level site to match existing concrete sidewalk

Masonry

Include 3' faux stone wainscot on columns. (16"x16"x3')

C-110
v12/10

built with pride before the  *is applied*®



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Cleary/Owner Project Proposal - Erected

Project Investment

Total with discounts: \$40,654

- Please note this price is subject to change without notice.
- Includes material, labor, tax, delivery, warranties and builder's risk insurance.

Dumpster Option - NOT included in the project investment price

Seller to place scrap in the dumpster and remove from site (Price subject to change based upon delivery and travel charges for the dumpster)

Note: If Dumpster Option is not selected, Seller will pile scraps and packaging near building for Purchaser use or disposal. \$400

Payment Terms

Amount	Type	Percent	Description
\$8,131	Down Payment	20%	Upon the signing of the contract with CLEARY BUILDING CORP.
\$16,262	Delivery Payment	40%	Payment due upon first load of building materials. In the event that multiple loads of materials are required, due to the size of the building, the remaining materials will be shipped to the site as needed while the building is under construction
\$8,131	Truss Payment	20%	When all trusses are installed on the building. In the event that there is more than one building on a contract, the truss in place payment is due upon installing the trusses in one of the buildings.
\$8,130	Final Payment	20%	Paid upon Completion and such payment to be delivered to the crew foreman of CLEARY BUILDING CORP.
\$40,654	Total Amount	100%	

TERMS OF PAYMENT: (1) If Contract Amount is \$50,000.00 or less, the terms of payment shall be as provided in the payment terms section above. (2) If Contract Amount is over \$50,000.00, the terms of payment shall be pursuant to the Bank Reference Form which is made a part of this Contract.

If the Purchaser fails to make a payment when due, Purchaser agrees to pay Cleary, upon demand, a delinquency charge equal to the lesser of three-quarter percent (.75%), or the highest rate allowed by law, of the delinquent amount per fifteen (15) days, from the date the delinquent amount is due, until the date it is paid.



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Cleary/Owner Project Proposal - Erected

Temporary Services

Purchaser will provide electric power during construction.
Portable toilet rental not included with this proposal.
Seller to pile scrap for Purchaser use or disposal.

Purchaser Initials

Permit

Purchaser shall timely obtain at Purchaser's cost all necessary and required permits and licenses for the construction contemplated by this Agreement.

Site

Contract Amount is based on level, compacted, and workable construction site. If snow removal is required, it is the Purchasers responsibility. If extra materials and/or labor are required because of a sloping construction site or snow removal, Purchaser will pay for the same upon request of Seller. The price of such materials will be Seller's usual and customary price. If because of buried objects (concrete, rocks, etc.) or because extra hole depth is required beyond 5 feet 6 inches Seller is unable to proceed with normal digging procedures, then the extra expense resulting from such condition(s) will be the obligation of the Purchaser and shall be paid to Seller upon request. Seller shall not be responsible for any damage to buildings occasioned by soil conditions including water table conditions, nor for the inability of the building site to bear the weight of the building.

All labor standards are based upon building materials being placed within 75 feet of building pad. Access must be provided for unloading materials to the building material placement area which must be within 75 feet of the building pad – If greater than 75 feet, additional charges will be applied

This proposal and similar work hereunder are predicated on non-union (non-prevailing wage) labor. If union (prevailing wage) is required, the additional costs will be covered by the purchaser. In the event of the unavailability to Cleary Building Corp of qualified non-union (non-prevailing wage) labor to construct the building contemplated by this Agreement, the Contract Amount shall be increased to the extent the union (prevailing wage) labor costs exceed the non-union (non-prevailing wage) labor costs anticipated by Cleary Building Corp.

Building Proposal Investment is based upon paying with cash or check. If credit card payment is requested (MasterCard, Visa, Discover, or American Express), the purchaser waives the 3% cash or check discount that would be applied to the contract amount.

License numbers by state: VA #2705 123094A, MI #2102150963, MN #20076522, IL #104.002640, AZ # ROC212050 Limit \$250,000, NM #86107 Limit \$1,000,000, NV #0042464 Limit \$2,000,000, OR # CCB 115247, WA # CLEARBC044NE, PA120833, WV # WV034562



Columns to match brick and stone cap above

NOTE THAT THE ARCHITECT AND THE CONSULTANTS LISTED WERE INVOLVED IN THE DESIGN OF THE EXISTING FACILITY. THEY ARE NOT INVOLVED WITH THIS PROPOSED SHELTER.

PERKINS + WILL

475 Lincoln Street
Suite 100
Denver, CO 80203
1.303.308.0200
1.303.308.0222
www.perkinswill.com

CONSULTANTS

JVA, INC.
213 LINDEN STREET, SUITE 200
FORT COLLINS, CO 80524

MARTIN/MARTIN
12409 WEST COLFAX AVENUE
LAKEWOOD, CO 80215

BHA DESIGN, INC.
1603 OAKRIDGE DRIVE
FORT COLLINS, CO 80525

THE BALLARD GROUP, INC.
2525 SOUTH WADSWORTH BOULEVARD,
SUITE 200 LAKEWOOD, CO 80227

INNOVATIVE ELECTRICAL SYSTEMS, INC.
7550 WEST YALE AVENUE, SUITE B-130
DENVER, CO 80227

AQUATIC DESIGN GROUP
2226 FARADAY AVENUE
CARLSBAD, CA 92008

NOTE:
1. EXISTING CONTOURS SHOWN ON PLANS ARE BASED ON DESIGN INFORMATION PROVIDED BY MOUNTAIN VIEW WEST ENGINEERS. ARE FOR REFERENCE ONLY, AND DO NOT REFLECT AS-BUILT CONDITIONS. DESIGN SPOT ELEVATIONS AT MATCH POINTS ARE CALCULATED BASED ON AS-BUILT INFORMATION PROVIDED BY CONTRACTOR ON NOVEMBER 9, 2018. CONTRACTOR TO NOTIFY ENGINEER OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION.

GRADING AND DRAINAGE NOTES:
1. NO DESIGN TOPOGRAPHIC AND/OR BOUNDARY SURVEYS WERE PROVIDED FOR THIS PROJECT.
2. CONTRACTOR TO FIELD VERIFY ALL EXISTING UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION. REFER TO GENERAL NOTES FOR UTILITY LOCATION AND PROTECTION.
3. REFER TO HORIZONTAL CONTROL PLAN FOR FURTHER INFORMATION PERTAINING TO CURB & GUTTER, CHASES, AND DRAINAGE PANS.
4. CONTRACTOR IS RESPONSIBLE FOR RESTORING ALL DISTURBED AREAS TO THEIR ORIGINAL CONDITIONS.
5. ALL SPOT ELEVATIONS ARE TO FINISHED GRADE OR FLOWLINE UNLESS OTHERWISE SPECIFIED.
6. F WALL IS SHOWN. TW DENOTES THE FINISHED GRADE ADJACENT TO THE HIGH SIDE OF THE WALL. BW DENOTES THE FINISHED GRADE ADJACENT TO THE LOW SIDE OF THE WALL. REFER TO ARCH PLANS/DETAILS FOR WALL ELEVATIONS BEYOND THE ADJACENT FINISHED GRADES (EXPOSED WALL CAP/FOOTER, ETC.)

C1.1 & C1.5 **C1.2 & C1.6**

C1.3 & C1.7 **C1.4 & C1.8**

PROPOSED SHELTER LOCATION

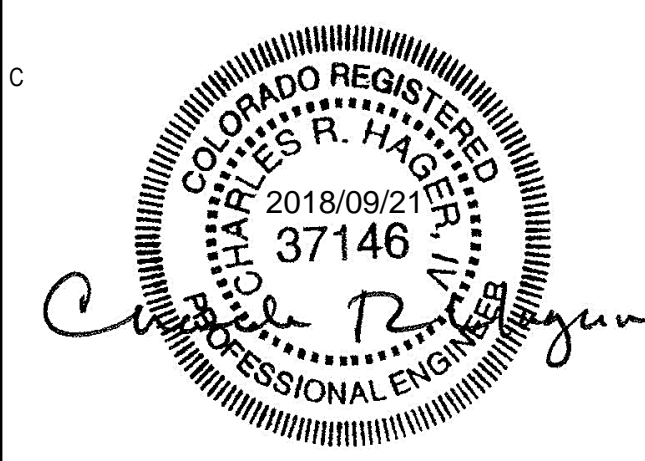
RECREATION CENTER
FFE=4797.20' (ARCH 100'-0")

MOLINAR STREET
ROW - 60'

PARISH AVE
ROW - VARIES

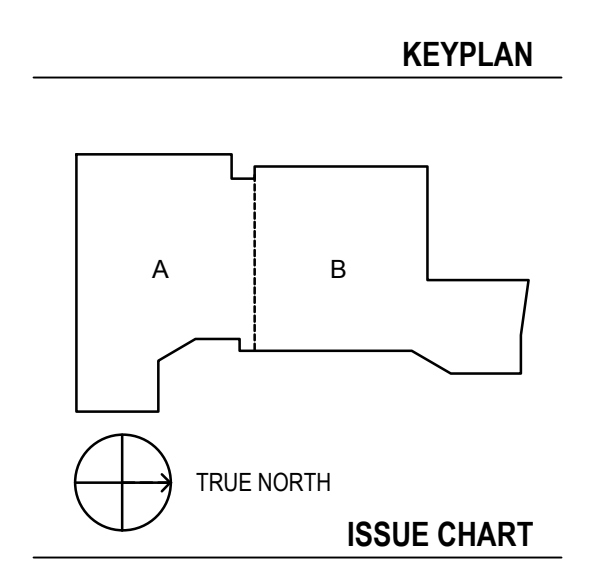
SETTLER WAY
ROW - 60'

MOUNTAIN BLUEBIRD DRIVE
ROW - 60'



Johnstown
JOHNSTOWN COMMUNITY YMCA

JOHNSTOWN COMMUNITY YMCA
165 SETTLER WAY
JOHNSTOWN, CO 80534



7	BID PACK 3-ADDENDUM 1	01FEB19
6	ASI 01 - R1	15NOV18
5	BID PACK 1	21SEP18
4	ISSUE	DATE
Job Number	221708.000	
Drawn	DBC	
Checked	ETN	
Approved	CRH	
TITLE		

OVERALL GRADING & DRAINAGE PLAN

SHEET NUMBER

C1.0

RHAP
architecture + planning
1301 Walnut Street,
Suite 101
Boulder, CO 80302
720-530-5901

MARKUP ON PREVIOUS CONSTRUCTION DOCUMENTS TO SHOW LOCATION OF NEW SHELTER
1/5/2024

ARCHITECT ASSISTING THE YMCA WITH SHELTER LOCATION

SHEET 1 OF 3



NOTE THAT THE ARCHITECT AND THE CONSULTANTS LISTED WERE INVOLVED IN THE DESIGN OF THE EXISTING FACILITY. THEY ARE NOT INVOLVED WITH THIS PROPOSED SHELTER.

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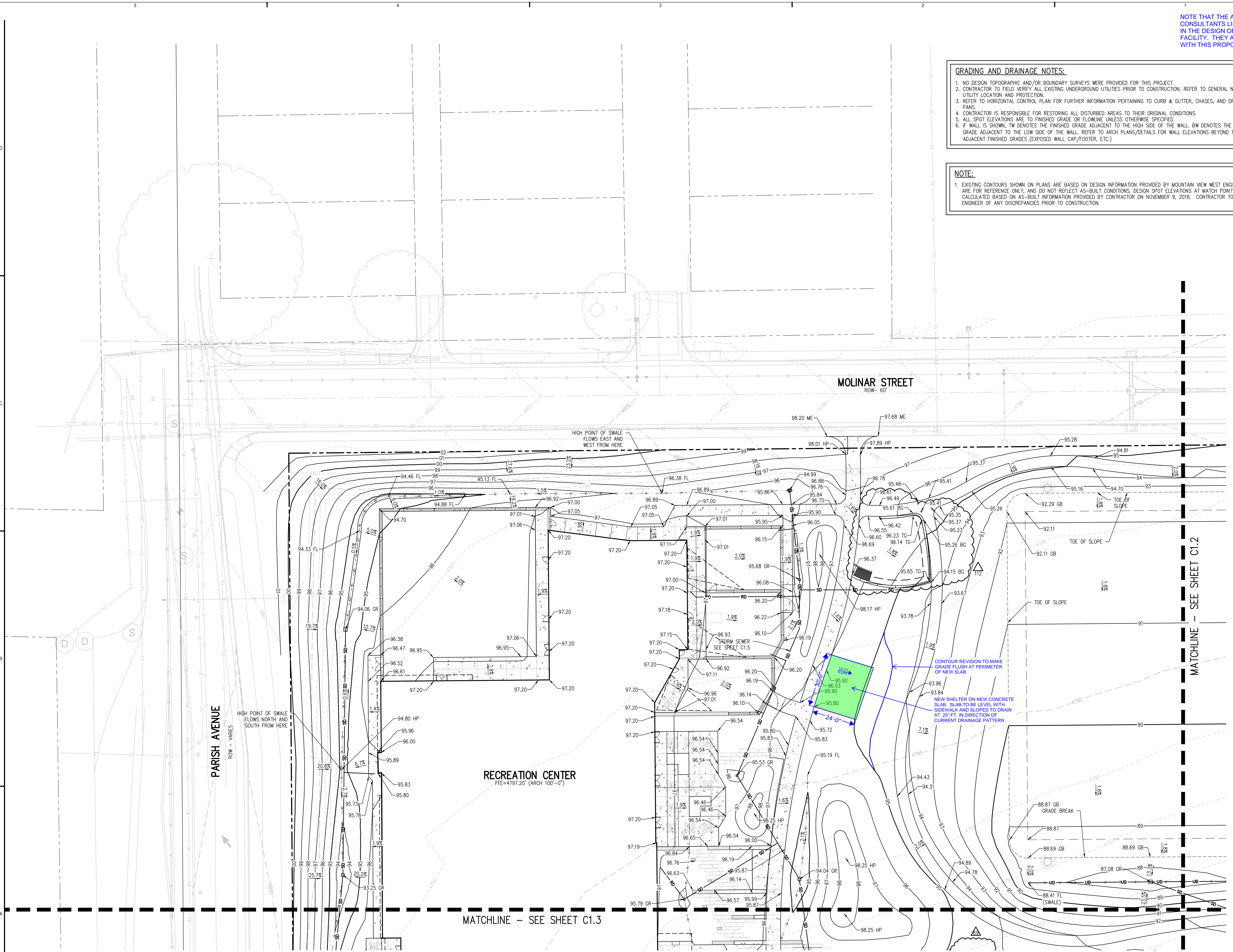
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CARLSBAD, CA 92008

GRADING AND DRAINAGE NOTES:
1. NO DESIGN TOPOGRAPHIC AND/OR BOUNDARY SURVEYS WERE PROVIDED FOR THIS PROJECT.
2. CONTRACTOR TO FIELD VERIFY ALL EXISTING UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION. REFER TO GENERAL NOTES FOR UTILITY LOCATION AND PROTECTION.
3. REFER TO HORIZONTAL CONTROL PLAN FOR FURTHER INFORMATION PERTAINING TO CURB & GUTTER, CHASES, AND DRAINAGE PANS.
4. CONTRACTOR IS RESPONSIBLE FOR RESTORING ALL DISTURBED AREAS TO THEIR ORIGINAL CONDITIONS.
5. ALL SPOT ELEVATIONS ARE TO FINISHED GRADE OR FLOWLINE UNLESS OTHERWISE SPECIFIED.
6. IF WALL IS SHOWN, TW DENOTES THE FINISHED GRADE ADJACENT TO THE HIGH SIDE OF THE WALL, BW DENOTES THE FINISHED GRADE ADJACENT TO THE LOW SIDE OF THE WALL. REFER TO ARCH PLANS/DETAILS FOR WALL ELEVATIONS BEYOND THE ADJACENT FINISHED GRADES (EXPOSED WALL CAP/FOOTER, ETC.)

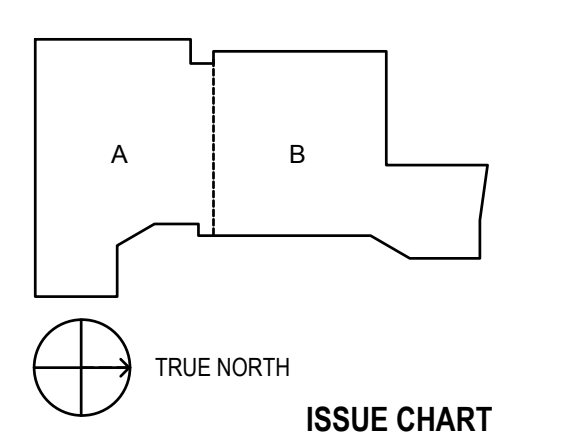
NOTE:
1. EXISTING CONTOURS SHOWN ON PLANS ARE BASED ON DESIGN INFORMATION PROVIDED BY MOUNTAIN VIEW WEST ENGINEERS. ARE FOR REFERENCE ONLY, AND DO NOT REFLECT AS-BUILT CONDITIONS. DESIGN SPOT ELEVATIONS AT MATCH POINTS ARE CALCULATED BASED ON AS-BUILT INFORMATION PROVIDED BY CONTRACTOR ON NOVEMBER 9, 2018. CONTRACTOR TO NOTIFY ENGINEER OF ANY DISCREPANCIES PRIOR TO CONSTRUCTION.



Johnstown
JOHNSTOWN COMMUNITY YMCA

JOHNSTOWN COMMUNITY YMCA
165 SETTLER WAY
JOHNSTOWN, CO 80534

KEYPLAN



ISSUE CHART

112	PROPOSAL REQUEST #1	18MAR20
7	BID PACK 3-ADDENDUM 1	07FEB19
6	ASI 01 - R1	15NOV18
4	PROPOSAL REQUEST #1	02NOV18
3	BID PACK 1	21SEP18
10000	ISSUE	DATE
Job Number	221708.000	
Drawn	DBC	
Checked	ETN	
Approved	CRH	
TITLE		

DETAILED GRADING PLAN - NW

SHEET NUMBER

C1.1

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RHAP
architecture + planning
1301 Walnut Street,
Suite 101
Boulder, CO 80302
720-530-5901

MARKUP ON PREVIOUS CONSTRUCTION DOCUMENTS TO SHOW LOCATION OF NEW SHELTER
1/5/2024

SHEET 2 OF 3

ARCHITECT ASSISTING
THE YMCA WITH
SHELTER LOCATION



NOTE THAT THE ARCHITECT AND THE CONSULTANTS LISTED WERE INVOLVED IN THE DESIGN OF THE EXISTING FACILITY. THEY ARE NOT INVOLVED WITH THIS PROPOSED SHELTER.

PERKINS + WILL

475 Lincoln Street
Suite 100
Denver, CO 80203
1.303.308.0200
1.303.308.0222
www.perkinswill.com

CONSULTANTS

CIVIL
JVA, INC.
213 LINDEN STREET, SUITE 200
FORT COLLINS, CO 80524

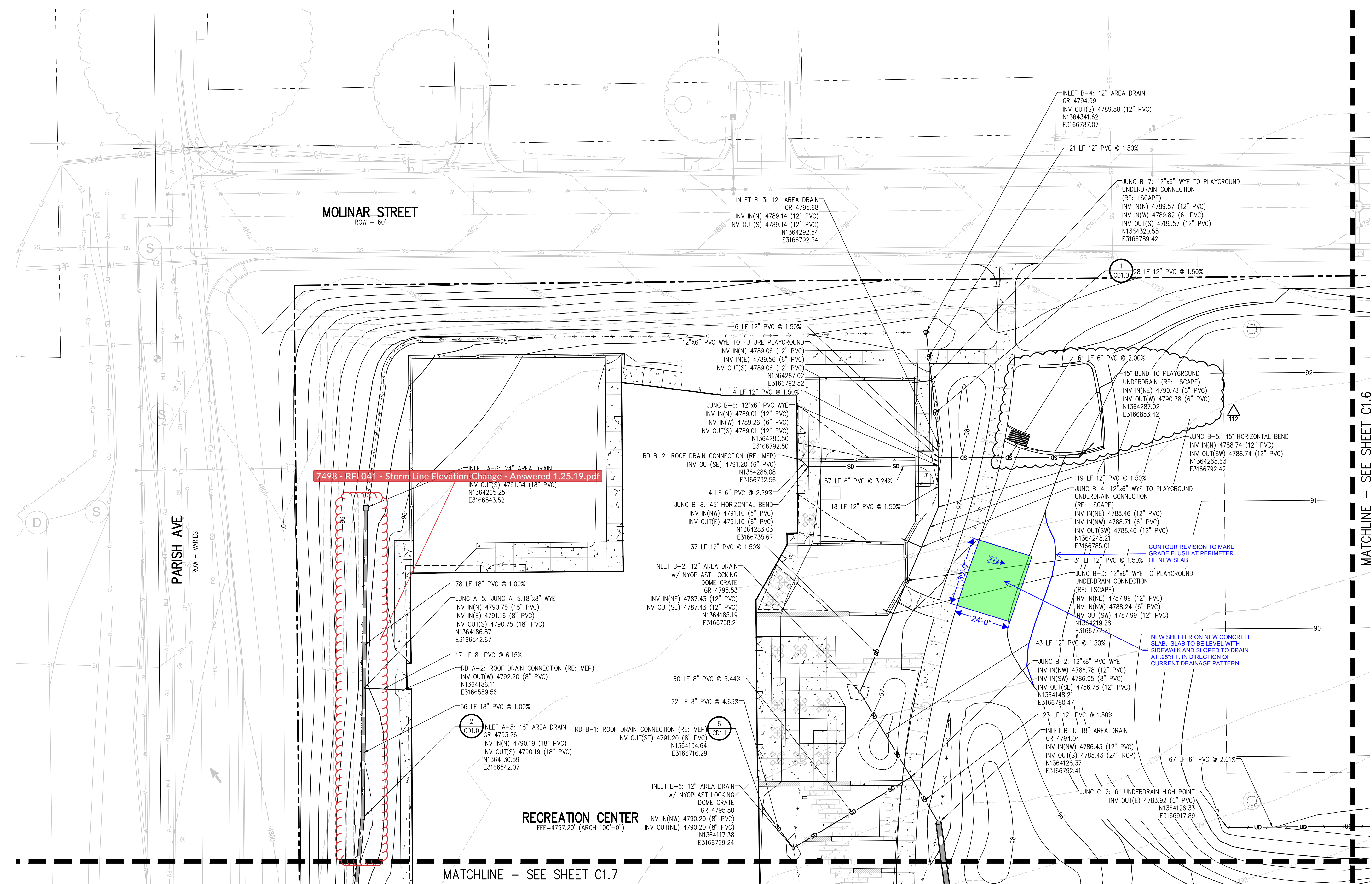
STRUCTURAL
MARTIN/MARTIN
12499 WEST COLFAX AVENUE
LAKEWOOD, CO 80215

LANDSCAPE
BHA DESIGN, INC.
1603 OAKRIDGE DRIVE,
FORT COLLINS, CO 80525

MEP
THE BALLARD GROUP, INC.
2525 SOUTH WADSWORTH BOULEVARD,
SUITE 200 LAKEWOOD, CO 80227

ELECTRICAL
INNOVATIVE ELECTRICAL SYSTEMS, INC.
7550 WEST YALE AVENUE, SUITE B-130
DENVER, CO 80227

AGRIC
AQUATIC DESIGN GROUP
2226 FARADAY AVENUE,
CARLSBAD, CA 92008



7498 - RFI 041 - Storm Line Elevation Change - Answered 1.25.19.pdf

CONTOUR REVISION TO MAKE GRADE FLUSH AT PERIMETER OF NEW SLAB

NEW SHELTER ON NEW CONCRETE SLAB. SLAB TO BE LEVEL WITH SIDEWALK AND SLOPED TO DRAIN AT .25\"/>



JOHNSTOWN COMMUNITY YMCA
165 SETTLER WAY
JOHNSTOWN, CO 80534

KEYPLAN

TRUE NORTH

ISSUE CHART

112	PROPOSAL REQUEST #1	18MAR20
106	PROPOSAL REQUEST #7	09FEB20
7	BID PACK 3-ADDENDUM 1	01FEB19
4	PROPOSAL REQUEST #1	02NOV18
3	BID PACK 1	21SEP18
10000	ISSUE	

Job Number 221708.000
Drawn DBC
Checked ETN
Approved CRH

TITLE
STORM DRAIN PLAN - NW

SHEET NUMBER
C1.5

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architecture + planning

1301 Walnut Street,
Suite 101
Boulder, CO 80302
720-530-5901

MARKUP ON PREVIOUS CONSTRUCTION DOCUMENTS TO SHOW LOCATION OF NEW SHELTER
1/5/2024

ARCHITECT ASSISTING THE YMCA WITH SHELTER LOCATION

SHEET 3 OF 3



Pat

On behalf of the Master Association Architectural Review Committee, I want to let you know they have approved your plans, as attached, for the pavilion.

They thank you for submitting this to them since the Town elected to build that ugly storage shed at the rear of the property without obtaining approval.

As a side note and this is not an architectural review comment but a personal comment from me, if there are areas where birds can roost under the roof you may want to have bid into your budget a bird fence (netting) to keep birds out from under the facility as they have a habit of soiling things a bit including innocent folks sitting in the shade.

Good luck with your project.

Fred

Commercial Brokers Alliance, LLC
BY: Fred L. Croci, its Manager

Fred L. Croci

Fred L. Croci, Manager
1540 Main Street #218 / 330
Windsor, CO 80550

Phone 970-566-7300
Email fred@cbanoco.com



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: March 18, 2024

SUBJECT: A Change Order to Town Alleyway Aesthetic Improvements for BHA Design, Inc.

ACTION PROPOSED: Consider Change Order #1 by BHA Design, Inc.

ATTACHMENTS: 1. Johnstown Alley Change Order #1

PRESENTED BY: Jason Elkins, Public Works Director

AGENDA ITEM DESCRIPTION:

On November 6, 2023, Council approved a proposal from BHA Design, Inc. for the design of improvements for the alleyway west of Parish Avenue. Since that time, BHA Design Inc. (BHA) has been engaging with residents and business owners, conducted surveying, performed utilities investigations, and has coordinated with the five utility companies that require undergrounding of their utilities. Through this effort, BHA and staff have gained a more comprehensive understanding of the project's scope and the challenges we face. Consequently, BHA has identified essential tasks needed for the project's success that were not originally identified in the initial proposal.

Enclosed for your review and consideration, BHA is requesting a change order amounting to \$63,570. This adjustment covers labor and expenses for design services, including, the coordination of utility undergrounding, the relocation of Xcel's gas line, new trash enclosures, easement acquisition support, and design of a new parking lot adjacent to S. First Street (within CDOT right of way). The entirety of the additional services are included in the attached change order.

Should Council approve this change order, funding will be drawn from the \$1.5M allocated for this project in the Adopted 2024 Capital Improvements Fund Budget. A budget amendment is not required at this time.

Staff would like to bring to your attention that as BHA and utilities commence the development of their designs for the project, the potential for additional change orders may arise. These could involve services such as the design of a storm sewer, structural engineering services, private property ground lease agreements, and construction administration services. At this early stage in the design process, it is challenging to precisely determine the need for these services and the overall scope they would encompass. Staff will proactively keep the Council informed as we progress through the design phase to allow for Council to make informed decisions.

STRATEGIC PLAN ALIGNMENT:

- Healthy & Resilient Economy
 - *Invest in the development of a vibrant and interconnected downtown*
 - *Drive projects and initiatives that promote Johnstown as a premier destination for business*
 - *Cultivate local and regional partnerships that ensure the long term success and growth of Northern Colorado*
 - *Support the local labor market and work with partners to grow diverse employment opportunities*
- Quality Infrastructure & Facilities
 - *Establish and maintain levels of service*
 - *Ensure future viability of infrastructure and facilities*
 - *Repair and maintain existing infrastructure, facilities and equipment*

LEGAL ADVICE:

NA

FINANCIAL ADVICE:

This change order would amend the contract amount to \$376,155 of the executed Professional Services Agreement. \$63,570 would come from the \$1.5M budgeted for this project in the Capital Improvements Fund. A budget amendment is not needed at this time.

RECOMMENDED ACTION: Staff supports the approval the change order from BHA Design, Inc. for the amount of \$63,570.



SUGGESTED MOTIONS:

For Approval: I move to approve the change order from BHA Design, Inc. for \$63,570 and authorize the Town Manager to amend the Professional Services Agreement.

For Denial: I move to deny the change order as presented by BHA Design, Inc.

Reviewed and Approved for Presentation,



Town Manager

BHA Design Incorporated
 111 S Meldrum Street, Suite 110
 Fort Collins, CO 80521

February 26, 2024



Town of Johnstown
 Matt LeCerf, Town Administrator
 450 S. Parish Avenue
 P.O. Box 609
 Johnstown, CO 80534

Downtown Alley Improvements – Add Request #1

Dear Matt,

We would like to amend the Johnstown Alley Enhancements agreement, dated November 6, 2023, to incorporate additional services requested by the Town. Additional services will include coordination of utility undergrounding, the relocation of Xcel's gas line, new trash enclosures, and design of a new parking lot adjacent to S. First Street (within CDOT ROW).

Scope of Work

Design services may include the following:

BHA Design – Additional Services

1. Additional Site Visits
2. Additional meetings with Property Owners
3. Coordination meetings with Xcel Electric, Xcel Gas, Lumen, TDS, and Xfinity
4. Review of proposed plans prepared by utility providers
5. Coordination of Electrician's Pre-Con Scope
6. Assist the Town in soliciting bids from 3 electricians for private underground electric service connections
7. Assist Town in communicating with Property Owners for temporary utility disconnections during switch over
8. Trash Collection Coordination (trash collection company and prop owners)
9. Assist Town in coordinating Ground Lease Agreements for Trash Enclosures (town attorney responsible for preparing lease agreement)
10. Coordination of items/information needed from Town Staff
11. Coordination of proposed transformer, switch cabinet, and pedestal locations
12. Trash enclosure design
13. Additional paving details associated with underground utility vaults, pedestals, service "flowerpots", etc.
14. Private parking restriping concepts
15. Design services associated with new parking spaces in CDOT ROW
16. Meeting minutes/notes

BHA Design Incorporated
 111 S Meldrum Street, Suite 110
 Fort Collins, CO 80521



Wilson & CO – Additional Services

1. Additional Site Visits
2. Coordination meetings with Xcel Electric, Xcel Gas, Lumen, TDS, and Xfinity
3. Preparation of recommended underground utility line location exhibit for alley ROW
4. Review of utility provider plans
5. Coordination with Town Staff
6. Additional meetings with property owners
7. Coordination of proposed transformer, switch cabinet, and pedestal locations
8. Signage and striping plans for private parking areas
9. Design services associated with the new parking spaces/alley entry located in CDOT ROW (topographic survey, utility locates, grading, drainage, erosion control, horizontal control, signage & striping, CDOT special use permit submittals, etc.)
10. Easement documents (description and exhibit) for new ground mounted transformers and switch cabinet (10 easements)
11. Easement documents (descriptions and exhibits) for private parking shared access easements (3 easements)

PEC – Additional Services

1. Attend Site Visits - up to 4 hours total
2. 2 additional Coordination meetings with Xcel Electric
3. Review of Xcel's electric plans
4. Review and comment on Electrician's Pre-Con Scope
5. Assist the Town in soliciting bids from 3 electricians for private underground electric service connections and assist in reviewing the bids.
6. Electric/Lighting design services associated with the new parking spaces/alley entry located in CDOT ROW
7. Special Use Permit submittals to CDOT
8. Revisions based on CDOT Comments

Aqua – Additional Services

1. Irrigation design services associated with new parking and alley entrance in CDOT ROW
2. Special Use Permit submittals to CDOT
3. Revisions based on CDOT Comments

Design Services for Private Property – As-Needed Hourly Services

1. The design team will provide design services for private property upon the Town's request, services may include:
 - a. Grading and drainage design
 - b. Parking reconfiguration, striping, signage
 - c. Trash enclosure design
 - d. Other design services requested by the Town

BHA Design Incorporated
111 S Meldrum Street, Suite 110
Fort Collins, CO 80521



Fee Summary

Add Request #1

BHA Design	\$14,800
Wilson & CO	\$28,470
PEC	\$ 3,800
Aqua	\$ 1,500
<u>Design Services for Private Prop (Hourly As- Needed)</u>	<u>\$15,000</u>

Add Request #1 Total Fee	\$63,570 (labor and expenses)
<u>Original Contract Amount (Labor and Expenses)</u>	<u>\$312,585</u> (including optional services)
Amended Contract Total	\$376,155

Price for additional easement documents (description/exhibit) - \$700 each (by Wilson & CO)

Scope Exclusions:

The following services are not included in the scope of work:

- Determining service needs for each commercial property and residential property.
- Identification of desired service upgrades for commercial properties, if any.
- Opinions of Probable Construction Cost for private improvements.
- Additional structural engineering services.
- Additional CA services. If needed, this will be included in a separate add request.
- Improvements in CDOT ROW will be included in the alley improvements bid package. Multiple bid packages are not included.
- Appraisals for private property ground lease agreements.

This agreement is an amendment to the Town’s original agreement with BHA Design, and the terms and conditions of the original agreement apply to this agreement.

Please call with any questions.

Sincerely,
BHA Design, Inc.

Roger B. Sherman
Vice President

AGREED TO BY:
Town of Johnstown (“Client”)

Authorized Signature

Date



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: March 18, 2024

SUBJECT: Contract Award for the 2024 Johnstown Concrete Repair Program

ACTION PROPOSED: Consider Approving the Agreement with Lightfield Enterprises, Inc.

ATTACHMENTS: 1. 2024 Concrete Repair Agreement

PRESENTED BY: Jason Elkins, Public Works Director

AGENDA ITEM DESCRIPTION:

As part of the Annual Pavement Management Program, the Public Works Department (PWD) is starting the year with making concrete repairs in nine subdivisions throughout Johnstown. This comprehensive initiative involves the removal and replacement of concrete curbs, gutters, sidewalks, drainage pans, pavement, ADA ramps, and the implementation of associated traffic and erosion control measures within Town rights of way or on Town property.

For 2024, Staff plans to replace a total of 13,805 square feet of concrete cross pans, 1,240 square feet of curb ramps, and 798 linear feet of curb and gutter. Additionally, various miscellaneous concrete repairs have been identified throughout the Town and will be addressed as part of the program.

The chosen areas for this year's program have been determined through a comprehensive evaluation involving condition assessments, staff inspections, and feedback from residents. The following nine areas, along with accompanying maps provided in the attachment, are detailed below:

1. Country Acres

2. Johnstown Colony
3. Johnstown Heights
4. Johnstown Farms
5. Rocksbury Ridge
6. Rolling Hills
7. Stroh Farms (Pioneer Ridge)
8. Potdberg Village (The Landings)
9. Thompson River Ranch

The 2024 Johnstown Concrete Repair Program is being awarded by leveraging competitively bid pricing initially sought for the Loveland Concrete Repair Project. The unit pricing in the attached agreement is based on the unit pricing awarded from the City of Loveland 2024 Renewal of the City-Wide Concrete Repair Project - TRANSREAHB – Bid# 2020-00.

PWD Staff has conducted a comprehensive assessment and quantification of the tasks outlined in Exhibit A of the agreement. The estimated cost for the specified work is \$435,691.34, to be financed through the \$2.2M Annual Pavement Management Program budget within the Street & Alley Fund, and was identified in the Adopted 2024 Budget.

Additionally, in anticipation of potential uncertainties related to subgrade conditions in various subdivisions, PWD staff is proposing a 5% contingency. This contingency, amounting to \$21,800, will be drawn from the same funding source mentioned earlier. Its utilization will be on an as-needed basis, determined by PWD Staff based on unforeseen requirements for additional labor and materials during the repair process.

STRATEGIC PLAN ALIGNMENT:

Quality Infrastructure & Facilities

- *Establish and maintain levels of service*
- *Ensure future viability of infrastructure and facilities*
- *Repair and maintain existing infrastructure, facilities and equipment*

LEGAL ADVICE:

The Town Attorney administered drafting of the document specifically for the Annual Concrete Repair Program.

FINANCIAL ADVICE:

Funding will come from the \$2.2M Annual Pavement Maintenance Program budget in the Street & Alley Fund, as identified in the Adopted 2024 Budget.

RECOMMENDED ACTION: Staff supports the approval the agreement with Lightfield Enterprises, Inc. in the amount of \$435,691.34 and a 5% contingency of \$21,800.00 for the 2024 Concrete Repair Program.

SUGGESTED MOTIONS:

For Approval: I move to approve the agreement with Lightfield Enterprises as presented with a 5% contingency, and authorize the Town Manager to execute the contract.

For Denial: I move to deny the agreement with Lightfield Enterprises as presented.

Reviewed and Approved for Presentation,



Town Manager

**TOWN OF JOHNSTOWN
CONCRETE REPAIR AGREEMENT**

This Concrete Repair Agreement (“Agreement”) is made and entered this ___ day of _____, 2024 (“Effective Date”), by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (the “Town”), and Lightfield Enterprises, Inc., a Colorado corporation (“Contractor”) (collectively, the “Parties”).

RECITALS

WHEREAS, the Town seeks to undertake concrete repair and rehabilitation; and

WHEREAS, Contractor has the requisite skills and experience to perform the work; and

WHEREAS, the Town desires to engage the services of Contractor to perform the work and Contractor desires to perform the work described herein for the Town; and

WHEREAS, to effectuate the foregoing, the Parties desire to enter into this Agreement.

AGREEMENT

NOW, THEREFORE, incorporating the foregoing Recitals herein, which are hereby acknowledged as being true and correct, and in consideration of the mutual promises, agreements, undertakings and covenants, as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby mutually agree as follows:

1. Scope of Work and Standard of Performance.
 - A. Contractor agrees to perform the work set forth in **Exhibit A**, attached hereto and incorporated herein by reference (“Work”). The scope of the Work, and the terms of this Agreement, shall further include the Special Terms and Conditions set forth in **Exhibit B**, attached hereto and incorporated herein by reference. The scope of the Work shall not be changed absent written agreement of the Parties. Contractor shall furnish all labor, services, materials, tools, and equipment for the construction and completion of the Work.
 - B. Contractor shall undertake the Work in a thorough and workmanlike manner in every respect and in compliance with this Agreement, all applicable building codes and requirements to which the Work is subject. Contractor shall conform to the standards of quality normally observed by a person practicing in such Contractor’s profession. Contractor shall at all times comply with applicable workplace and occupational safety requirements under state and federal law.
 - C. Contractor has familiarized itself with the nature and the extent of the Work, the physical characteristics of the property and the local conditions and federal, state, and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the Work.
2. Commencement, Progress and Completion of Work.

- A. Contractor shall commence the Work upon issuance of a Notice to Proceed subsequent to a pre-construction meeting. The Work shall be fully completed, as determined by the Town, in its discretion, no later than ninety (90) Working Days (defined in the Special Terms and Conditions) after issuance of the Notice to Proceed, subject to agreed extensions of time as authorized by the Town in writing.
 - B. Timely completion of the Work is essential. Time is of the essence in all respects regarding the undertakings of Contractor under this Agreement. Therefore, Contractor shall carry out the Work with all due diligence.
 - C. Among other factors that the Town may consider, the Work shall be considered fully complete when all work has been finished, the Town has performed an inspection and accepted the work in writing, and all claims for payment of labor, materials, or services of any kind used in connection with the Work thereof have been paid or settled by Contractor or its surety.
 - D. Until final acceptance of the Work by the Town in writing, Contractor shall have the charge and care thereof, and shall take every necessary precaution against injury or damage to any part thereof. Contractor, at its own expense, shall rebuild, repair, restore, and correct all injuries or damages to any portion of the Work occasioned by any causes before its completion and acceptance. In case of suspension of work from any cause whatsoever, Contractor shall be responsible for all building materials and shall properly store same, if necessary. Contractor shall correct or replace, at its own expense and as required by Town, any building material or portions thereof which may be destroyed, lost, damaged, or in any way made useless for the purpose and use intended by this Agreement. Contractor shall be relieved of the responsibilities provided in this section upon final acceptance of the work by Town, except no such relief shall apply to damages or injuries caused by or related to actions of Contractor or its subcontractors.
 - E. Upon the Town's written acceptance of the Work, Contractor shall be released from further obligation except as set forth in the surety bond, the guarantee set forth in Section 8 or as otherwise provided in this Agreement.
 - F. The Parties recognize that time is of the essence of this Agreement and that the Town will suffer financial loss if the Work is not complete within the time specified in this paragraph plus any extensions thereof allowed. The Parties also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the Town if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Parties agree that, as liquidated damages for delay (but not as a penalty), Contractor shall pay the Town the sum of Eight Hundred Dollars (\$800.00) for each day that expires after the time specified above for final completion until the Work is complete.
3. Payment to Contractor.
 - A. Contractor agrees to accept an amount not to exceed **FOUR HUNDRED THIRTY-FIVE THOUSAND SIX HUNDRED NINETY-ONE DOLLARS AND NINETY-**

FOUR CENTS (\$435,691.94) as full payment for the Work during the 2024 calendar year. No funds payable under this Agreement shall become due and payable until the Contractor provides the Town with satisfactory assurances that Contractor has fully settled or paid for all materials and equipment used in or upon the Work and labor done in connection therewith.

- B. The Town has appropriated the money necessary to fund the Project. No change order or other form of directive shall be issued by the Town requiring additional compensable work to be performed, which causes the aggregate amount payable under the Agreement to exceed the amount appropriated for the original contract amount, unless the Town provides written assurance to the Contractor that lawful appropriations have been made to cover the cost of the additional work or unless such work is covered under the remedy-granting provisions of the Agreement.
 - C. On a monthly basis, Contractor shall submit to the Town for review and approval an application for payment fully completed and signed by Contractor describing the work completed through the last payment and accompanied by such supporting documentation as may be requested by the Town. Materials on hand but not complete in place may be included for payment. The Town shall, within thirty (30) days of receipt of Contractor's completed application for payment, pay the invoice, except that the Town may withhold payment for disputed amounts. The Town shall retain five percent (5%) of the payment.
 - D. Except as otherwise provided herein, upon final completion of the Work, the Town shall, within thirty (30) days, pay to Contractor the retainage accumulated hereunder in addition to any other sums properly due Contractor upon final completion.
 - E. Neither the payment of any progress payment nor the payment of any retained percentage shall relieve the Contractor of any obligations to correct any defective work or material.
 - F. Contractor shall provide Town with written evidence that all persons who have done work or furnished material under this Agreement and are entitled to liens therefor under any laws of the State of Colorado have been fully paid or are not entitled to such liens. Final payment shall not be made to Contractor until the Town is reasonably satisfied that all claims or liens have been satisfied by Contractor.
 - G. Notwithstanding any other provision of this Agreement, the Town may withhold funds if required to do so pursuant to the Colorado Public Works Act, §§38-26-101, *et seq.*, C.R.S., as amended.
4. Term of this Agreement.
- A. Unless either party provides written notice to terminate on or before January 15 of a given calendar year, this Agreement shall extend for four (4) calendar years, through and including the 2027 calendar year. In each calendar year subsequent to the 2024 calendar year, the Parties shall agree upon the scope of the Work to be performed during such calendar year. Contractor shall be entitled to adjust its unit-price compensation for each subsequent calendar year based on increases, if at all, reflected in the Consumer Price

Index for the Denver metropolitan area. The Parties shall memorialize the scope of work and the compensation for such work in each subsequent calendar year by execution of an Annual Amendment to Agreement, the form of which is attached hereto and incorporated herein by reference as Exhibit C.

- B. Notwithstanding the foregoing, pursuant to Section 29-1-110, C.R.S., as amended, financial obligations of the Town payable as set forth herein, after the current fiscal year, are contingent upon funds for that purpose being budgeted, appropriated and otherwise made available. This Agreement shall be terminated effective January 1 of the first fiscal year for which funds are not budgeted and appropriated.

5. Insurance.

- A. Contractor shall not commence work under this Agreement until it has presented Certificates of Insurance as required below, confirming it has obtained all insurance and bonds required by this Section 5. Contractor shall not allow any subcontractor to commence work on this project until all similar insurance required of the subcontractor has been obtained and approved. For the duration of this Agreement, the Contractor must maintain the insurance coverage required in this Section. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to the contract documents by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or type.
- B. Contractor shall procure and maintain, and shall cause each subcontractor of the Contractor to procure and maintain (or shall insure the activity of Contractor's subcontractors in Contractor's own policy with respect to), the minimum insurance coverages set forth below:
- (1) Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - each employee.
 - (2) Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.
 - (3) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each accident with respect to each of Contractor's owned,

hired and/or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

- C. The policies required above, except for the Workers' Compensation insurance and Employers' Liability insurance, shall be endorsed to include the Town as an additional insured. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.
- D. Certificates of Insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify this project and shall provide that the coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- E. Failure on the part of the Contractor to procure or maintain policies as provided herein shall constitute a material breach of contract upon which the Town may immediately terminate the Agreement, or, at its discretion, may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Contractor to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Contractor from the Owner.

6. Bonds.

Contractor shall furnish a performance bond and payment bond in an amount at least equal to the contract price, as security for the faithful performance and payment of all Contractor's obligations under the Agreement, including but not limited to the guarantee period provided in Section 8 below. All bonds shall be in the forms approved by the Town. These bonds shall remain in effect at least until two years after the date of final payment. All bonds shall be in the forms prescribed by the contract documents and be executed by such sureties as (i) are licensed to conduct business in the State of Colorado and (ii) are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, amended, by the Audit Staff, Bureau of Account, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the authority to act. If the surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent, or its right to do business in Colorado is terminated, or it ceases to meet the requirements of clauses (i) and (ii) of this section, Contractor shall, within five (5) days thereafter, substitute another bond and surety, both of which shall be acceptable to the Town.

7. Indemnification.

To the fullest extent permitted by law, Contractor agrees to indemnify and hold harmless the Town, and its officers and its employees, from and against all liability, claims, and demands, on account of any injury, loss, or damage, which arise out of or are connected with the Work, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands, and bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the Town.

8. Contractor's Guarantee of Work.

Contractor shall guarantee all work under this Agreement as being free of defects for a period of two (2) years from the date of final acceptance by the Town. If any unsatisfactory condition or damage develops within the time of Contractor's guarantee period due to defective or inferior materials or workmanship, or due to the failure to construct the Work in accordance with the Agreement, then the Contractor shall, upon notice by Town, immediately place such guaranteed work in a condition satisfactory to Town. The Town shall have all available remedies to enforce such guarantee. However, the Town shall not have any work performed independently to fulfill contractor's guarantee and require Contractor to pay Town such sums as were expended by the Town for such work, unless the Town has first given notice to the Contractor of the deficiency and given the Contractor a reasonable opportunity to cure the same.

9. Independent Contractor.

Contractor and any persons employed by Contractor for the performance of work hereunder shall be independent contractors and not employees or agents of the Town. Nothing herein shall be construed as establishing a quality standard for any individual, or as establishing any right on the part of the Town to oversee the actual work of the Contractor or to instruct any individual as to how the work will be performed. Contractor shall have the right to employ such assistance as may be required for the performance of work under this Agreement. Said Contractor shall be responsible for the compensation, insurance, and all clerical detail pertaining to such assistants, and shall be solely responsible for providing any training, tools, benefits, materials, and equipment. **THE PARTIES HERETO UNDERSTAND THAT THE CONTRACTOR AND THE CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS ARE NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS UNDER ANY WORKERS' COMPENSATION INSURANCE POLICY OF THE TOWN, AND THAT CONTRACTOR IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX AND OTHER APPLICABLE TAXES AND OTHER AMOUNTS DUE ON ANY MONEYS PURSUANT TO THIS AGREEMENT.**

10. Governmental Immunity.

The Parties hereto understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 *et seq.*, C.R.S., as amended, or otherwise available to the Town, its officers, or its employees.

11. Costs and Attorneys' Fees.

In the event of litigation enforcing or interpreting the terms of the within Agreement, and only in the event the Town is the prevailing party, the Town shall be entitled an award of reasonable attorney fees and all costs of suit, including expert witness fees, court reporter fees and similar litigation expenses.

12. No Assignment.

This Agreement shall not be assigned by the Contractor without the prior written approval of the Town. Contractor shall have the right to employ such assistance as may be required for the performance of the Work, including the use of subcontractors, which employment shall not be deemed an assignment of the Contractor's rights and duties hereunder.

13. Governing Law and Venue.

The interpretation and enforcement of this Agreement shall be in accordance with Colorado law. The Parties agree to the jurisdiction and venue of the courts of Weld County, Colorado, in connection with any dispute arising out of or in any matter connected with this Agreement.

14. Dispute Resolution.

In the event of any dispute arising under this Agreement, the Parties shall submit the matter to mediation prior to commencing legal action. The cost of the mediation shall be split equally.

15. Notice.

Any notice required to be provided under this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or sent by a nationally recognized overnight delivery service, by certified mail or by e-mail (on condition of confirmation of receipt), as appropriate, to: (i) if to Contractor, the last-known physical address or email address of Contractor or (ii) if to the Town, to, Matthew LeCerf, Town Manager, 450 S. Parish Avenue, Johnstown, CO 80534, mlecerf@townofjohnstown.com.

16. Acceptance of Work.

No act of the Town, or of any representative thereof, either in superintending or directing the Work, or any extension of time for the completion of the Work, shall be regarded as an acceptance of such Work or any part thereof, or of materials used therein, either wholly or in part. Acceptance shall be evidenced only by a final written certificate from the Town. Before the final certificate is issued, Contractor shall execute an affidavit on the certificate that it accepts the same in full payment and settlement of all claims on account of work done and materials furnished under this Agreement, and that all claims for materials provided or labor performed have been paid or set aside in full.

17. Waiver.

No waiver of any breach of this Agreement by Town or anyone acting on behalf of Town shall be held as a waiver of any other subsequent breach thereof. Any remedies provided herein shall be cumulative.

18. No Presumption.

The Parties acknowledge that each has carefully read and reviewed the terms of this Agreement. Each Party acknowledges that the entry into and execution of this Agreement is of its own free and voluntary act and deed, without compulsion. Each Party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Agreement and with respect to all matters set forth herein. The Parties agree that this Agreement reflects the joint drafting efforts of all Parties and in the event of any dispute, disagreement or controversy arising from this agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.

19. Severability.

If any portion of this Agreement shall be or becomes illegal, invalid or unenforceable in whole or in part for any reason, such provision shall be ineffective only to the extent of such illegality, invalidity or unenforceability, without invalidating the remainder of such provision or the remaining provisions of this Agreement. If any court of competent jurisdiction should deem any covenant herein to be invalid, illegal or unenforceable because its scope is considered excessive, such covenant shall be modified so that the scope of the covenant is reduced only to the minimum extent necessary to render the modified covenant valid, legal and enforceable.

20. Amendment.

This Agreement may not be amended or modified except by a subsequent written instrument signed by both Parties.

21. No Personal Liability.

In carrying out any of the provisions of this Agreement or in exercising any power or authority thereby, there shall be no personal liability of the Town, its governing body, staff, consultants, officials, attorneys, representatives, agents, or employees.

22. Colorado Labor Clause.

Contractor agrees, pursuant to Title 8, Article 17, C.R.S., as amended, that Contractor shall employ Colorado labor (as defined below in this paragraph) to perform the Work to the extent of not less than eighty percent of each type or class of labor in the several classifications of skilled and common labor employed under this Agreement. "Colorado labor" as used in this Agreement means any person who is a resident of the state of Colorado, at the time of employment, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification.

23. Equal Opportunity Employer.

Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, age, sex, disability, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising,

EXHIBIT A SCOPE OF WORK

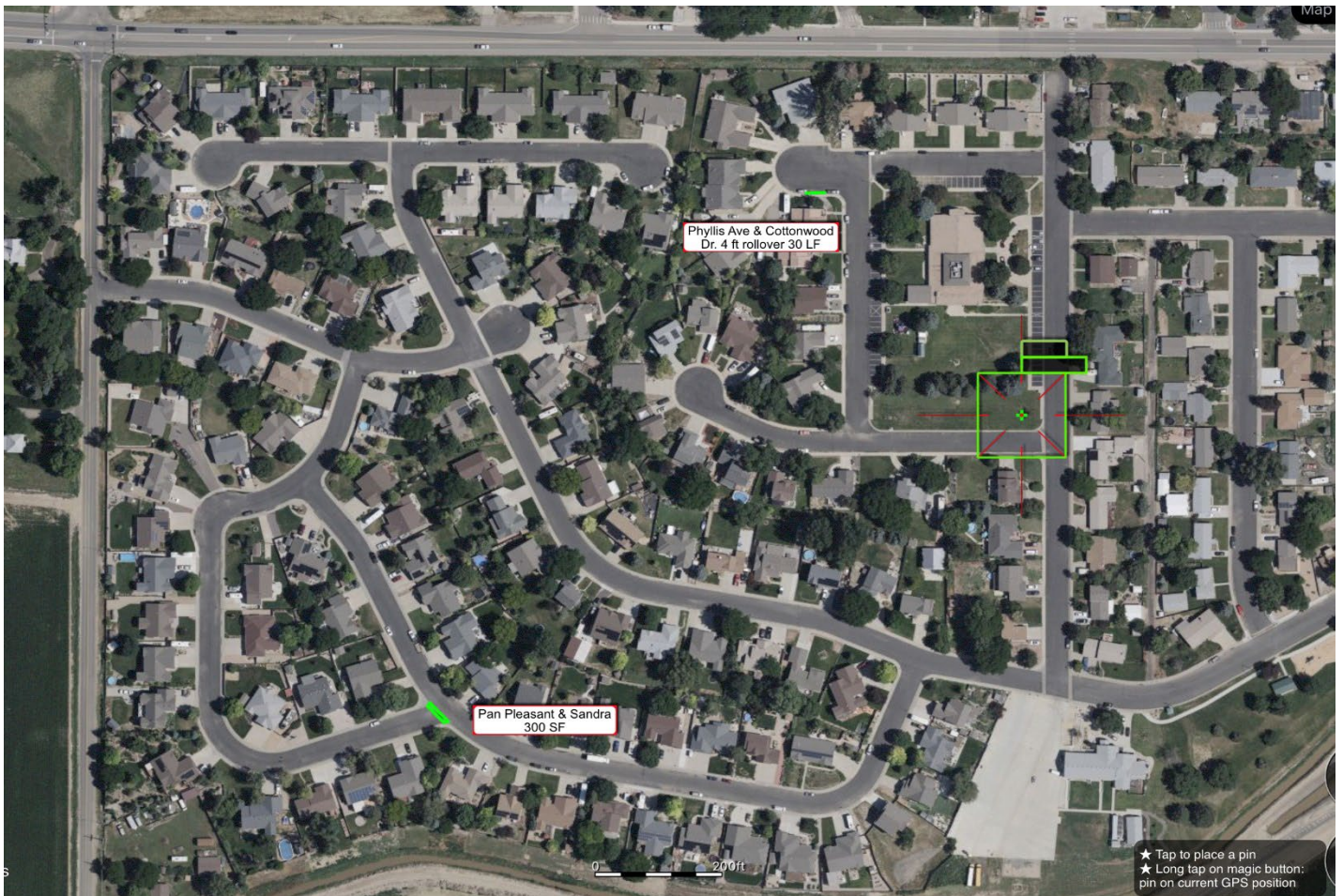
UNIT PRICE BID SCHEDULE

Unit Prices are Based on City of Loveland 2024 Renewal of City Wide Concrete Repair Project - TRANSREAHB - Bid# 2020-001

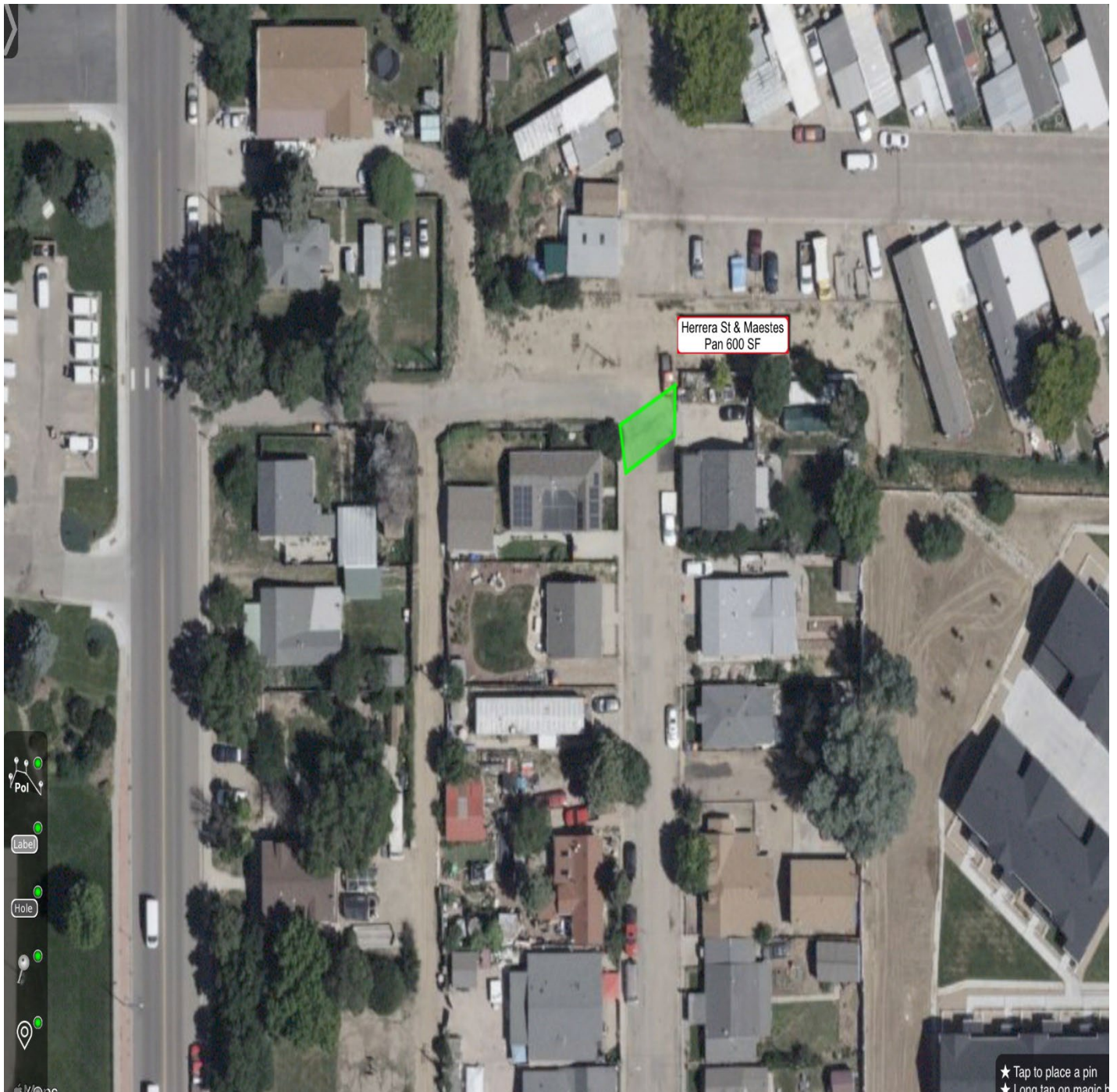
ITEM NO.	ITEM DESCRIPTION	PAY UNIT	2024 QTY.	2024 UNIT COST	2024 EXTENDED COST
202-02000	Grinding Concrete (Uneven Surfaces - One Inch or Less)	SF		\$ 154.00	\$ -
206-00000	Structural Flow Fill	CY		\$ 148.24	\$ -
210-04001	Adjust Inlet Grate	EA		\$ 451.00	\$ -
210-04002	Adjust Water Meter	EA		\$ 335.90	\$ -
210-04003	Adjust Water Valve	EA		\$ 280.26	\$ -
210-04004	Adjust Manhole	EA		\$ 446.20	\$ -
304-50000	Aggregate Base Course (Class 5 or 7)	TON	350	\$ 48.12	\$ 16,842.00
403-07021	Asphalt Patching Along Concrete (6" thickness)	SF		\$ 13.96	\$ -
403-07022	Asphalt Patching Along Concrete (each add'l. 1" thickness)	SF		\$ 1.99	\$ -
412-00600	Concrete Pavement & Sidewalk (6" Thickness)	SF	20	\$ 15.98	\$ 319.60
412-00800	Concrete Pavement & Crosspan or Spandrel (8" Thickness)	SF	13,805	\$ 20.60	\$ 284,383.00
604-01000	Install Inlet Type 13 Combination (5 ft)	EA		\$ 4,615.00	\$ -
604-04006	Install Inlet Type R (5 ft)	EA		\$ 5,426.00	\$ -
606-01000	Barrier Wall (Versa-Lok) Repairs Square Foot Face - City Material	SF		\$ 50.20	\$ -
608-00011	Concrete ADA Curb Ramp	SF	1,240	\$ 18.88	\$ 23,411.20
608-00012	East Jordan Duralast Detectable Warning Plates (or Equal)	SF	120	\$ 55.92	\$ 6,710.40
608-00016	Retrofit East Jordan Duralast Detectable Warning Plates (or Equal) to Existing Concrete ADA Curb Ramp	SF		\$ 146.32	\$ -
608-99999	Sidewalk Chase Section per LCUASS Detail 709. Payment per square foot of steel plate.	SF		\$ 324.52	\$ -
609-00000	Concrete Curb & Gutter (Vertical or Roll-Over) (LCUASS Drawing 701)	LF	168	\$ 51.88	\$ 8,715.84
609-00001	Concrete Vertical Curb (6 in. x 12in.)	LF		\$ 38.96	\$ -
609-22020	Monolithic Drive-Over Curb, Gutter & 5' Wide Sidewalk (6" Thickness)	LF		\$ 77.50	\$ -
609-22021	Monolithic Vertical Curb, Gutter & 4' Wide Sidewalk (6" Thickness)	LF	630	\$ 92.00	\$ 57,960.00
626-00024	Mobilization – 24 hour response	EA		\$ 449.00	\$ -
626-00030	Mobilization – 3 day response	EA		\$ 336.80	\$ -
630-00000	Flagging	HR		\$ 36.24	\$ -
630-00007	Traffic Control Supervisor	HR	30	\$ 84.32	\$ 2,529.60
630-00001	Arrow Board	DAY	30	\$ 428.00	\$ 12,840.00
630-00003	Traffic Control (Typical Application 3)	DAY		\$ 143.44	\$ -
630-00006	Traffic Control (Typical Application 6)	DAY		\$ 143.44	\$ -
630-00008	Traffic Control (Typical Application 8)	DAY	55	\$ 248.82	\$ 13,685.10
630-00010	Traffic Control (Typical Application 10)	DAY	10	\$ 248.82	\$ 2,488.20
630-00011	Traffic Control (Typical Application 11)	DAY		\$ 333.74	\$ -
630-00033	Traffic Control (Typical Application 33)	DAY	10	\$ 333.74	\$ 3,337.40
709-13000	Dowel Bars No. 4 (18" Length)	EA	120	\$ 20.58	\$ 2,469.60
711-00601	Concrete Color Additive Davis Tile Red 1117 (3# per Sack) Added Cost Difference per Cubic Yard	CY		\$ 120.00	\$ -
711-00624	Concrete Pavement Hi-Early Additive (24 Hrs.) Added Cost Difference per Cubic Yard	CY		\$ 124.00	\$ -
901	Laborer	HR		\$ 49.64	\$ -
902	Foreman w/Pickup	HR		\$ 104.90	\$ -
				Total:	\$ 195.4

Appendix A to Exhibit A

Country Acres



Johnstown Colony

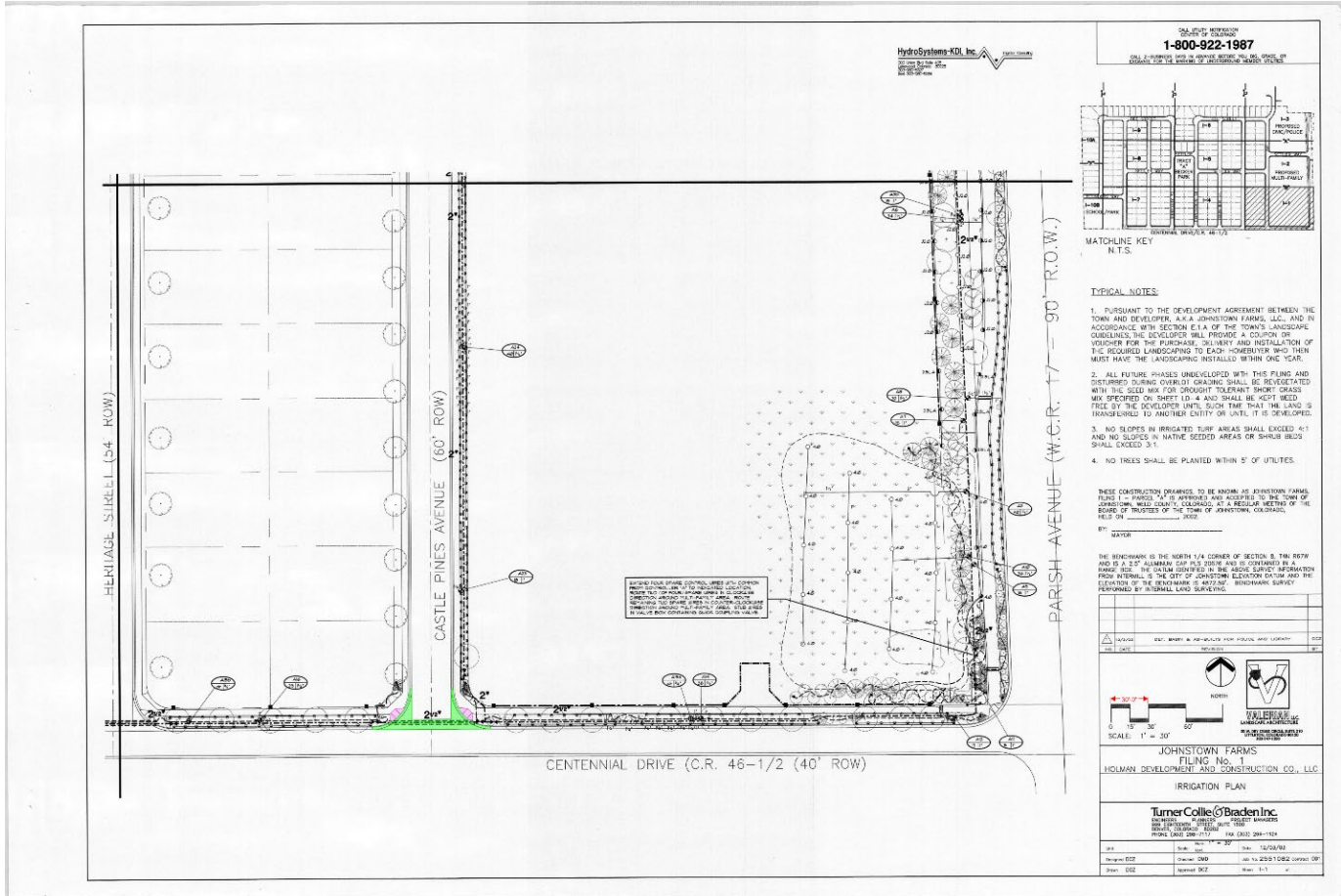


★ Tap to place a pin
★ Long tap on map to

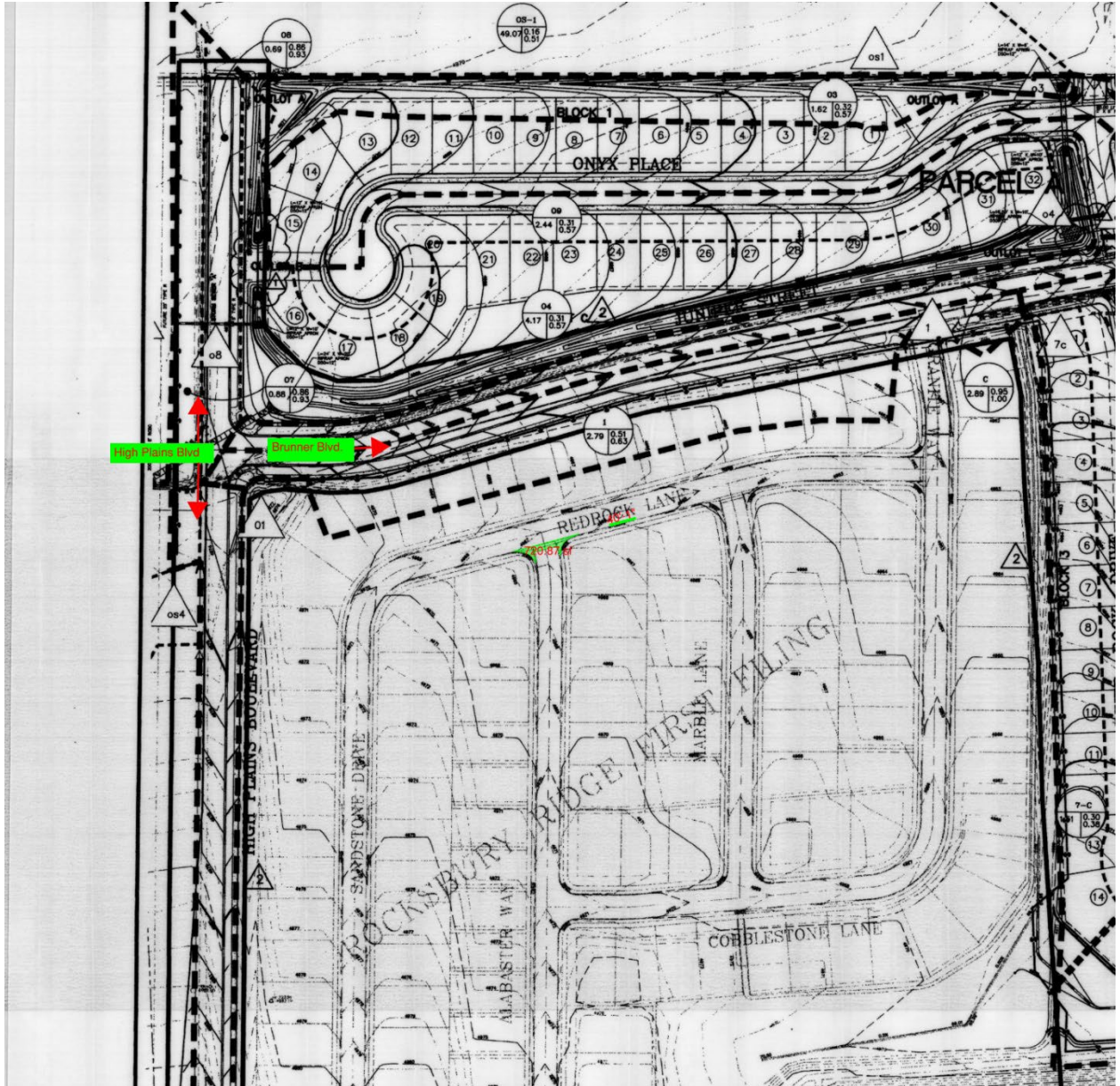
Johnstown Heights



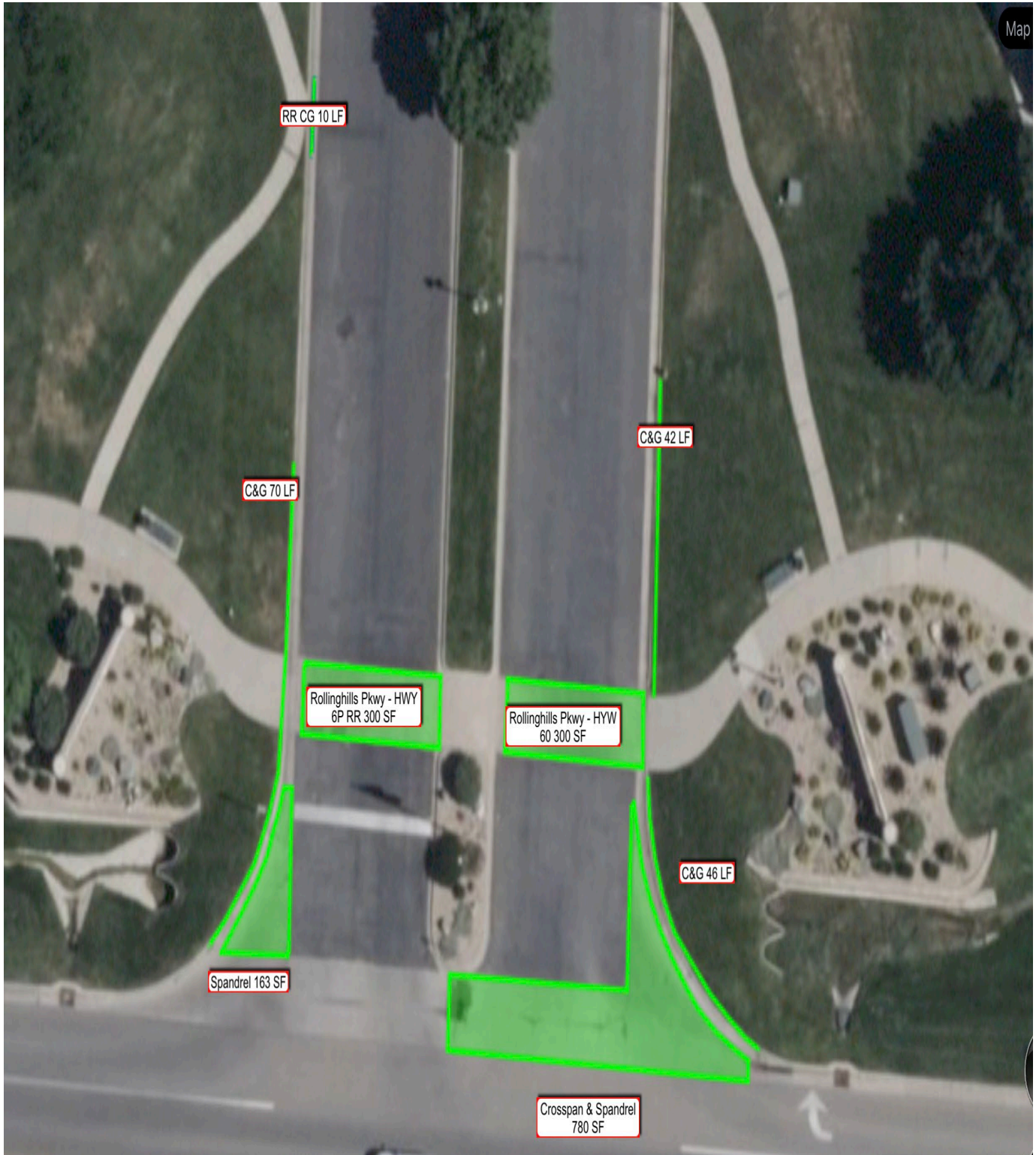
Johnstown Farms



Rocksbury Ridge



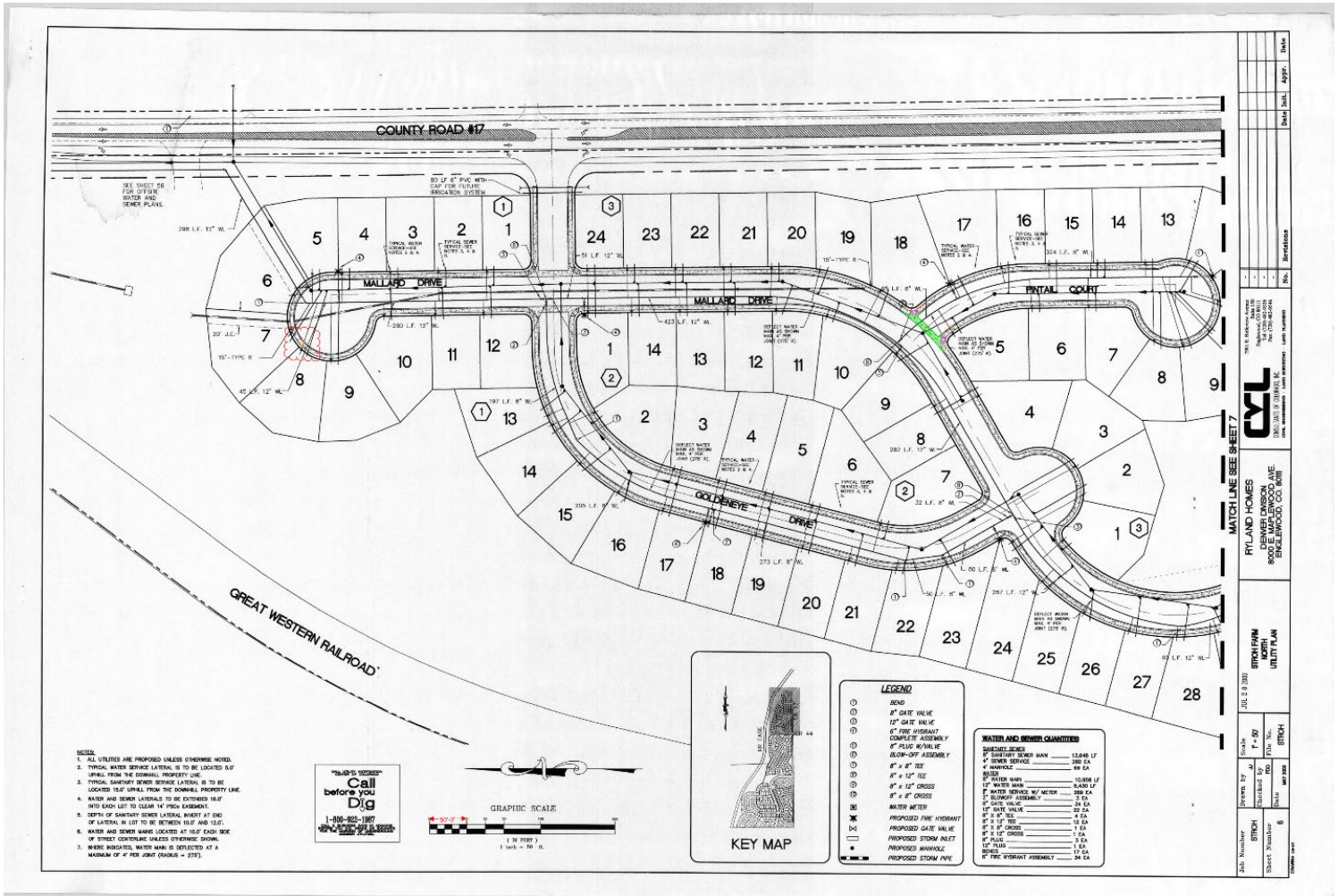
Rolling Hills



Rolling Hills Continued.

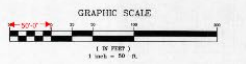


Stroh Farms (Pioneer Ridge)



- NOTES:**
1. ALL UTILITIES ARE PROPOSED UNLESS OTHERWISE NOTED.
 2. TYPICAL WATER SERVICE LATERAL IS TO BE LOCATED 15' LF UPDRILL FROM THE DOWNHILL PROPERTY LINE.
 3. TYPICAL SANITARY SEWER SERVICE LATERAL IS TO BE LOCATED 15' LF UPDRILL FROM THE DOWNHILL PROPERTY LINE.
 4. WATER AND SEWER LATERALS TO BE COINED AND VENT INTO EACH LOT TO CLEAR 14" FROM LARGEST.
 5. DEPTH OF SANITARY SEWER LATERAL SHALL BE 18" OF LATERAL IN LOT TO BE BETWEEN 18" AND 18.5".
 6. WATER AND SEWER MAINS LOCATED AT 15' LF EACH SIDE OF STREET CONTAINING UNLESS OTHERWISE SHOWN.
 7. WHERE INDICATED, WATER MAIN IS DEFLECTED AT A MAXIMUM OF 4" PER 100' (GRADE = 275').

CALL BEFORE YOU DIG
 1-800-922-1987
 MISSOURI DEPARTMENT OF TRANSPORTATION
 MISSOURI DIVISION OF HIGHWAYS



- LEGEND**
- 8" GATE VALVE
 - 12" GATE VALVE
 - 8" FIRE HYDRANT COMPLETE ASSEMBLY
 - 8" PLUG W/ VALVE
 - CLEAN-OUT ASSEMBLY
 - 8" x 8" TEE
 - 8" x 12" TEE
 - 8" x 8" CROSS
 - 8" x 12" CROSS
 - WATER METER
 - PROPOSED FIRE HYDRANT
 - PROPOSED GATE VALVE
 - PROPOSED STORM ALEET
 - PROPOSED MANHOLE
 - PROPOSED STORM PIPE

WATER AND SEWER QUANTITIES

ITEM	QUANTITY
8" SANITARY SEWER MAIN	12,648 LF
8" SEWER SERVICE	280 EA
4" MANHOLE	88 EA
8" GATE VALVE	24 EA
12" GATE VALVE	2 EA
8" FIRE HYDRANT	1 EA
8" x 8" TEE	2 EA
8" x 12" TEE	1 EA
8" x 8" CROSS	1 EA
8" x 12" CROSS	1 EA
12" PLUG	1 EA
8" CLEAN-OUT	1 EA
8" WATER METER	1 EA
8" FIRE HYDRANT ASSEMBLY	24 EA

CAL
 CIVIL ENGINEERING & ARCHITECTURE
 1000 SOUTH MAIN STREET
 DENVER, COLORADO 80202
 PHONE: (303) 733-1111
 FAX: (303) 733-1112
 WWW: WWW.CALCIVIL.COM

RYLAND HOMES
 DENVER, COLORADO
 1000 SOUTH MAIN STREET
 DENVER, COLORADO 80202
 PHONE: (303) 733-1111
 FAX: (303) 733-1112
 WWW: WWW.RYLANDHOMES.COM

STROH FARMS NORTH
 UTILITY PLAN

JUL 28 2001

Scale: 1" = 40'

Sheet: 6 of 6

DATE: 07/28/01

APP: []

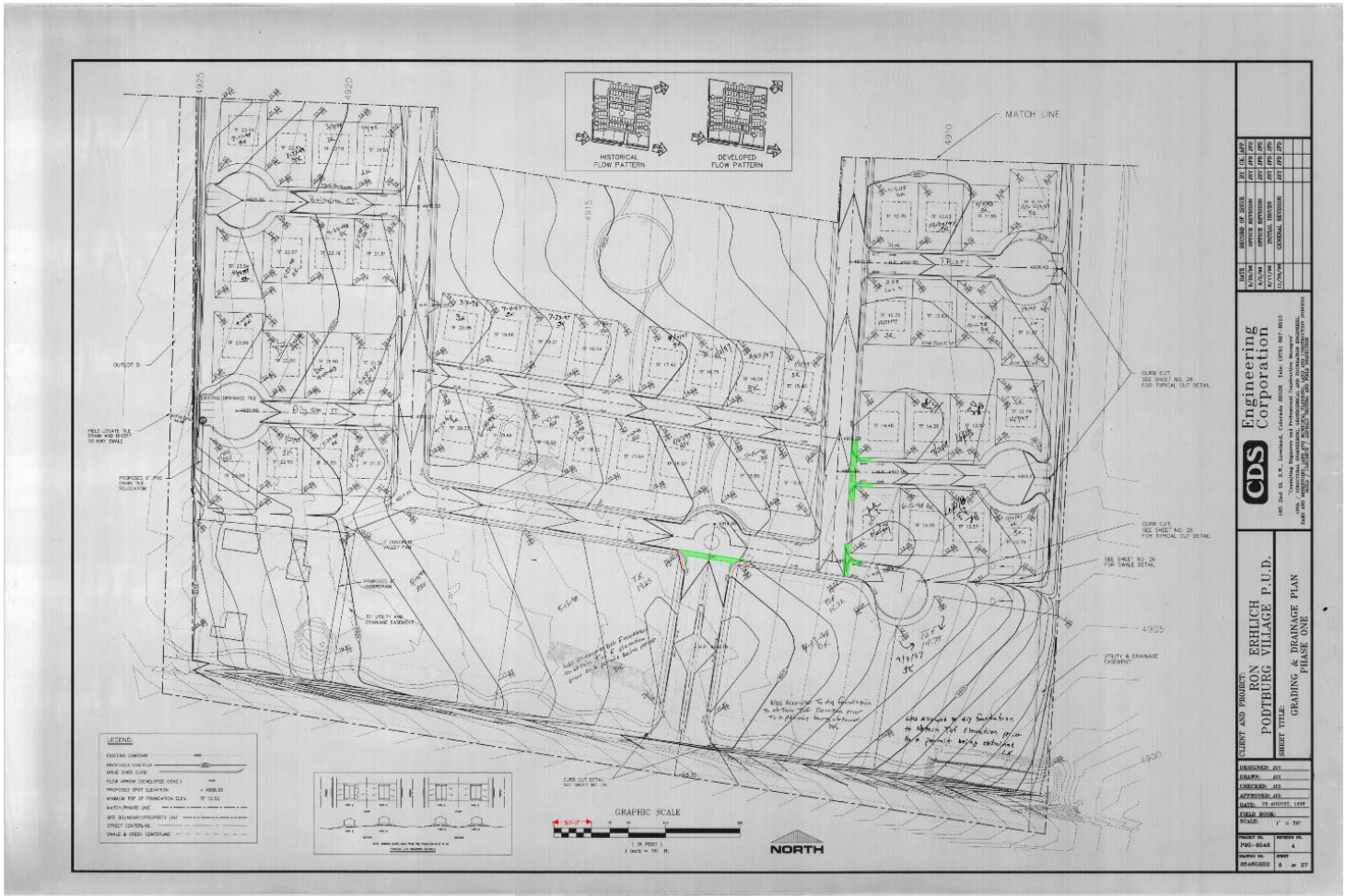
DATE: []

APP: []

Stroh Farms (Pioneer Ridge) Continued.



Potdurg Village (The Landings)



Thompson River Ranch



EXHIBIT B
SPECIAL TERMS AND CONDITIONS OF THE WORK

(Attached)

SPECIAL TERMS AND CONDITIONS
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SPECIAL TERMS AND CONDITIONS

PART 1 GENERAL

1.1 PURPOSE

This section is provided to advise the Contractor as to the special terms and conditions of the Contract.

1.2 DESCRIPTION OF WORK

The work performed under the Contract includes:

A. Bid Schedule A – Concrete Rehabilitation

The removal and replacement of existing concrete and new construction of miscellaneous concrete items. These items include, but are not limited to, curb walk (Hollywood, Vertical, Mountable & Modified Type C), vertical curb and gutter, 6" flatwork, 10" flatwork, 10" crossspan, 10" crosswalks, curb ramps with detectable warning surfaces, In general, the length of sidewalk replacement varies from 5' to 80' sections. The Contractor should anticipate some variation in the width of the curb walk items. Contractor is encouraged to verify the field curb walk width for the locations depicted and quantified in **Exhibit A**, and **Appendix A to Exhibit A**, which is attached hereto and incorporated herein by reference. Any curb walk section within +/- six inches (6") of the specified width will be paid at the bid unit cost. The Contractor shall employ traffic control and Stormwater protection measures at all work areas.

B. Contractor shall supply all labor, equipment, and materials necessary to complete the work in accordance with the Contract, including, but not limited to, the Specifications. The purpose of the Contract is to repair/replace/install miscellaneous concrete items within Town right-of-way that the Town intends to rehabilitate. The total quantities and type of work estimated in the Bid Schedule(s) is representative of the estimated quantities. These quantities may be revised by the Town to represent actual field conditions at the time of construction. Variations in the estimated quantities compared to constructed project quantities should be expected and will not substantiate a claim against the Town, including any loss of anticipated profits.

1.3 LOCATION OF THE WORK

A. While a map is provided as **Appendix A to Exhibit A**, showing the street locations for the Project, the work to be completed in the area described on the map shall be determined by the Project Manager. **The Town reserves the right to revise the location and limits of the work at any time during the Contract.** The extent of all work will be established in the field by the Project Manager. Variation between estimated and actual quantities for each item is expected and should be anticipated by the Contractor.

1.4 MISCELLANEOUS

A. The Contractor is responsible for replacing, in-kind, any property corner monuments, "S" sewerline indicators, "W" waterline indicators, "X" irrigation indicators, or any other indicators meant to denote the presence of a Town utility that are destroyed during concrete removal.

- B. The Contractor is responsible for the disposal of all soil, asphalt, cobblestone, and concrete as a result of the Project. All costs associated with disposal shall be included in the appropriate unit price. No concrete will be salvaged to the Town, unless otherwise directed.
- C. The Contractor is responsible for saw-cutting through the entire depth of the concrete to ensure a clean, straight-edged removal during removals with no cracks, chips, gouges, or other irregularities in the adjacent concrete. Any damage to adjacent concrete due to partially saw-cut concrete, positioning of back-hoe out riggers or other heavy equipment, or any other process occurs during removals shall be replaced at no additional cost to the Project. If the existing condition of the adjacent concrete is damaged, Contractor must notify the Project Manager prior to removal.

PART 2 SUPPLEMENTS TO THE CONTRACT

2.1 DEFINITIONS

The CONTRACT shall be synonymous with the Agreement.

The PROJECT shall be synonymous with the Work.

The PROJECT MANAGER shall be the Town's Deputy Public Works Director.

The SPECIFICATIONS shall be the latest edition of the "CDOT Standard Specifications for Road and Bridge Construction."

2.2 PROJECT WORK

- A. The Contractor must self-perform a minimum of sixty percent (60%) of all work on the Project. The Contractor shall self-perform all forming, placing, and finishing of all concrete items on the project.

2.3 CONTRACT TIME AND COMPLETION

- A. The work shall be commenced no later than ten (10) calendar days from and including the date of the Notice to Proceed and shall be fully completed in a satisfactory and acceptable manner within ninety (90) Working Days of the date of the Notice to Proceed.
- B. A Working Day shall be defined as any day, exclusive of Saturdays, Sundays, and Town Holidays, on which weather and other conditions not under the control of the Contractor will permit construction operations to proceed with the normal working force engaged in performing those items controlling the completion of work. Weekend or non-Town Holiday work may be counted as a Working Day per the approval of the Project Manager. One (1) whole day of contract time will be assessed for each working day on which the work can be effectively prosecuted during six (6) hours or more of the day. One-half day will be assessed for each working day on which the work can be effectively prosecuted for at least two (2) hours but less than six (6) hours of the day. Contract time will not be assessed when the work can be effectively prosecuted for less than two (2) hours.
- C. Prior to the commencement of the Work, the Contractor shall submit to the Project Manager, for approval, a schedule showing the time of commencement and proposed

progress of the Work. The schedule shall include the start date and the completion date of each street in the program.

- D. A mandatory, pre-construction conference will be scheduled prior to the issuance of the Notice to Proceed. No work will be allowed to take place prior to a written Notice to Proceed.
- E. The Contractor is required to continue work on the Project without interruption to completion.
- F. Any requests for extension of time due to conditions outside of the Contractor's control (including unseasonable inclement weather as defined below) shall be made in writing to the Project Manager within three (3) calendar days of that condition.
- G. Delays caused by circumstances, which in the opinion of the Project Manager, are outside of the control of the Contractor, will be reason for time extensions.
- H. Items not specifically called out in the Contract, but which is necessary to complete the Work required under this Contract, will be considered incidental and a part of the Contract and will be performed by the Contractor at no additional cost. The Contract unit prices will be full compensation for all labor, materials, and equipment necessary to complete the Project. No separate payment will be made for the materials used in this operation.
- I. The Town reserves the right to require the Contractor to employ additional crews in order to meet schedule requirements as outlined in the approved project schedule. Such crews shall be requested by the Project Manager and provided by the Contractor at no additional cost to the Town.
- J. If the Contractor fails to perform work required under this Contract after written notice by the Project Manager, the Town reserves the right to have work done or to perform the Work with Town forces and to charge the Contractor for such work.

2.4 SCHEDULES

- A. Prior to commencement of the Work, the Contractor shall submit to the Project Manager, for approval, a schedule showing the proposed progress of the work. The Contractor shall supply at each weekly progress meeting an updated construction schedule showing the schedule of work to be performed during the subsequent two (2) week period or a period of time mutually agreed upon by the Contractor and Project Manager. No subsequent work may take place without the updated construction schedule. The construction schedule must include the start date and completion date for each street. Due to the nature of the Work, it is difficult to identify specific activities on any given workday for any given street. As such, the Contractor will be expected to inform the Project Manager least twenty-four (24) hours in advance of any items necessitating inspection including but not limited to: subgrade inspection, formwork inspection, rebar inspection, concrete placement inspection.
- B. All work adjacent to schools shall be scheduled so that construction occurs as soon as possible once school is out of session (May 25th) in order to complete its work prior to the start of the new school year.

2.5 PROGRESS MEETINGS

- A. Progress meetings shall be held on a weekly basis at the time and place designated by the Project Manager. Unless otherwise authorized by the Project Manager, these meetings shall be attended by the Project Manager, the Contractor's Supervisor, the Contractor's certified traffic control supervisors (TCS), and representatives of all subcontractors. Progress of the Work, pay quantities, and the next week's schedule shall be discussed and coordinated at these meetings. Meetings may be held on a more frequent basis if determined necessary by the Project Manager or requested by the Contractor.

2.6 FEES AND PERMITS

- A. The Contractor shall obtain all licenses and permits required to conduct work within the limits of the project work and the Town. No charge will be made for permits issued by the Town.
- B. If construction water from the Town is desired, a Contract shall obtain a Hydrant Permit from the Town's Public Works Department. Water may only be taken from certain fire hydrants authorized by the Town. The Contractor shall be responsible for obtaining a certified meter and backflow device for any hydrants used. The Town agrees to waive the cost of construction water and the permit fee.

2.7 WEATHER LIMITATIONS

- A. The Contractor shall suspend work operations at times when satisfactory results cannot be obtained due to rain, freezing temperatures, or other unsatisfactory conditions encountered in the field.
- B. The Contractor is required to plan for normal weather. Normal inclement weather days are included in the contract time. Contract time extensions will be granted in writing by the Project Manager if the Contractor is delayed by unseasonable inclement weather.
- C. Unseasonable inclement weather shall mean any weather condition sufficient to prevent all construction from proceeding as determined by the Project Manager.

2.8 WORK HOURS

- A. Work Hours – Work (including equipment start-up and placement of traffic control) shall be limited to the hours between 7:00 a.m. and 6:00 p.m. on weekdays. No work shall be allowed on Saturdays, Sundays, or the holidays of Martin Luther King, Jr. Day, President's Day, Memorial Day, Independence Day, Juneteenth, Labor Day, Veterans Day, Thanksgiving Day, Day After Thanksgiving, Christmas Day or New Year's Day without written approval from the Project Manager.
- B. Due to the proximity to schools and/or businesses and for work on high-traffic roadways, additional work hour restrictions may be enacted to minimize conflicts with access and school drop-off locations, business hours, and rush hour traffic.

2.9 USE OF STREETS BY TRUCKS AND COMMERCIAL VEHICLES

- A. The Contractor shall comply with the Town of Johnstown Municipal Codes with regard to Truck Routes and overweight vehicles.

2.10 SWEEPING / CLEANING OF ROADS AND RIGHT-OF-WAY DURING CONSTRUCTION

- A. The Contractor will be responsible for the daily removal and proper disposal of all construction debris, dirt and mud from all public streets, private driveways and parking lots within or adjacent to the project area; whether caused directly by the Contractor's construction operation or that of Contractor's subcontractors and/or materials suppliers, or indirectly due to the site conditions in general.
- B. The Contractor will be responsible for any damage caused due to maintenance and/or cleaning operations, or the lack thereof.
- C. No separate payment will be made for this work and any costs in connection therewith shall be considered incidental to the Contract.
- D. If this clean-up work is not completed within forty-eight (48) hours of receiving written notification by the Project Manager, the Town shall contract with another company to clean the area and back charge the Contractor.
- E. The Contractor typically maintains stockpiles of material on the street as construction is underway. Once construction on each street is complete, any remaining material must be removed and any stains on the street from the material must be eliminated. Stockpiles must be properly protected from the public. Stockpiles require the use of Stormwater Best Management Practices.

2.11 EXISTING UTILITIES

- A. It will be the Contractor's responsibility to contact all utility companies, including the Town's Utility Divisions, to determine the location of all utility lines within the construction area. The Contractor will notify the Utility Notification Center of Colorado ("UNCC") in advance (as required by the UNCC) when in need of locates, and will bring any conflicts to the attention of the Project Manager. The Contractor shall protect all utilities during construction operations and will be responsible for the correction of any damage. The Contractor will hold the Town and owner of the utility free from any liability in the event of damage to any utility. The Contractor shall determine when the potholing of existing utilities is required. The payment for potholing shall be considered incidental to this Contract and there will be no additional payment for potholing activities. The Contractor is responsible for the field location of existing utilities (scheduling and completion of potholing activities) far enough in advance as to avoid construction delays – such as if conflicts are encountered or re-design services are required.

Utility Location**Telephone Number**

Johnstown Utilities Department

(970) 578-9679

2.12 DISTRIBUTION OF CONSTRUCTION NOTICES

- A. The Contractor shall deliver construction notices to all residences and businesses adjacent to the construction work. Notices shall be supplied by the Contractor at least twenty-four (24) hours and no more than seventy-two (72) hours in advance of the construction work. Notices shall include the scheduled date for the work (added to the notice by the Contractor), anticipated duration of work, contact information and other information, as applicable. If the original schedule on the notices is not accurate, the Contractor shall revise the notices. No separate payment will be made for this work and any costs in connection therewith shall be considered incidental to the Contract.

2.13 CONSTRUCTION STAKING/SURVEYING

- A. The Contractor shall provide all horizontal and vertical layout required for the Work. The Project Manager may adjust grades or alignment, as required, to provide positive drainage or to match the existing conditions/landscaping. The Contractor is responsible for providing positive drainage to all newly constructed chase drains, curb and gutter sections, handicap ramps, and crosspans. The Contractor must be ready and able to demonstrate flow line elevations and drainage direction to the Project Manager. The Contractor must notify the Project Manager if the Contractor is not able to achieve positive drainage due to existing conditions. If no notification is given, and if any newly constructed or modified chasedrains, curb and gutter sections, curb ramps, or cross pans hold water, they shall be removed and replaced at the expense of the Contractor. No separate payment will be made for this work and any costs in connection therewith shall be considered incidental to the Contract.

2.14 PROTECTION OF CONSTRUCTION

- A. The Contractor shall be responsible to protect the work from damage and vandalism. The Contractor shall provide adequate barricading, including reflective plastic flagging strung between barricades to protect the site from pedestrian and vehicular traffic. The Contractor shall also be expected to maintain workers on-site until the concrete has had time to adequately cure so that it cannot be damaged without significant effort. In the event that damage is done, the damaged area shall be removed and replaced at the discretion of the Town Project Manager.
- B. The Contractor shall provide positive surface drainage of the work areas at all times. Unsuitable subgrade, which is a direct result of the Contractor failing to provide surface drainage, shall be stabilized at no additional cost to the Project.
- C. In cold weather, concrete shall be protected per CDOT Standard Specifications Sections 412.15 and 601.12. All cold weather protection will be considered incidental to the project work. There shall be no separate payment for cold weather protection.

D. The Contractor shall be responsible for protecting construction areas with proper warning devices per the Manual on Uniform Traffic Control Devices (MUTCD), or any other areas as specified by the Project Manager.

2.15 USE OF WATER

- A. If construction water from the Town is desired, a Contract shall obtain a Hydrant Permit as provided above.
- B. The Contractor shall not use private water hoses or faucets without the written permission of the homeowner.

2.16 USE OF PRIVATE PROPERTY

- A. The Contractor shall not park any vehicle, equipment or stockpile materials on private property without prior written permission of the owner submitted to the Project Manager. When materials and equipment are stored on private property, it shall be returned to equal to or better than the condition prior to using the property.

2.17 ON-SITE SUPERVISOR

- A. The Contractor shall name a supervisor of the Project at the preconstruction meeting, subject to the Project Manager's approval. The Supervisor shall be assigned to the Project for the entire duration of the Project and shall be on the job site at all times during the construction.
- B. The Contractor's Supervisor may not be changed without prior written approval by the Project Manager.
- C. The Contractor's supervisor must be able to effectively communicate with Town personnel and Town residents.

2.18 CONDUCT

- A. The Contractor understands that, when entering into this Contract, the Contractor is representing the Town.
- B. The Contractor and the Contractor's employees shall treat citizens and motorists with a helpful and courteous nature regardless of the situation. All work and behavior of the work force shall comply with the Town's ordinances. Violations of Town ordinances by the Contractor's workforce may result in termination of the Contract at the discretion of the Town.

2.19 METHOD OF MEASUREMENT AND PAYMENT

- A. Work to be completed under the Contract will be measured for quantities in accordance with the provisions of the Contract and the most recent revision of the CDOT Standard Specifications for Road and Bridge Construction as may be applicable. Payment shall be made on the basis of actual measured quantities for the various construction pay items,

- said prices to include all costs of labor, materials, and equipment necessary to complete the work items.
- B. Incidental work (no separate payment) shall include, but not be limited to: control of dust by watering or other means, sweeping, sawcutting of asphalt and concrete, compaction, construction water, proofrolling, #4 rebar for tying into curb heads, cutting of tree roots, distribution of notices including no parking signs, permits and cleanup, providing positive drainage to work sites, asphalt patchbacks, fine grading, and curb backfills unless otherwise stated.
 - C. All work completed under the Contract shall be measured jointly by the Project Manager and the Contractor's authorized representative. Lump sum items will not be measured, but are to include the full bid item as described in the Specifications.
 - D. Unit prices are to include all necessary incidental work.

2.20 EXISTING SITE CONDITIONS

- A. Prior to starting work on the Project, the Contractor shall walk the project in the areas scheduled for work with the private property owners, if any, and Project Manager to determine and document the condition of fences, curbs, walls, drives, asphalt, lawns, sprinklers, landscaping, and any other existing conditions that are to remain on both public and private property. The Contractor may supplement written documentation of existing conditions with photographs.
- B. Any damage to existing conditions caused by the Contractor shall be repaired or replaced at no additional cost to the Project.

2.21 INSPECTIONS

- A. The Project Manager shall observe the Work during construction. All inspection work is to be coordinated with the Project Manager. Questions or problems should be directed to the Project Manager, who will be responsible for contacting the appropriate personnel, unless specifically directed otherwise.

2.22 MATERIALS TESTING: SOIL, CONCRETE, AND ASPHALT

- A. All materials and mix designs used shall be submitted to the Town for review and approval, prior to installation of such materials.
- B. All materials used in the Project shall be subject to sampling and testing in accordance with generally accepted standards and as required in the Specifications or as directed by the Project Manager. The Contractor shall furnish all samples without charge. The Contractor shall cooperate with the Project Manager or Owner's representatives in collecting, handling, storing and forwarding required samples, including the furnishing of manpower and equipment when necessary.

- C. The Contractor shall not incorporate any materials into the Project or cover any part of the Work until they have been observed, tested, and approved in accordance with the Specifications.
- D. Soil, concrete, and asphalt tests shall be performed at the Town's expense by a commercial testing laboratory. In the event that a compaction test fails to meet the criteria established by the Specifications, another test will be performed after the necessary corrective work has been completed. The Contractor shall bear the expense of all the retests performed by the Town's commercial testing laboratory.
- E. The Contractor shall perform excavation work necessary for compaction testing, as requested by the Project Manager, at no additional cost to the Town.
- F. The Contractor shall notify the Project Manager a minimum of forty-eight (48) hours in advance of any required field construction material testing. The Contractor agrees to pay any and all minimum call out charges or standby time for the testing firm incurred by the Town due to the Contractor's failure to execute the work on schedule.

2.23 TOPSOIL, SEEDING, IRRIGATION SYSTEMS & LANDSCAPE RESTORATION

- A. The Contractor shall make every effort to minimize the disturbance and destruction of sod and other landscaped areas during construction.
- B. When sod or other landscaped areas are disturbed, the Contractor shall replace the sod or other plantings, and return the disturbed areas to a condition equal to or better than the original condition. Any areas other than sod that are disturbed shall be replaced with the materials disturbed. All costs incurred in the restoration of existing sod and planted materials shall be incidental to the individual bid items and will not be paid for as a separate item. If this repair work is not completed within forty-eight (48) hours after placement of the concrete, the Town may contract with another company to complete this work and charge the Contractor along with a ten percent (10%) administrative fee.
- C. When installing curbwalk and related items, if the Contractor limits disturbance of sod behind the walk to six inches (6") or less, topsoil and seed may be used to re-vegetate the disturbed area. The Contractor should make every effort to limit disturbance to six inches (6") or less. The type of seed shall be a Turf Grass Mix (see Approved Materials List) approved by the Project Manager and the application rate shall be 150 lbs. pure live seed per acre. If the disturbance of sod or turf is more than six inches (6"), the Contractor will be required to replace the disturbed area with sod as approved by the Project Manager. If there is a difference greater than 2" between existing and adjusted grade following replacement of curbwalk, especially in residential areas, Contractor will be required to cut back the landscaping such that a gentler slope can be achieved and replace the disturbed area with sod as approved by the Project Manager. The Contractor will be responsible for the removal and replacement, at no additional cost to the Project, of dead/damaged sod or non-established seeding areas during the warranty period.
- D. Prior to removing any existing sidewalk, driveway or curb head, the Contractor shall inspect the location for sprinkler heads or irrigation valve boxes. All sprinkler heads and valve boxes shall be marked with a fluorescent-colored flag or other marking system

acceptable to the Project Manager. The Contractor shall make every effort to avoid damage to an irrigation or sprinkler system.

- E. Whenever the Contractor disturbs or damages any irrigation or sprinkler system, such damage shall immediately be brought to the attention of the property owner and the Project Manager. The Contractor shall immediately make any and all repairs necessary to restore the system to its original condition.
- F. Certain circumstances may require extensive pruning of property hedges or landscaping. Prior to performing any modification to landscaping at these locations, the Contractor shall notify the Project Manager and request direction on how to tactfully trim the landscaping. Contractor shall be responsible for resolving all unacceptable modifications should the Contractor fail to request direction from the Town prior to making modifications. Pruning shall be completed, as determined by the Project Manager, at no additional cost to the Project.
- G. Measurement for payment (of concrete items) will not be completed until the conditions of this Section are satisfied. This includes, but is not limited to, seeding, replacing sod, and repairing irrigation systems. A separate payment will be made for this work and any costs in connection therewith shall be considered incidental to the Contract.
- H. Prior to demobilizing from each street, the Contractor and the Project Manager shall walk each street to determine if landscaping restoration is satisfactory. Minor deficiencies, as determined by the Project Manager, shall be tracked as punch list items. Major deficiencies, as determined by the Project Manager, must be corrected immediately before commencing work in the next work area.

2.25 TIME BETWEEN REMOVAL AND REPLACEMENT

- A. The Contractor shall make every effort to keep the amount of time between the removal of the existing concrete and placement of the newly poured concrete to a minimum. Concrete placement shall be within twenty-four (24) hours of removal unless otherwise approved in writing by the Project Manager. Any open excavations left overnight, as approved by the Project Manager in writing, shall be sufficiently marked with traffic control devices and fenced off. Open excavations over the weekend shall not be permitted.

2.26 SUBGRADE PREPARATION

- A. The Contractor will be required to perform all required operations to provide a stable non-pumping subgrade. This may include the placement, grading and compaction of an approved stabilization material.
- B. The Project Manager will determine, at each concrete replacement location, whether the use of stabilization material is required. Stabilization extents shall be approved and recorded by the Project Manager. Only areas directed by the Project Manager will be measured for payment.

- C. If fill/stabilization material is required, it shall be measured and paid for under Subgrade Stabilization Material. Placement of additional fill material as a result of over excavation by the Contractor or for purposes of “fine grading” will not be paid for by the Town and shall not be billed to the Project. When the required depth of stabilization material exceeds six inches (6”), it shall be constructed in layers of equal thickness. The maximum compacted thickness of any layer shall not exceed six inches (6”). The surface of each layer shall be maintained during the compaction operations so that a uniform texture is produced and the aggregates are firmly locked together. Water shall be uniformly applied during compaction to achieve the required density.
- D. The Contractor shall keep the subgrade and base course free from standing water during construction. Any area which becomes unstable due to the Contractor’s lack of diverting standing water will be corrected prior to placement of concrete. Any required excavation and/or backfill to correct unstable areas, due to Contractor’s negligence, will not be measured for payment.
- E. Varying thicknesses in existing concrete may be encountered. In some cases, existing concrete may be thinner than specified herein. Therefore, soil will have to be removed from the site in order to install concrete per the Specifications.

2.27 ASPHALT REMOVAL AND PLACEMENT OF AGGREGATE BASE COURSE

- A. Minimize asphalt cuts along concrete to less than 10” in width and place Class 5 or 7 aggregate base course.

2.28 STORAGE OF MATERIALS

- A. The Contractor shall be responsible for the acquisition of any storage facilities necessary for completion of the Work. Construction trailer locations shall be approved by the Project Manager. The Contractor shall provide a dimensioned site plan showing the proposed locations for equipment and material staging, at least fourteen (14) calendar days before moving the trailer on-site.
- B. Any storage of construction materials within Town’s Right-of-Way for more than four (4) hours is prohibited unless previously approved in writing by the Project Manager.

2.29 TRAFFIC CONTROL

- A. The Contractor shall perform traffic control on all roadways, at all times, during the construction period in accordance with the conditions of the Work within the Right of Way Permit, applicable sections of the Colorado Department of Transportation Standard Specifications and the latest edition of the Manual on Uniform Traffic Control Devices. The Contractor will be required to prepare and submit traffic control plans that identify and address typical and specific site-related issues for approval by the Project Manager.

- B. The Contractor shall make all efforts to keep a portion of existing roadways open to maintain traffic flow.
- C. At no time will the Contractor be permitted to allow construction equipment or materials in the lanes open to traffic, unless permitted by the Project Manager. Vertical cuts resulting from construction adjacent to traffic lanes shall be temporarily sloped behind grading operations to safeguard traffic using the adjacent lane.
- D. Parking of personal vehicles and construction equipment will be prohibited where it conflicts with safety, access, or traffic flow. Personal vehicles and construction equipment will be prohibited from parking on all private lots unless approved by the property owner. Traffic lanes through construction areas shall be maintained as shown on the approved traffic control plans or with a clear width of at least twelve feet (12') per lane. When directed by the Project Manager, the Contractor shall provide and maintain an acceptable temporary asphalt surface for roads or driveways.
- E. If the Contractor desires to revise approved traffic control plans, the Contractor shall submit the proposed changes to the Project Manager and allow one (1) week for review of the changes. The Project Manager will only approve a modified traffic control plan that, in the Project Manager's reasonable opinion, provides adequate safety and convenience of the public and provides the same or greater service as the previously approved plan.
- F. The Contractor shall not interfere with traffic between the hours of 7:00 a.m. and 8:30 a.m., and 4:00 p.m. and 6:00 p.m. on weekdays, or at any time on weekends or holidays without written permission of the Project Manager. Arterial and collector streets may require specific work hours as shown on the Right of Way permit or traffic control plans.
- G. During non-construction periods (evenings, holidays, etc.), all work equipment, materials and unused traffic control devices shall be removed from the Town's Rights-of-Way. All travel lanes shall be free of hazards and open to traffic unless a specific traffic control plan has been approved by the Project Manager for use during these time periods.
- H. Temporary "No Parking" signs will be provided by the Contractor. The signs will be twelve by sixteen inches (12" x16") single sided coroplast. Mounting wire "H" frames will also be provided by the contractor. In cases where the "H" frames cannot be used due to hardscaping, the Contractor shall be responsible for providing a suitable mounting device. The placement of "No Parking" signs will be the responsibility of the Contractor. "No Parking" signs shall be placed no less than forty-eight (48) hours and no greater than seventy-two (72) hours prior to the start of any work that will limit parking, including saw cutting. For example, a no parking enforcement period scheduled to start at 7:00 a.m. on a Thursday shall be posted for no parking no later than 7:00 a.m. the preceding Tuesday. If a vehicle is in conflict with the Contractor's operations and the 48-hour notice requirement has not been fulfilled, the conflict vehicle will not be relocated until the 48-hour notice has been met. This requirement will be strictly enforced.
- I. Required Certified Flagging at railroad crossings shall be coordinated by the Contractor.

- J. The Contractor is responsible for submission and approval of traffic control plans and traffic control for all work on all roadways. Detailed/site specific traffic control plans shall be submitted for approval for all roadways classified as collectors or arterials, and locals if determined necessary by the Project Manager.
- K. Traffic control configurations that require a full closure to traffic on any street, greenway trail, or alleyway must be approved prior to implementation. A minimum forty-eight (48) hours' notice of the full closure must be given to the Town so that emergency personnel can be notified beforehand.
- L. A full-time on-site Certified traffic control supervisor (TCS) will be required on all roadways, during all times of construction.
- M. Traffic Control Inspection is required for every calendar day, on all project work, where traffic control devices are in use, masked, or has been turned away from traffic. All traffic control inspection shall be performed by the TCS. The TCS will be required to supply a daily log of all inspection activities for each calendar day of traffic control inspection performed. Daily inspection logs must be turned into the Project Manager weekly. Traffic control inspection shall be considered incidental to the project work and there shall be no additional payment for this duty. Traffic control inspection shall not be paid as Traffic Control Supervisor.
- N. All "flagpersons" shall be certified through either the Colorado Contractors Association (CCA) or American Traffic Safety Services Association (ATSSA) and have a current flagger's certificate. All traffic control supervisors shall be certified as a worksite traffic supervisor by either CCA or ATSSA.

2.30 EQUIPMENT

- A. Prior to the start of construction, a list of all construction equipment must be submitted in writing and approved by the Project Manager. This list is to be provided at the preconstruction meeting so that the equipment intended to be used can be discussed at that time.

2.31 CONTRACT SPECIFICATIONS

- A. The Contractor must have a copy of the current "Project Manual" on the job site at all times. In addition, the Contractor shall have a copy of the Specifications.
- B. The project documents are intended to describe and provide adequate information to complete the Work.
- C. In case of conflicts, the following order of precedence shall govern:

Agreement
 Special Terms and Conditions
 Specifications (CDOT Standard Specifications for Road and Bridge Construction)

- D. The Contractor shall not take advantage of any apparent error or omission in the Specifications. In the event the Contractor discovers an error or discrepancy, it shall immediately be brought to the attention of the Project Manager for clarification and decision. The Project Manager's decision will be final.

2.32 AUTHORITY OF THE PROJECT MANAGER

- A. The Project Manager shall decide any and all questions which arise regarding the Specifications, details, quality and acceptability of materials furnished, work performed, and to the manner of performance and progress of work.

2.33 PROTECTION OF EXISTING TREES

- A. The Contractor is responsible for protecting all existing trees adjacent to the construction. Where excavation or removals take place near existing trees, the Contractor shall use care to avoid damage to the tree and roots. Prior to cutting any root, the Contractor shall contact the Project Manager for coordination and direction. No additional payment shall be made for the cutting or removal of tree roots.
- B. Prior to starting work at areas that immediately abut existing tree roots/trunks, the Contractor shall notify the Project Manager.

2.34 INLET REMOVAL & REPLACEMENT

- A. There may be minor variations in the dimensions (length and width) of the frames. The Contractor will be required to verify all dimensions before the start of construction. In all cases when the contractor is replacing an inlet box, the new box shall be cast with a sedimentation basin no shallower than eight inches (8") deep.
- B. All inlets are to be cast-in-place (precast inlets will not be allowed).
- C. During removal of the existing inlet and installation of the new inlet, Contractor shall maintain the functionality of the inlet at all times. Stormwaters must be able to enter the inlet from adjacent flowlines.
- D. The Contractor shall be responsible for verifying measurements of inlets and ordering necessary materials. All materials necessary to construct or repair inlets shall be included in the unit price for each applicable bid item.

2.35 STORMWATER QUALITY

- A. The Contractor is responsible for protecting stormwater quality through the use of Best Management Practices (BMPs). For each pollution source, the Contractor must implement BMPs to prevent that pollutant from entering the Municipal Separate Storm Sewer System (MS4) or being transported to the MS4 via streets, sidewalks or other surfaces. All BMPs must be appropriate for the pollution source, and installed and

maintained in a manner to ensure that they function properly for the duration of their use.

- B. Common pollution sources and BMPs are discussed below; this list is not inclusive. The Contractor must control all pollution sources through the use of BMPs. All BMPs must meet the requirements of the Town of Johnstown Municipal Code, the Town of Johnstown Design Standards and Construction Specifications, Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual Volume 3 – Best Management Practices, or CDOT Standard Specifications for Road and Bridge Construction, unless otherwise approved by the Project Manager in writing.

All inlets within one hundred feet (100') down gradient of the Work shall be protected according to the inlet conditions, i.e. sump conditions or on-grade. If rock socks are used but not well maintained, the Town may require use of a replacement product that does not contain rocks. Rock socks must protect the entirety of the inlet with no gaps between each rock sock.

All discharges from saw cutting shall be contained to the immediate work area and runoff of the resulting slurry shall be minimized to the maximum extent practicable. Saw cut slurry shall be vacuumed up in conjunction with the cutting and disposed of properly.

Concrete washouts must be designed to prevent run-on and contain all wash water and concrete material. Concrete washouts in stockpiles of material are permitted but must have secondary containment at all times.

Materials, including but not limited to stockpiles, chemicals, equipment, or waste/recycle locations shall be stored, used, and controlled in a manner to prevent the release of pollutants to the MS4. Stockpiles, chemicals and waste/recycle locations shall not be placed or stored in the drainage flow line. Additional BMPs may be required related to stockpiles, chemicals and waste/recycle so they are covered and not in direct contact with the ground, have secondary containment, are in leak proof containers. Rock socks, removal of waste/recycle, spill kits, or equipment maintenance areas may also be needed in some cases.

If needed, street sweeping shall be performed on a daily basis at the end of the work day.

Portable toilets shall be out of the drainage flow line and staked or otherwise secured.

- C. BMPs that are installed for control of pollutants from temporary activities, such as construction, must be removed once the site or location is in a condition where the BMPs are no longer needed to prevent pollutants from entering the MS4. The Contractor shall remove BMPs when they are no longer needed.

- D. Upon notification of failure to adequately control pollution sources through use of BMPs, the Contractor will correct the failure(s) immediately. Violations of the Johnstown Municipal Code are subject to enforcement actions. If the Contractor fails to adequately control pollution sources through use of BMPs, the Project Manager may, at the expiration of a period of forty-eight (48) hours after having given the Contractor written notice, proceed to maintain the features as deemed necessary. Without limiting the Contractor's obligation to perform the Work, the cost thereof and a ten percent (10%) administrative fee will be deducted from any compensation due, or which may become due, to the Contractor under the Contract.

2.36 PRIVATELY OWNED CARRIAGE WALKS AND DRIVEWAYS

- A. Conditions will sometimes be encountered where the back of newly installed curbwalk does not match the grade of existing driveways and/or carriage walks. In these cases, the Contractor will remove and replace the privately owned driveway or carriage walk to limits designated by the Project Manager. The Contractor must notify the Project Manager prior to placement of concrete in cases where unique driveways/carriage walks (e.g. colored concrete, patterned concrete, bricks, pavers, etc.) are encountered and curbwalk grades will not match the driveway/carriage walk. The Project Manager may direct the Contractor to "flex" the back of the curbwalk to match the driveways or carriage walks. The Contractor shall bear all responsibility for replacing unacceptable curbwalk should the Contractor fail to request direction from the Project Manager prior to placing concrete.

EXHIBIT C
ANNUAL AMENDMENT TO AGREEMENT
(Attached)

**ANNUAL AMENDMENT TO AGREEMENT
(_____ CALENDAR YEAR)**

This Annual Amendment to Agreement (_____ Calendar Year) is made and entered this ____ day of _____, 202__, by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (the “Town”), and Lightfield Enterprises, Inc., a Colorado corporation (“Contractor”), and is incorporated into and made a part of that certain Concrete Repair Agreement executed by and between the Town and Contractor on or about _____, 2024 (“Agreement”). Capitalized terms used herein shall have the meaning set forth in the Agreement.

1. The Work for the _____ calendar year is set forth on Exhibit 1 attached hereto and incorporated herein by reference. The Work described therein shall supersede and replace the Work performed during previous calendar years.

2. The compensation for the Work during the _____ calendar year shall be _____ DOLLARS and _____ CENTS (\$_____).

3. Except as expressly provided in this Annual Amendment to Agreement (_____ Calendar Year), the Agreement has not been amended, supplemented or altered in any way by this amendment and the Agreement shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Parties have executed this Annual Amendment to Agreement (_____ Calendar Year) as of the set forth above.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Matt LeCerf, Town Manager

LIGHTFIELD ENTERPRISES, INC.

By: _____

Name:

Title:

EXHIBIT 1
SCOPE OF WORK FOR _____ CALENDAR YEAR
(Attached)



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

Item #12.

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: March 18, 2024

SUBJECT: Public Hearing – First Reading Ordinance 2024-242, Amending Sections 10-251, 10-252 and 10-254 of the Johnstown Municipal Code Concerning Marijuana Regulation.

ACTION PROPOSED: Consider Ordinance No. 2024-242

ATTACHMENTS: 1. Ordinance No. 2024-242

PRESENTED BY: Avi Rocklin, Town Attorney

AGENDA ITEM DESCRIPTION:

Article XIII of Chapter 10 of the Johnstown Municipal Code (“Code”) regulates offenses related to marijuana and references the Colorado Medical Marijuana Code at Article 43.3 of Title 12, C.R.S. The Colorado General Assembly repealed the Colorado Medical Marijuana Code and replaced it with the Colorado Marijuana Code at Article 10 of Title 44, C.R.S. The Colorado Marijuana Code comprehensively addresses and regulates both medical and recreational marijuana. To conform with state law and omit obsolete statutory references from the Code, the Town Attorney recommends that the Town Council amend Sections 10-251 and 10-252 of the Code.

Consistent with Section 42-4-1305.5, C.R.S., Section 10-254 of the Code provides that no person while in the passenger area of a motor vehicle shall: (1) use or consume marijuana; or (2) have in his or her possession an open marijuana container. Notwithstanding the general prohibition, the state statute provides an exception for the following: (1) passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation; (2) the possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a house coach, house trailer, motor home or trailer coach is permitted; (3) the possession of an open marijuana container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; and (4) the possession of an open marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not

The Community that Cares

equipped with a trunk. The Town Attorney recommends that the Town Council amend Section 10-254 of the Code to clarify that the state statutory exceptions apply.

STRATEGIC PLAN ALIGNMENT:

- Safe & Welcoming Community
 - *Provide and maintain public safety services and awareness in our community.*

LEGAL ADVICE:

The Town Attorney prepared Ordinance No. 2024-242

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve Ordinance 2024-242 upon first reading.

SUGGESTED MOTIONS:

For Approval: I move to approve Ordinance No. 2024-242, an Ordinance Amending Sections 10-251, 10-252, and 10-254 of the Johnstown Municipal Code Concerning Marijuana Regulation.

For Denial: I move to deny Ordinance No. 2024-242, an Ordinance Amending Sections 10-251, 10-252, and 10-254 of the Johnstown Municipal Code Concerning Marijuana Regulation.

Reviewed and Approved for Presentation,



Town Manager

**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2024-242**

**AN ORDINANCE AMENDING SECTIONS 10-251, 10-252 AND 10-254 OF THE
JOHNSTOWN MUNICIPAL CODE CONCERNING MARIJUANA REGULATION**

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, Article XIII of Chapter 10 of the Johnstown Municipal Code (“Code”) regulates offenses related to marijuana and references the *Colorado Medical Marijuana Code* at Article 43.3 of Title 12, C.R.S.; and

WHEREAS, the Colorado General Assembly repealed the *Colorado Medical Marijuana Code* and replaced it with the *Colorado Marijuana Code* at Article 10 of Title 44, C.R.S.; and

WHEREAS, the *Colorado Marijuana Code* comprehensively addresses and regulates both medical and recreational marijuana; and

WHEREAS, to conform with state law and omit obsolete statutory references from the Code, the Town attorney recommends that the Town Council amend Sections 10-251 and 10-252 of the Code; and

WHEREAS, the Town attorney also recommends that the Town Council amend Section 10-254 of the Code to clarify that the statutory exceptions apply to possession of marijuana by passengers in a motor vehicle; and

WHEREAS, the Town Council finds, determines and declares that this Ordinance is promulgated under the general police power of the Town and is in the best interests of the Town of Johnstown.

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF
JOHNSTOWN, COLORADO, AS FOLLOWS:**

Section 1. Section 10-251. The definition of *Colorado Medical Marijuana Code* and *Medical Marijuana Card* contained in Section 10-251 of the Johnstown Municipal Code shall be repealed and, in their place, to be listed in alphabetical order, readopted to read as follows:

Colorado Marijuana Code means Article 10 of Title 44, C.R.S., as amended.

...

Medical marijuana card means a registry identification card duly issued pursuant to § 25-1.5-106, C.R.S., as amended.

Section 2. Section 10-252. Section 10-252 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 10-252. Possession of marijuana and marijuana accessories.

- (a) No person under twenty-one (21) years of age shall possess marijuana or marijuana accessories unless such person has been issued a medical marijuana card. If such person has been issued a medical marijuana card, such person shall not possess more than two (2) ounces of marijuana unless otherwise authorized to do so by the Colorado Marijuana Code.
- (b) No person twenty-one (21) years of age or older shall possess more than one (1) ounce of marijuana unless such person has been issued a medical marijuana card. If such person has been issued a medical marijuana card, such person shall not possess more than two (2) ounces of marijuana unless otherwise authorized to do so by the Colorado Marijuana Code.

Section 3. Section 10-254(d). Section 10-254(d) of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 10-254. Public consumption or use of marijuana.

...

- (d) No person while in the passenger area of a motor vehicle shall: (1) use or consume marijuana; or (2) have in his or her possession an open marijuana container. For purposes of this Section, the terms shall have meanings set forth in Section 42-4-1305.5, C.R.S., as amended, and the exceptions therein shall apply. Nothing in this Section or in any section of this Code is intended to allow driving under the influence of marijuana or driving while impaired by marijuana or to supersede state law regarding the same, whenever enacted.

Section 4. Severability. If any part or provision of this Ordinance, or its application to any person or circumstance, is adjudged to be invalid or unenforceable, the invalidity or unenforceability of such part, provision, or application shall not affect any of the remaining parts, provisions or applications of this Ordinance that can be given effect without the invalid provision, part or application, and, to this end, the provisions and parts of this Ordinance are declared to be severable.

Section 5. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

Item #13.

TOWN COUNCIL AGENDA COMMUNICATIONS

- AGENDA DATE:** March 18, 2024
- SUBJECT:** Public Hearing – First Reading Ordinance 2024-243 Authorizing the Conveyance of Real Property Located at the Southeast Corner of Interstate 25 and State Highway 60, Consisting of Approximately 2.100 Acres, Along with Corresponding Easements, to the Colorado Department of Transportation
- ACTION PROPOSED:** Consider Ordinance 2024-243 on First Reading
- ATTACHMENTS:**
1. Ordinance 2024-243
 2. Bargain and Sale Deed
 3. Right of Way Dedication
 4. Access Control Line
 5. Permanent Easement AP-PE-608A
 6. Permanent Easement AP-PE-608
 7. Map Depicting the Various Dedications – Illustrative
- PRESENTED BY:** Matt LeCerf, Town Manager
-

AGENDA ITEM DESCRIPTION:

Enclosed for your review and consideration is Ordinance 2024-243. This ordinance would dedicate to the Colorado Department of Transportation several property items which are described as follows through a Bargain and Sale Deed Agreement and/or directly through the ordinance.

1. Right of Way – The Town will be dedicating additional Right of Way as part of the I-25 and Highway 60 improvements to the east of the interchange. This land is owned by the Town and the specific land comes from dedication of land by Occidental south of Highway 60.
2. Access Control Line – This establishes a deeded access control (AC) for Interstate 25. Access control is required to limit the entry and exit points on the highway. The legal is

The Community that Cares

simply calling out the line on which the access control runs. This is typically referred to as the A Line.

- 3. Permanent Easement 608 – This is a nonexclusive permanent easement dedicated by the Town to CDOT. The purpose of the described permanent easement is for permanent placement, construction, use and maintenance of roadway improvements, including utilities, irrigation facilities, an access road and all associated appurtenances.
- 4. Permanent Easement 608A – This is a nonexclusive permanent easement dedicated by the Town to CDOT. The purpose of the described permanent easement is for permanent placement, construction, use and maintenance of roadway improvements, including utilities, irrigation facilities, an access road and all associated appurtenances.

A map is included with this agenda item that outlines the various dedications. Dedication of property requires Council approval and must be completed by ordinance. This first reading of the ordinance is necessary to begin the dedication process. The easement, while not necessary to require Council approval, has been included since its inclusion compliments the overall project of the I-25 and Highway 60 improvements.

STRATEGIC PLAN ALIGNMENT:

Quality Infrastructure & Facilities

- o *Establish and maintain levels of service*
- o *Ensure future viability of infrastructure and facilities*

LEGAL ADVICE:

The Town Attorney drafted the Ordinance presented for consideration.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Staff recommends approval of Ordinance 2024-243 upon first reading.

SUGGESTED MOTIONS:

For Approval: I move to approve Ordinance No. 2024-243, on first reading.

For Denial: I move to deny Ordinance No. 2024-243, on first reading.

Reviewed and Approved for Presentation,



Town Manager

**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2024-243**

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY LOCATED AT THE SOUTHEAST CORNER OF INTERSTATE 25 AND STATE HIGHWAY 60, CONSISTING OF APPROXIMATELY 2.100 ACRES, ALONG WITH CORRESPONDING EASEMENTS, TO THE COLORADO DEPARTMENT OF TRANSPORTATION

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, the Colorado Department of Transportation (“CDOT”) has constructed significant improvements to Interstate 25 (“I-25”) in Northern Colorado, which improvements include the reconstruction of the interchange, including the bridge, at I-25 and State Highway 60 (“Interchange”); and

WHEREAS, to properly operate and maintain the Interchange, CDOT is seeking additional right-of-way; and

WHEREAS, the Town owns real property located at the southeast corner of the Interchange, being a portion of Weld County Assessor Parcel Number 106111201001, that would satisfy CDOT’s right-of-way requirements at the Interchange (“Property”); and

WHEREAS, Section 11-7 of the Johnstown Municipal Code provides that the Town may dispose of real property, used or held for any purpose, by ordinance upon such terms and conditions as the Town Council deems to be in the best interests of the Town; and

WHEREAS, after due consideration, for the benefit of the Town and the proper operation and maintenance of the Interchange, the Town Council desires to convey the Property to CDOT; and

WHEREAS, in addition to the conveyance of the Property, CDOT is in need of, and the Town Council desires to grant to CDOT, corresponding easements; and

WHEREAS, the Town Council finds and determines that the adoption of this Ordinance is in the best interests of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. The Town Council hereby authorizes the conveyance of the real property, being a portion of Weld County Assessor Parcel Number 106111201001 and described more fully on

the exhibit to the Bargain and Sale Deed attached hereto and incorporated herein by reference as Exhibit A (“Bargain and Sale Deed”), to the Colorado Department of Transportation.

Section 2. The Town Council hereby authorizes the grant of two nonexclusive easements to the Colorado Department of Transportation, as set forth on Exhibit B attached hereto and incorporated herein by reference (“Easements”).

Section 3. The Town Council hereby authorizes the Mayor to execute the Bargain and Sale Deed and the Easements.

Section 4. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. This Ordinance shall become effective upon final passage as provided by the Charter. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

BARGAIN AND SALE DEED

THIS DEED is dated _____, 2024, and is made between the TOWN OF JOHNSTOWN, a Colorado home rule municipality, the "Grantor," whose address is 450 S. Parish Avenue, Johnstown, Colorado 80534, County of Weld, State of Colorado, and the DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO, the "Grantee," whose legal address is 2829 W. Howard Place, Denver, CO 80204 of the City and County of Denver and State of Colorado.

WITNESS, that the Grantor, for and in consideration of the sum of TEN DOLLARS and 00/100th (\$10.00), the receipt and sufficiency of which is hereby acknowledged, hereby sells and conveys unto the Grantee and the Grantee's heirs and assigns forever, all the real property, together with any improvements thereon, located in the County of Weld and State of Colorado, described as follows:

Project Number: 22831
Project Code: NHPP 0253-270

See attached Exhibit "A" dated August 20, 2021 for:
Parcel Number: AP-RW-608REV

See attached Exhibit "A" dated August 20, 2021 for:
Parcel Number: AP-AC-608

a portion of the property known by assessor's schedule or parcel number: 106111201001
An area of approximately 2.100 acres.
Referred to herein as the "Property."

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the Grantee and the Grantee's heirs and assigns forever, except and subject to the following:

The Grantor hereby retains, and does not grant, remise, release or sell to the Grantee, the mineral estate, including all coal, oil, gas and other hydrocarbons and all clay and other valuable mineral, in, beneath and under the Property. Notwithstanding the Grantor's retention of the mineral estate, the Grantor covenants and agrees that the Grantee shall forever have the right to take and use, without payment of further compensation to the Grantor, any and all sand, gravel, earth, rock, and other road building materials found in or upon the Property; and

The Grantor further covenants and agrees that no exploration for or development of any of the products described above and owned by the Grantor heretofore or hereafter the date set forth above and hereby excepted will ever be conducted on or from the surface of the Property, and that, in the event any of such operations may hereafter be carried on beneath the surface of the Property, the Grantor shall perform no act which may cause damage to the road. These covenants and agreements hereunder shall inure to and be binding upon the Grantor and its successors and assigns forever.

IN WITNESS WHEREOF, the Grantor has executed this deed on the date set forth above.

GRANTOR: **Town of Johnstown**

By: Troy D. Mellon, Mayor

STATE OF COLORADO)
) ss.
County of Weld)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by Troy D. Mellon, Mayor of the Town of Johnstown.

Witness my hand and official seal.
My commission expires: _____

Notary Public

Name and address of entity creating new legal description: Robert A Boehm, PLS 34992, for and behalf of Jacobs Engineering Inc., 9191 Jamaica St., Englewood, CO 80112.

**COLORADO DEPARTMENT OF TRANSPORTATION
REAL PROPERTY**

TO BE ACQUIRED

Parcel Number: AP-RW-608 REV

FROM

Town of Johnstown,
A Colorado municipal corporation
450 S. Parish Avenue
Johnstown, CO 80534

FOR

Project Code: 22831
Project Number: NHPP 0253-270
Location: I-25

EXHIBIT "A"

PROJECT NUMBER: NHPP 0253-270
PARCEL NUMBER: AP-RW-608 REV
PROJECT CODE: 22831
DATE: August 20, 2021
DESCRIPTION

A tract or parcel of land No. AP-RW-608 REV of the Department of Transportation, State of Colorado, Project No. NHPP 0253-270, containing 91,491 sq. ft. (2.100 acres), more or less, in the Northwest Quarter of Section 11, Township 4 North, Range 68 West of the 6th Principal Meridian, in Weld County, Colorado, being a portion of that certain parcel of land described in Deed of Dedication for Right of Way recorded at Reception No. 4690405, on March 8, 2021, and all of that certain parcel of land described in Quitclaim Deed recorded at Reception No. 4676830, on January 29, 2021, all in the Weld County Clerk and Recorder's office, being more particularly described as follows:

Commencing at the Northwest Corner of said Section 11, Township 4 North, Range 68 West of the 6th Principal Meridian; Thence North 89°42'26" East, a distance of 1,440.68 feet to the southerly Right-of-Way line of State Highway 60 and the POINT OF BEGINNING;

1. Thence South 83°18'56" West, a distance of 1,145.75 feet;
2. Thence South 14°43'35" West, a distance of 874.84 feet;
3. Thence South 04°05'53" West, a distance of 303.59 feet to the easterly Right-of-Way line of Interstate 25 as described on Colorado Department of Transportation Right-of-Way Plans, Project No. FAP I 25-3 (16) 251;
4. Thence North 00°23'15" West, coincident with said easterly Right-of-Way line, a distance of 261.78 feet;
5. Thence North 12°33'45" East, continuing along said easterly Right-of-Way line, a distance of 980.91 feet;
6. Thence North 83°23'13" East, continuing along said easterly Right-of-Way line, a distance of 201.30 feet;
7. Thence North 00°08'17" West, continuing along said easterly Right-of-Way line, a distance of 21.73 feet to said southerly Right-of-Way line of State Highway 60;
8. Thence North 88°55'39" East, coincident with said southerly Right-of-Way line, a distance of 970.73 feet to the POINT OF BEGINNING.

The above described parcel contains 91,491 square feet, (2.100 acres), more or less.

Basis of Bearings: The West line of the Northwest Quarter of Section 11, being monumented at the Northwest Corner by a 2.5" alum. cap stamped "POWERS ELEVATION CO INC 68W 3 2 10 11 4N LS 23501", and at the West Quarter Corner by a partially illegible 2.5" alum. cap stamped "TST S10 S11 T4N R68W PLS 141", bearing South 00°23'15" East, based on Colorado State Plane North Zone (501) NAD83 (2007).

Prepared by:
 Robert A. Boehm, PLS 34992
 For and on behalf of Jacobs Engineering Group Inc.
 9191 Jamaica Street
 Englewood, CO 80112
 Robert.Boehm@jacobs.com



**COLORADO DEPARTMENT OF TRANSPORTATION
REAL PROPERTY**

TO BE ACQUIRED

Access Control: AP-AC-608

FROM

Town of Johnstown,
A Colorado municipal corporation
450 S. Parish Avenue
Johnstown, CO 80534

FOR

Project Code: 22831
Project Number: NHPP 0253-270
Location: I-25

EXHIBIT "B"

PROJECT NUMBER: NHPP 0253-270

PARCEL NUMBER: AP-AC-608

PROJECT CODE: 22831

DATE: August 20, 2021

ACCESS DESCRIPTION

EACH AND EVERY RIGHT OR RIGHTS OF ACCESS OF THE GRANTOR to and from any part of the right-of-way of Interstate Highway 25, a freeway established according to the laws of the State of Colorado, and from and to any part of the real property of the Grantor as described at Reception No. 4690405, on March 8, 2021, in the Northwest Quarter of Section 11, Township 4 North, Range 68 West, of the 6th Principal Meridian, in Weld County, Colorado, abutting upon said Highway, along and across the access line or lines described as follows:

<u>(Project No.)</u>	<u>(Parcel No.)</u>	<u>(Location of Line)</u>
NHPP 0253-270	AP-AC-608	Easterly

Commencing at the Northwest Corner of said Section 11, Thence North 89°42'26" East a distance of 1,440.68 feet to the POINT OF BEGINNING;

1. Thence South 83°18'56" West, a distance of 505.85 feet to the easterly side of an opening in the access control line;
2. Thence South 83°18'56" West, across said opening in the access control line, a distance of 50.00 feet to the westerly side of said opening in the access control line;
3. Thence South 83°18'56" West, resuming the access control, a distance of 589.90 feet, being the end of this access limitation;

NO ACCESS POINT

Basis of Bearings: The West line of the Northwest Quarter of Section 11, being monumented at the Northwest Corner by a 2.5" alum. cap stamped "POWERS ELEVATION CO INC 68W 3 2 10 11 4N LS 23501", and at the West Quarter Corner by a partially illegible 2.5" alum. cap stamped "TST S10 S11 T4N R68W PLS 141", bearing South 00°23'15" East, based on Colorado State Plane North Zone (501) NAD83 (2007).

Prepared by:
Robert A. Boehm, PLS 34992
For and on behalf of Jacobs Engineering Group Inc.
9191 S. Jamaica Street
Englewood, CO 80112
Robert.Boehm@jacobs.com



EXHIBIT "A"

PROJECT NUMBER: NHPP 0253-270
PERMANENT EASEMENT NUMBER: AP-PE-608A
PROJECT CODE: 22831
DATE: August 20, 2021
DESCRIPTION

Permanent Easement No. AP-PE-608A of the Department of Transportation, State of Colorado, Project No. NHPP 0253-270, containing 34,611 sq. ft. (0.795 acres), more or less, in the Northwest Quarter of Section 11, Township 4 North, Range 68 West of the 6th Principal Meridian, in Weld County, Colorado, being all of the Non-Exclusive Permanent Easement recorded at Reception No. 4673580, on January 20, 2021 and a portion of that certain parcel of land described on Johnstown Commercial Annexation recorded at Reception No. 3543014, on March 21, 2008, in the Weld County Clerk and Recorder's office, being more particularly described as follows:

Commencing at the Northwest Corner of said Section 11, Township 4 North, Range 68 West of the 6th Principal Meridian; Thence South 10°16'10" East, a distance of 768.63 feet to the northerly line of said Reception No. 4673580 and the POINT OF BEGINNING;

1. Thence North 89°59'23" East, coincident with said northerly line, a distance of 20.68 feet to the Northeast corner of said Reception No. 4673580;
2. Thence South 14°43'35" West, coincident with the easterly line of said Reception No. 4673580, a distance of 226.52 feet;
3. Thence South 04°05'53" West, continuing along said easterly line, a distance of 300.95 feet;
4. Thence South 00°23'15" East, continuing along said easterly line, a distance of 1,202.97 feet to the Southeast corner of said Reception No. 4673580;
5. Thence South 89°05'10" West, coincident with the southerly line of said Reception No. 4673580, a distance of 20.00 feet to the Southwest corner of said Reception No. 4673580 and the easterly Right-of-Way line of Interstate 25 as described on Colorado Department of Transportation Right-of-Way Plans, Project No. FAP I 25-3 (16) 251;
6. Thence North 00°23'15" West, coincident with said easterly Right-of-Way line, a distance of 1,203.93 feet;
7. Thence North 04°05'53" East, continuing along said easterly Right-of-Way line, a distance of 303.59 feet;
8. Thence North 14°43'35" East, continuing along said easterly Right-of-Way line, a distance of 223.12 feet to the POINT OF BEGINNING.

The above described permanent easement contains 34,611 square feet, (0.795 acres), more or less.

The purpose of the above described permanent easement is for permanent placement, construction, use and maintenance of roadway improvements, including utilities, irrigation facilities, an access road and all associated appurtenances.

Basis of Bearings: The West line of the Northwest Quarter of Section 11, being monumented at the Northwest Corner by a 2.5" alum. cap stamped "POWERS ELEVATION CO INC 68W 3 2 10 11 4N LS 23501", and at the West Quarter Corner by a partially illegible 2.5" alum. cap stamped "TST S10 S11 T4N R68W PLS 141", bearing South 00°23'15" East, based on Colorado State Plane North Zone (501) NAD83 (2007).

Prepared by:
 Robert A. Boehm, PLS 34992
 For and on behalf of Jacobs Engineering Group Inc.
 9191 Jamaica Street
 Englewood, CO 80112
 Robert.Boehm@jacobs.com

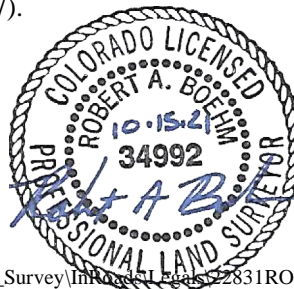


EXHIBIT "A"

PROJECT NUMBER: NHPP 0253-270
PERMANENT EASEMENT NUMBER: AP-PE-608
PROJECT CODE: 22831
DATE: August 20, 2021
DESCRIPTION

Permanent Easement No. AP-PE-608 of the Department of Transportation, State of Colorado, Project No. NHPP 0253-270, containing 104,100 sq. ft. (2.390 acres), more or less, in the Northwest Quarter of Section 11, Township 4 North, Range 68 West of the 6th Principal Meridian, in Weld County, Colorado, being a portion of that certain parcel of land described in Deed of Dedication for Right of Way recorded at Reception No. 4690405, on March 8, 2021, in the Weld County Clerk and Recorder's office, being more particularly described as follows:

Commencing at the Northwest Corner of said Section 11, Township 4 North, Range 68 West of the 6th Principal Meridian; Thence North 89°42'26" East, a distance of 1,440.68 feet to the southerly Right-of-Way line of State Highway 60 and the POINT OF BEGINNING;

1. Thence South 03°52'43" East, a distance of 80.10 feet;
2. Thence South 83°18'56" West, a distance of 1,151.72 feet;
3. Thence South 14°43'35" West, a distance of 568.37 feet to the southerly line of said Reception No. 4690405;
4. Thence South 89°59'23" West, coincident with said southerly line, a distance of 20.68 feet;
5. Thence North 14°43'35" East, a distance of 651.72 feet;
6. Thence North 83°18'56" East, a distance of 1,145.75 feet to the POINT OF BEGINNING.

The above described permanent easement contains 104,100 square feet, (2.390 acres), more or less.

The purpose of the above described permanent easement is for permanent placement, construction, use and maintenance of roadway improvements, including utilities, irrigation facilities, an access road and all associated appurtenances.

Basis of Bearings: The West line of the Northwest Quarter of Section 11, being monumented at the Northwest Corner by a 2.5" alum. cap stamped "POWERS ELEVATION CO INC 68W 3 2 10 11 4N LS 23501", and at the West Quarter Corner by a partially illegible 2.5" alum. cap stamped "TST S10 S11 T4N R68W PLS 141", bearing South 00°23'15" East, based on Colorado State Plane North Zone (501) NAD83 (2007).

Prepared by:
Robert A. Boehm, PLS 34992
For and on behalf of Jacobs Engineering Group Inc.
9191 Jamaica Street
Englewood, CO 80112
Robert.Boehm@jacobs.com



Colorado Department of Transportation



10601 W. 10th Street
Greeley, CO 80634
Phone: 970-350-2161

Region 4 Right of Way

IJN

Sheet revisions

Date	Description	Initials
5/13/21	del AP-RW-608A, AP-RW-608B, Revised	----
----	AP-TE-608 REV, AP-UE-608 REV	RFG
8/20/21	del AP-UE-608 REV2 and replaced with	----
----	AP-PE-608, and AP-PE-608A del	----
----	AP-TE-608 REV2	RFG

Sheet revisions

Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX

Sheet revisions

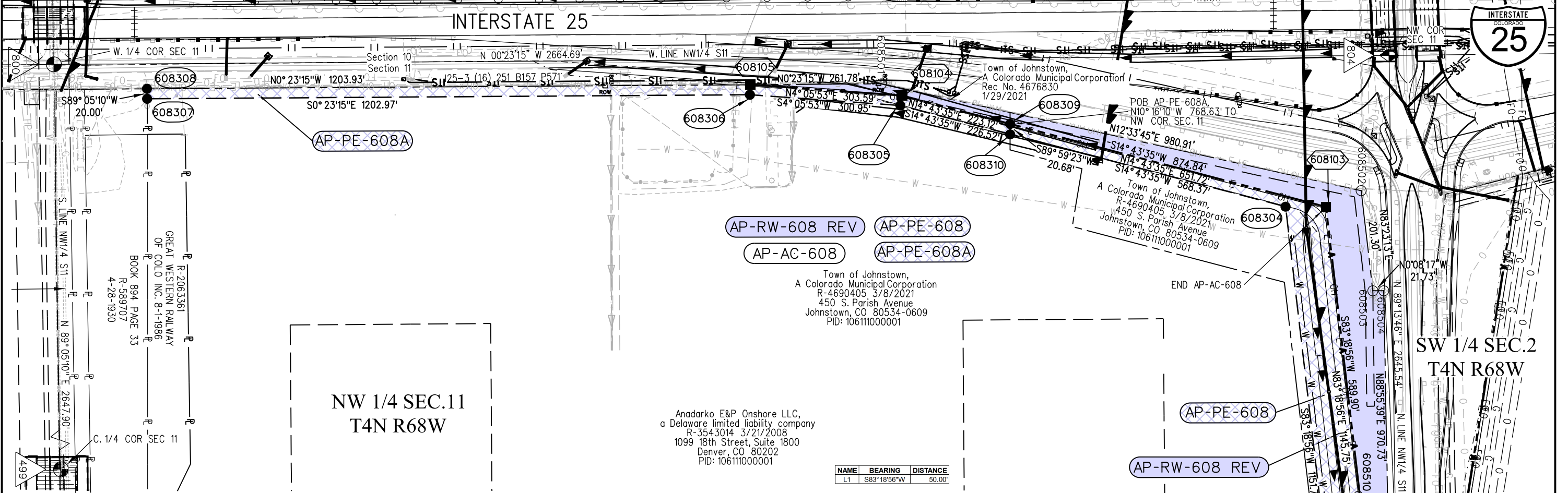
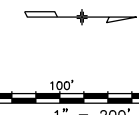
Date	Description	Initials
mm/dd/yy	XXXXXXXX	XXX

Right of Way Plans

Plan Sheet

Project Number: NHPP 0253-270
Project Location: I-25 Express Lanes SH7 TO SH1

Project Code:	Last Mod. Date	Subset	Sheet No.
22831	08/20/21	1.01 of 1.02	1.01



R.O.W. TABULATION OF PROPERTIES IN WELD COUNTY INTERSTATE HIGHWAY 25 - SEGMENT 6

Parcel No.	Ownership Name and Mailing Address	Parcel Id Site Address	Location	Area In Square Feet (Acres)				Reception No.	Title Commitment No.	Purpose
				Area Of Parcel	Net Area	Remainder	Remainder			
AP-RW-608-REV	TOWN OF JOHNSTOWN, A COLORADO MUNICIPAL CORPORATION 450 S. PARISH AVENUE JOHNSTOWN, CO 80534-0609	106111000001 22764 I-25 FRONTAGE RD. JOHNSTOWN, CO	NW 1/4 SEC. 11, T4N, R68W, 6TH PM	91.491 (2.100)					597-F0595627-383-IKA, Amendment No. 3	PERMANENT HIGHWAY WIDENING & ASSOCIATED APPURTENANCES
AP-RW-608A	deleted									
AP-RW-608B	deleted									
AP-TE-608-REV2	deleted									
AP-UE-608-REV2	deleted									
AP-PE-608	same as above			104,100 (2.390)						FOR A NON-EXCLUSIVE PERMANENT EASEMENT FOR PERMANENT PLACEMENT, CONSTRUCTION, USE AND MAINTENANCE OF ROADWAY IMPROVEMENTS, INCLUDING UTILITIES, IRRIGATION FACILITIES AND AN ACCESS ROAD, AND ALL ASSOCIATED APPURTENANCES.
AP-AC-608	same as above			0 (0.000)						NO ACCESS
AP-PE-608A	NON-EXCLUSIVE EASEMENT OWNED BY TOWN OF JOHNSTOWN			34,611 (0.795)						FOR A NON-EXCLUSIVE PERMANENT EASEMENT FOR PERMANENT PLACEMENT, CONSTRUCTION, USE AND MAINTENANCE OF ROADWAY IMPROVEMENTS, INCLUDING UTILITIES, IRRIGATION FACILITIES AND AN ACCESS ROAD, AND ALL ASSOCIATED APPURTENANCES.

NOTE: PARCELS ARE LOCATED WITHIN ZONE X AREA OF MINIMAL FLOOD HAZARD PER MAP PANEL 0806C1405F EFFECTIVE DATE 12/19/2006

NOTE: THIS IS NOT A ROW PLAN, LAND SURVEY PLAT, OR IMPROVEMENT SURVEY PLAT AND WAS PREPARED FOR CDOT PURPOSES ONLY.

MATCHLINE SEE SHEET 1.02

COLORADO DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY PROJECT

ROW PLANS AUTHORIZED: _____ DATE _____

Chief Engineer _____

LEGAL DESCRIPTION - EXHIBIT A



Jacobs

ROBERT BOEHM - PLS34992

9/2/2021 2:12:21 PM J:\Transportation\WXXX4100 North I-25\700CDOT\22831\ROW_Survey Drawings\EXHIBITS\22831ROW_AP-608E\Exhibit-Sh1.dgn



10601 W. 10th Street
Greeley, CO 80634
Phone: 970-350-2161

Sheet revisions			Sheet revisions			Sheet revisions		
Date	Description	Initials	Date	Description	Initials	Date	Description	Initials
5/13/21	del AP-RW-608A, AP-RW-608B, Revised	----	mm/dd/yy	XXXXXXXX	XXX	mm/dd/yy	XXXXXXXX	XXX
----	AP-TE-608 REV, AP-UE-608 REV	RFG						
8/20/21	del AP-UE-608 REV2 and replaced with	----						
----	AP-PE-608, and AP-PE-608A del	----						
----	AP-TE-608 REV2	RFG						

Right of Way Plans
Plan Sheet

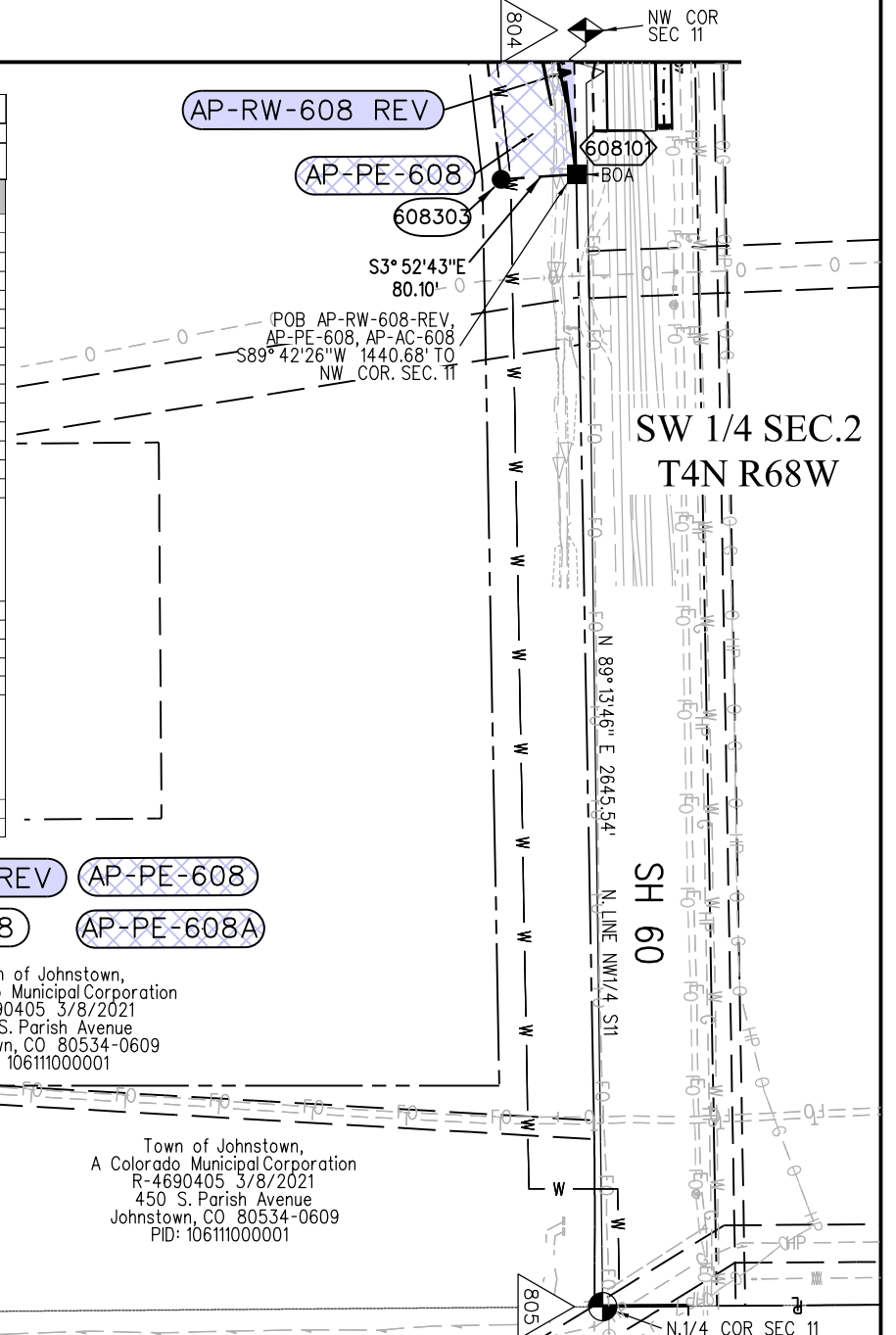
Project Number: NHP 0253-270
Project Location: I-25 Express Lanes SH7 TO SH1

Project Code: 22831 Last Mod. Date: 08/20/21 Subset: 1.02 of 1.02 Sheet No.: 1.02

MATCHLINE SEE SHEET 1.01

R.O.W. TABULATION OF PROPERTIES IN WELD COUNTY INTERSTATE HIGHWAY 25 - SEGMENT 6

Parcel No.	Ownership Name and Mailing Address	Parcel Id Site Address	Location	Area In Square Feet (Acres)				Reception No.	Title Commitment No.	Purpose
				Area Of Parcel	Existing ROW	Net Area left+right	Remainder Left			
AP-RW-608-REV	TOWN OF JOHNSTOWN, A COLORADO MUNICIPAL CORPORATION 450 S. PARISH AVENUE JOHNSTOWN, CO 80534-0609	106111000001 22784 I-25 FRONTAGE RD. JOHNSTOWN, CO	NW 1/4 SEC. 11, T4N, R68W, 6TH PM	91.461					597-F0595627-383-IKA, Amendment No. 3	PERMANENT HIGHWAY WIDENING & ASSOCIATED APPURTENANCES
AP-RW-608A	deleted									
AP-RW-608B	deleted									
AP-TE-608-REV2	deleted									
AP-UE-608-REV2	deleted									
AP-PE-608	same as above			104.100						FOR A NON-EXCLUSIVE PERMANENT EASEMENT FOR PERMANENT PLACEMENT, CONSTRUCTION, USE AND MAINTENANCE OF ROADWAY IMPROVEMENTS, INCLUDING UTILITIES, IRRIGATION FACILITIES AND AN ACCESS ROAD, AND ALL ASSOCIATED APPURTENANCES.
AP-AC-608	same as above			0 (0.000)						NO ACCESS
AP-PE-608A	NON-EXCLUSIVE EASEMENT OWNED BY TOWN OF JOHNSTOWN			34.611						FOR A NON-EXCLUSIVE PERMANENT EASEMENT FOR PERMANENT PLACEMENT, CONSTRUCTION, USE AND MAINTENANCE OF ROADWAY IMPROVEMENTS, INCLUDING UTILITIES, IRRIGATION FACILITIES AND AN ACCESS ROAD, AND ALL ASSOCIATED APPURTENANCES.
				(0.795)						



Anadarko E&P Onshore LLC,
a Delaware limited liability company
R-3543014 3/21/2008
1099 18th Street, Suite 1800
Denver, CO 80202
PID: 106111000001

Town of Johnstown,
A Colorado Municipal Corporation
R-4690405 3/8/2021
450 S. Parish Avenue
Johnstown, CO 80534-0609
PID: 106111000001

Town of Johnstown,
A Colorado Municipal Corporation
R-4690405 3/8/2021
450 S. Parish Avenue
Johnstown, CO 80534-0609
PID: 106111000001

NOTE: PARCELS ARE LOCATED WITHIN ZONE X AREA OF MINIMAL FLOOD HAZARD PER MAP PANEL 0806C1405F EFFECTIVE DATE 12/19/2006

NOTE: THIS IS NOT A ROW PLAN, LAND SURVEY PLAT OR IMPROVEMENT SURVEY PLAT AND WAS PREPARED FOR CDOT PURPOSES ONLY.

COLORADO DEPARTMENT OF TRANSPORTATION
STATE HIGHWAY PROJECT

ROW PLANS AUTHORIZED: _____ DATE _____

Chief Engineer

LEGAL DESCRIPTION - EXHIBIT A



ROBERT BOEHM - PLS34992

9/2/2021 2:17:18 PM J:_Transportation\WYXX4100 North I-25\700CDOT\22831\ROW_Survey_Drawings\EXHIBITS\22831\ROW_AP-608\Exhibit-Sh2.dgn



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

Item #14.

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: March 18, 2024

SUBJECT: Front Range Fire – Annexation and Zoning Request

ACTIONS PROPOSED:

1. Public Hearing - Consideration of Resolution 2024-14 Accepting the Findings of Fact and Conclusions of the Front Range Fire Annexation.
2. First Reading of Ordinance 2024-244 Approving the Annexation of Unincorporated Lands Located in the County of Weld, Consisting of Approximately 0.1 Acres and Known as the Front Range Fire Annexation.
3. First Reading of Ordinance 2024-245 Approving the PUD-R Zoning for the Annexation of Unincorporated Lands Located in the County of Weld, Consisting of Approximately 0.1 Acres and Known as the Front Range Fire Annexation

ATTACHMENTS:

1. Resolution 2024-14 Findings of Fact and Conclusions
2. Ordinance 2024-244 Annexing of Lands
3. Ordinance 2024-245 Zoning of Lands
4. Front Range Annexation Agreement
5. Front Range Fire Annexation Petition
6. Vicinity Map
7. Annexation Map
8. Zoning Map
9. Annexation Impact Study
10. Resolution 2024-05 Setting the Hearing for March 18, 2024
11. Planning and Zoning Commission Staff Report
12. Presentation

PRESENTED BY: Lilly Cory, Planner I

AGENDA ITEM DESCRIPTION:

Front Range Fire District (“Applicant”), formally submitted an updated annexation petition (Attachment 5) on December 19, 2023, with the proposed zoning of PUD-R to match the remainder of their site. The subject property consists of approximately 4269 square feet, situated in Lot 1, Phase 5 of Rolling Hills Ranch, Town of Johnstown, County of Weld, and State of Colorado. More commonly known as the northeast corner of Front Range Fire Station 1, North of Highway 60 and East of Telep Ave. The small area of land comprising this annexation currently houses the Fire Department’s flag poles.

This proposed area of annexation meets the eligibility and contiguity requirements pursuant to C.R.S. § 31-12-104 and C.R.S. § 31-12-105, and is bordered by Johnstown along the southern and western boundaries. Resolution 2024-05 was approved by the council on February 5, memorializing eligibility and contiguity requirements and setting the public hearing date. The Planning & Zoning Commission (PZC) held a public hearing on February 14, 2024, to consider the Front Range Fire Rescue Annexation (Case ANX22-0001). The Planning & Zoning Commission Staff Report provides background and historical use of the property.

COMPREHENSIVE PLAN COMPLIANCE

The Johnstown Comprehensive Plan (Comp Plan) creates a long-term vision for the development of the Town. The Comp Plan identifies the Town’s Growth Management Area (GMA), which includes incorporated lands within the current Town limits, as well as certain unincorporated lands within Larimer and Weld counties. The GMA can be likened to a growth boundary, which represents the logical expansion of the Town over time. The property which is the subject of this annexation is contiguous to lands within the corporate boundary of Johnstown and exists within the GMA. Staff finds that the proposed annexation represents a logical expansion of Johnstown’s corporate boundary.

STRATEGIC PLAN COMPLIANCE

- Natural & Built Environment
 - *Guide growth in the community through appropriate annexation, zoning, planning, and land use development.*

Staff finds that the proposed annexation and zoning is consistent with the goal and strategy referenced above, pursuant to the adopted Johnstown Strategic Plan.

LEGAL ADVICE:

The Town Attorney drafted the resolutions and ordinances included for presentation.

FINANCIAL ADVICE:

N/A

RECOMMENDED ACTION: Staff finds that the proposed annexation and zoning are complementary, comply with state statutes, and satisfy the requirements of the Johnstown Land Use & Development Code; therefore, Staff recommends that the Town Council approve Resolution 2024-14, Ordinance 2024-244, and Ordinance 2024-245. There are three actions associated with this project and each one must be voted on separately. The resolution establishes the findings of fact and conclusions for the proposed annexation; therefore, it should be voted upon prior to a vote on the ordinances to approve the annexation and establish zoning respectively. If the resolution fails, the findings to support the ordinances would dissolve, and the ordinances would automatically fail.

1. Resolution 2024-14 – Findings of Fact and Conclusions: Recommend that the Town Council approve Resolution 2024-14, accepting the Findings of Fact and Conclusions for the Front Range Fire Recue Annexation.

2. Ordinance 2024-244 – Approving Front Range Fire Rescue Annexation: Recommend that the Town Council approve Ordinance 2024-245 to approve the annexation of approximately 0.1 acres, known as the Front Range Fire Rescue Annexation.

3. Ordinance 2024-245 – Approving Front Range Fire Rescue Annexation: Recommend that the Town Council approve Ordinance 2024-246 to approve the PUD-R zoning of approximately 0.1 acres, known as the Front Range Fire Rescue Annexation.

SUGGESTED MOTIONS:

RESOLUTION 2024-14

For Approval: I move to approve Resolution No. 2024-14, accepting the Findings of Fact and Conclusions for the Front Range Fire Rescue Annexation.

For Denial: I move to deny approval of Resolution No. 2024-14.

ORDINANCE 2024-244

For Approval: I move to approve Ordinance No. 2024-244 on the first reading, approving the annexation of approximately 0.1 acres, known as the Front Range Fire Rescue Annexation.

For Denial: I move to deny approval of Ordinance No. 2024-244.

ORDINANCE 2024-245

For Approval: I move to approve Ordinance No. 2024-245 on the first reading, approving the PUD-R zoning, for the Front Range Fire Rescue Annexation.

For Denial: I move to deny approval of Ordinance No. 2024-245.

Reviewed and Approved for Presentation,



Town Manager

**TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2024-14**

**FINDINGS OF FACT AND CONCLUSIONS BASED THEREON
WITH RESPECT TO THE FRONT RANGE FIRE RESCUE
FIRE PROTECTION DISTRICT ANNEXATION**

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, Front Range Fire Rescue Fire Protection District, a special district organized and existing pursuant to § 32-1-101, C.R.S., et seq., submitted a Petition for Annexation for an annexation of real property situated in the Southeast Quarter of Section 6, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 0.098 acres, being more particularly described on Exhibit A, and known as the “Front Range Fire Rescue Fire Protection District Annexation;” and

WHEREAS, on February 5, 2024, by Resolution No. 2024-05, the Town Council found the Petition for Annexation to be in substantial compliance with C.R.S. § 31-12-107(1); and

WHEREAS, on March 18, 2024, after due notice, the Town Council conducted a public hearing and, based on the evidence contained in the official file, the official records of the Town and the evidence produced at the hearing, desires to enter the following findings of fact and conclusions with the respect to the Front Range Fire Rescue Fire Protection District Annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

The Town Council hereby sets forth its findings of fact and conclusions with respect to the Front Range Fire Rescue Fire Protection District Annexation.

FINDINGS OF FACT

1. The requirements of the applicable parts of C.R.S. § 31-12-104 and C.R.S. § 31-12-105 have been met including the following:
 - A. Not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the Town as shown on the annexation map.
 - B. A community of interest exists between the area proposed to be annexed and the Town due to the proximity of the area to the Town, the desires of the owners to annex and the fact that it is within the planning area contemplated in the Johnstown Area Comprehensive Plan.
 - C. The area will be urbanized in the near future and the area is capable of being fully integrated with the Town.
 - D. Although less than fifty (50%) percent of the adult residents of the area proposed to be

annexed make use of Town facilities, the landowners of the area proposed for annexation plan to convert the land to urban uses in less than five (5) years, and urban services, which are currently being provided to other citizens of the Town, can be provided to citizens of the proposed annexed area on the same terms and conditions as the services are made available to other citizens. The Town can provide water service and the Town’s sewer system can be extended to the property annexed with the same standards as the current sewer system serving other citizens. Police and other municipal services can be provided as well.

E. No land held in identical ownership has been divided into separate parts. No land with a valuation of over \$200,000 has been included without written consent. No annexation proceedings concerning this area have been commenced by any other municipality.

F. This annexation will not result in any detachment of area from any school district.

G. No part of the area to be annexed extends any more than three (3) miles from the existing Town boundaries. The Town has in place a plan for that area as required by C.R.S. § 31-1-105.

H. The entire widths of any streets to be annexed are included within the annexation.

- 2. No petition for annexation election has been submitted and an election is not required pursuant to C.R.S. § 31-12-107(2). An annexation agreement has been submitted.
- 3. The Town Council has determined that additional terms and conditions will not be imposed.
- 4. The Petition was signed by the owners of 100% of the property to be annexed exclusive of streets and alleys.
- 5. Notice of this hearing has been given as required by C.R.S. § 31-12-108.

CONCLUSIONS

- 1. The area proposed for annexation is eligible for annexation pursuant to applicable parts of C.R.S. § 31-12-104.
- 2. None of the limitations of C.R.S. § 31-12-105 apply to restrict annexation.
- 3. Said Front Range Fire Rescue Fire Protection District Annexation may be annexed by Ordinance pursuant to C.R.S. § 31-12-111, without an election under C.R.S. § 31-12-107(2).

PASSED, SIGNED, APPROVED, AND ADOPTED THIS ___ day of _____, 2024.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

LEGAL DESCRIPTION:

LOT 1, ROLLING HILLS RANCH PHASE 5, TOWN OF JOHNSTOWN, COUNTY OF WELD, STATE OF COLORADO.

TOGETHER WITH THOSE PORTIONS AS CONVEYED BY DEED RECORD AUGUST 30, 2005 AT RECEPTION NO. 3318001 AND CORECTION DEED RECORDED JANUARY 18, 2007 AT RECEPTION NO. 3449443 AND CORRECTION DEED RECORDED MAY 8, 2007 AT RECPTION NO. 3474369 AND DEED RECORDED DECEMBER 11, 2019 AT RECEPTION NO. 4548957 AND DEED RECORDED OCTOBER 23, 2020 AT RECEPTION NO. 4643684.

EXCEPTING THOSE PORTIONS AS AUGUST 30 ,2005 AT RECEPTION NO. 3318000 AND CORECTION DEED RECORDED JANUARY 18, 2007 AT RECEPTION NO. 3449444 AND DEED RECORDED DECEMBER 11, 2019 AT RECEPTION NO. 4548957 AND DEED RECORDED OCTOBER 23, 2020 AT RECEPTION NO. 4643683.

TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2024-244

**ANNEXING CERTAIN UNINCORPORATED LANDS LOCATED IN THE
SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 67
WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO,
CONSISTING OF APPROXIMATELY 0.098 ACRES AND KNOWN AS THE
FRONT RANGE FIRE RESCUE FIRE PROTECTION DISTRICT
ANNEXATION**

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, by Resolution No. 2024-05, the Town Council found a petition for annexation of certain property situated in the Southeast Quarter of Section 6, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 0.098 acres, being more particularly described on Exhibit A, attached hereto and incorporated herein by this reference, known as the “Front Range Fire Rescue Fire Protection District Annexation,” to be in substantial compliance with C.R.S. § 31-12-107(1); and

WHEREAS, after notice pursuant to C.R.S. § 31-12-108, on March 18, 2024, the Town Council has held a public hearing on the proposed annexation to determine if the annexation complies with C.R.S. §§ 31-12-104 and 105; and

WHEREAS, the Town Council has determined that the requirements of C.R.S. §§ 31-12-104 and 105 have been met, that an election is not required and that no additional terms or conditions are to be imposed on the annexed area.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

Section 1. The annexation of certain unincorporated property situated in the Southeast Quarter of Section 6, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 0.098 acres, being more particularly described on Exhibit A, be and the same is hereby approved and said unincorporated area is hereby incorporated and made a part of the Town of Johnstown, Colorado.

Section 2. That the annexation of such unincorporated area to the Town of Johnstown, Colorado shall be complete and effective on the effective date of this Ordinance, except for the purpose of general property taxes, and shall be effective as to general property taxes on and after the first day of January, 2025.

Section 3. That, within thirty (30) days of the effective date of this Ordinance, the Town Clerk be and is hereby authorized and directed to:

- A. File one copy of the annexation map with the original of the annexation ordinance in the office of the Town Clerk; and
- B. File three certified copies of the annexation ordinance and map of the area annexed containing a legal description of such area with the Weld County Clerk and Recorder.

Section 4. This Ordinance shall take effect as provided by State law.

INTRODUCED AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this _____ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

FRFR STATION 1 ANNEXATION

TO THE TOWN OF JOHNSTOWN, COLORADO

SITUATE IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

0.098 ACRES

PROPERTY DESCRIPTION per deed

LOT 1, ROLLING HILLS RANCH PHASE 5, TOWN OF JOHNSTOWN, COUNTY OF WELD, STATE OF COLORADO.

TOGETHER WITH THOSE PORTIONS AS CONVEYED BY DEED RECORDED AUGUST 30, 2005 AT RECEPTION NO. 3318001 AND CORRECTION DEED RECORDED JANUARY 18, 2007 AT RECEPTION NO. 3449443 AND CORRECTION DEED RECORDED MAY 8, 2007 AT RECEPTION NO. 3474369 AND DEED RECORDED DECEMBER 11, 2019 AT RECEPTION NO. 4548956 AND DEED RECORDED OCTOBER 23, 2020 AT RECEPTION NO. 4643684.

EXCEPTING THOSE PORTIONS AS CONVEYED BY DEED RECORDED AUGUST 30, 2005 AT RECEPTION 3318000 AND CORRECTION DEED RECORDED JANUARY 18, 2007 AT RECEPTION NO. 3449444 AND DEED RECORDED DECEMBER 11, 2019 AT RECEPTION NO. 4548957 AND DEED RECORDED OCTOBER 23, 2020 AT RECEPTION NO. 4643683.

AS-SURVEYED PROPERTY DESCRIPTION

A tract of land, being part of that parcel described in the Quitclaim Deed recorded October 23, 2020, as Reception No. 4643684 of the records of the Weld County Clerk and Recorder (WCCR), situate in the Southeast Quarter (SE1/4) of Section Six (6), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, and being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 6, monumented by a #6 rebar with 3.25" aluminum cap stamped LS 38346 and assuming the East line of said SE1/4 as bearing North 00°38'10" West, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2650.75 feet, monumented by a #6 rebar with 3.25" aluminum cap stamped LS 23520 at the East Quarter corner and with all other bearings contained herein relative thereto;

THENCE North 00°38'10" West, along said East line, a distance of 749.89 feet;
THENCE South 89°13'36" West a distance of 30.00 feet to a point on the West Right of Way (ROW) of Weld County Road 15, said point being the Northeast corner of said Reception No. 4643684 and to the POINT OF BEGINNING;

THENCE South 00°38'10" East, along said West ROW, a distance of 89.05 feet to the Southeast corner of the Excepted Parcel described in Rolling Hills Ranch Annexation to the Town of Johnstown, recorded October 4, 1996, as Reception No. 2514298 of the records of the WCCR;

THENCE North 47°50'25" West, along the Southwesterly line of said Excepted Parcel, a distance of 130.73 feet to the North line of said Reception No. 4643684;

THENCE North 89°13'36" East, along said North line, a distance of 95.93 feet to the POINT OF BEGINNING;

Said described parcel of land contains 4,271 Square Feet or 0.098 Acres, more or less (±).

OWNER: Front Range Fire Rescue Fire Protection District, as the successor entity to Johnstown Fire Protection District

By: _____ As: _____

Witness my hand and seal this ____ day of _____, 20 ____.

NOTARIAL CERTIFICATE

STATE OF COLORADO)
 ss
COUNTY OF LARIMER)
The foregoing instrument was acknowledged before me by _____ as _____ this ____ day of _____, 20 ____.

Witness my Hand and Official Seal.

My commission expires: _____.

TOWN COUNCIL APPROVAL

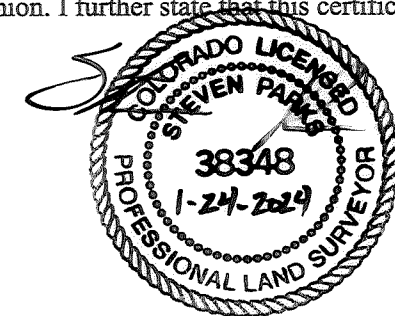
This Map to be known as FRFR STATION 1 ANNEXATION is approved and accepted to the Town of Johnstown, Colorado by Ordinance Number _____, passed and adopted on final reading at a regular meeting of the Town Council of the Town of Johnstown, Colorado held on the ____ day of _____, 20 ____.

Gary Lebsack, Mayor

Attest: _____
Town Clerk

SURVEYOR'S CERTIFICATE

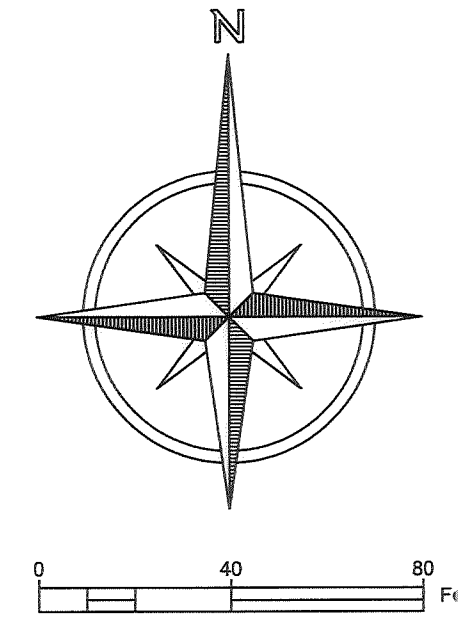
I, Steven Parks, a Colorado Licensed Professional Land Surveyor, do hereby state that this Annexation Map is an accurate representation of the property to the best of my knowledge, information, belief, and in my professional opinion. I further state that this certificate does not extend to any unnamed parties or the successors and/or assigns.



Steven Parks - On Behalf of Majestic Surveying, LLC
Colorado Licensed Professional Land Surveyor #38348

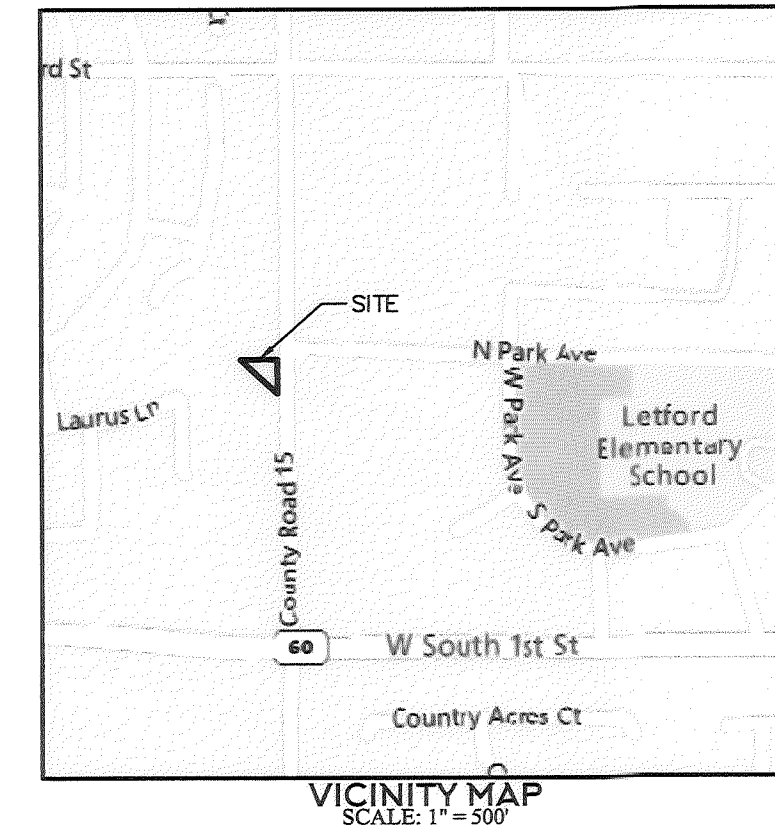
LEGEND

	ALIQUOT CORNER AS DESCRIBED
	ANNEXATION BOUNDARY
	EASEMENT LINE
	RIGHT OF WAY LINE
	SECTION LINE
	CENTERLINE
	PARCEL LINE
	TOWN BOUNDARY



ANNEXATION TABLE

TOTAL BOUNDARY: 315.71 L.F.
CONTIGUOUS BOUNDARY: 219.78 L.F.
1/6 OF TOTAL BOUNDARY 52.62 L.F.
RATIO 1:1.44



Owner: Front Range Fire Rescue Fire Protection District
101 S. Irene Ave
Milliken, CO 80543

Applicant: Bernie Covillo
101 S. Irene Ave
Milliken, CO 80543
970-587-4464

Surveyor: Majestic Surveying, LLC
C/O Steven Parks, PLS
1111 Diamond Valley Drive, Suite 104
Windsor, CO 80550
970-833-5698

BASIS OF BEARINGS AND LINEAL UNIT DEFINITION

Assuming the East line of the Southeast Quarter of Section 6, Township 4 North, Range 67 West of the 6th P.M. monumented as shown on this drawing, as bearing North 00°38'10" West, being a Grid Bearing of the Colorado State Plane, North Zone, North American Datum 1983/2011, a distance of 2650.75 feet and with all other bearings contained herein relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

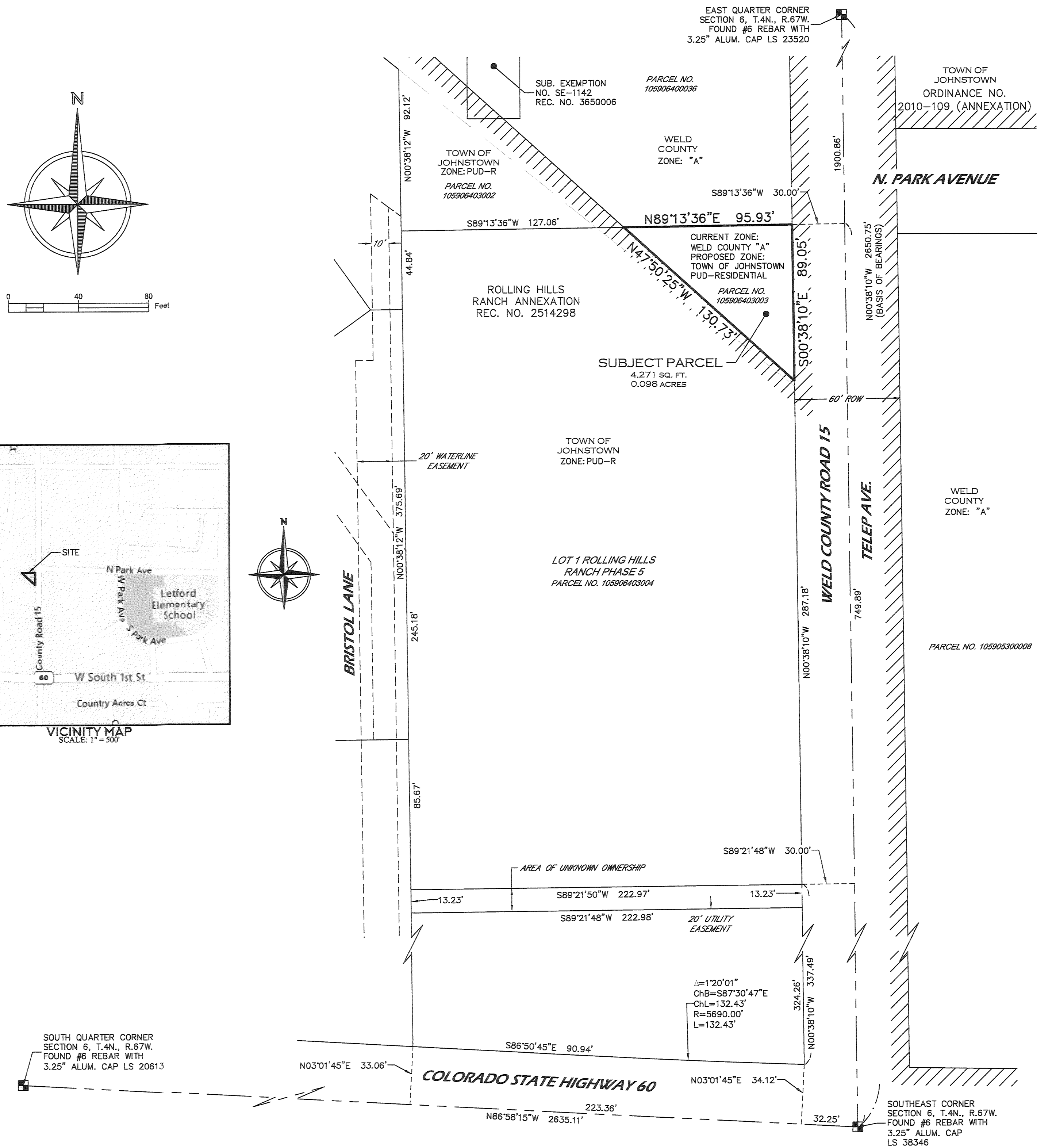
TITLE COMMITMENT NOTE

For all information regarding easements, rights-of-way and title of records, Majestic Surveying, LLC relied upon Title Commitment Number FCIF25197625, dated January 2, 2024, as prepared by Land Title Guarantee Company to delineate the aforesaid information.

This survey does not constitute a title search by Majestic Surveying, LLC to determine ownership or easements of record.

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. (13-80-105 C.R.S. 2012)



PROJECT NO: 2022198	PROJECT NAME: 100 TELEP AVE.	REVISIONS:	DATE:
DATE: 1-10-2024	CLIENT: FRFR	REDLINES	8-8-22
DRAWN BY: MAK	FILE NAME: 2022198_ANNEX	REDLINES	1-10-24
CHECKED BY: SIP	SCALE: 1" = 40'		

TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2024-245

APPROVAL OF PUD-R ZONING OF THE PROPERTY KNOWN AS THE FRONT RANGE FIRE RESCUE FIRE PROTECTION DISTRICT ANNEXATION, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO, CONSISTING OF APPROXIMATELY 0.098 ACRES

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, the Town Council approved annexation of certain property situated in the Southeast Quarter of Section 6, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 0.098 acres, being more particularly described on Exhibit A, attached hereto and incorporated herein by this reference, known as the Front Range Fire Rescue Fire Protection District Annexation (“Property”); and

WHEREAS, the property owners applied for PUD-R zoning of the Property in conjunction with annexation, pursuant to Section 16-302 of the Johnstown Municipal Code (which section was amended and replaced subsequent to submittal of the annexation request); and

WHEREAS, pursuant to state law, upon annexation, the Town Council must zone the Property within ninety (90) days; and

WHEREAS, the Town’s Planning and Zoning Commission held a hearing and recommended approval of PUD-R zoning for the Property; and

WHEREAS, on March 18, 2024, the Town Council held a public hearing to determine appropriate zoning for the Property and, based upon the evidence received at the hearing, finds that the requested zoning of the Property to PUD-R conforms to the Town’s Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

1. Zoning Approval. Zoning of the Property known as the Front Range Fire Rescue Fire Protection District Annexation and more particularly described on the attached Exhibit A shall hereby be designated as PUD-R.
2. Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Home Rule Charter of the Town of

Johnstown, Colorado (“Charter”) and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. This Ordinance shall become effective upon the later of the following: (i) final passage as provided by the Charter or (ii) the effective date of the annexation of the Property. At such time, the Town Clerk is directed to file this Ordinance with the real estate records of the Weld County Clerk and Recorder. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this __ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2024.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

FRFR STATION 1 ZONING MAP

SITUATE IN THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 67 WEST
OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO.

PROPERTY DESCRIPTION

LOT 1, ROLLING HILLS RANCH PHASE 5, TOWN OF JOHNSTOWN, COUNTY OF WELD, STATE OF COLORADO.

TOGETHER WITH THOSE PORTIONS AS CONVEYED BY DEED RECORDED AUGUST 30, 2005 AT RECEPTION NO. 3318001 AND CORRECTION DEED RECORDED JANUARY 18, 2007 AT RECEPTION NO. 3449443 AND CORRECTION DEED RECORDED MAY 8, 2007 AT RECEPTION NO. 3474369 AND DEED RECORDED DECEMBER 11, 2019 AT RECEPTION NO. 4548956 AND DEED RECORDED OCTOBER 23, 2020 AT RECEPTION NO. 4643684.

EXCEPTING THOSE PORTIONS AS CONVEYED BY DEED RECORDED AUGUST 30, 2005 AT RECEPTION 5318000 AND CORRECTION DEED RECORDED JANUARY 18, 2007 AT RECEPTION NO. 3449444 AND DEED RECORDED DECEMBER 11, 2019 AT RECEPTION NO. 4548957 AND DEED RECORDED OCTOBER 23, 2020 AT RECEPTION NO. 4643683.

AS-SURVEYED DESCRIPTION - SUBJECT PARCEL

A tract of land, being part of that parcel described in the Quitclaim Deed recorded October 23, 2020, as Reception No. 4643684 of the records of the Weld County Clerk and Recorder (WCCR), situate in the Southeast Quarter (SE1/4) of Section Six (6), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado, and being more particularly described as follows:

COMMENCING at the Southeast corner of said Section 6, monumented by a #6 rebar with 3.25" aluminum cap stamped LS 38346 and assuming the East line of said SE1/4 as bearing North 00°38'10" West, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 2650.75 feet, monumented by a #6 rebar with 3.25" aluminum cap stamped LS 23520 at the East Quarter corner and with all other bearings contained herein relative thereto;

THENCE North 00°38'10" West, along said East line, a distance of 749.89 feet;
 THENCE South 89°13'36" West a distance of 30.00 feet to a point on the West Right of Way (ROW) of Weld County Road 15, said point being the Northeast corner of said Reception No. 4643684 and to the POINT OF BEGINNING;

THENCE South 00°38'10" East, along said West ROW, a distance of 89.05 feet to the Southeast corner of the Excepted Parcel described in Rolling Hills Ranch Annexation to the Town of Johnstown, recorded October 4, 1996, as Reception No. 2514298 of the records of the WCCR;
 THENCE North 47°50'25" West, along the Southwesterly line of said Excepted Parcel, a distance of 130.73 feet to the North line of said Reception No. 4643684;
 THENCE North 89°13'36" East, along said North line, a distance of 95.93 feet to the POINT OF BEGINNING;

Said described parcel of land contains 4,271 Square Feet or 0.098 Acres, more or less (±).

OWNER: Front Range Fire Rescue Fire Protection District, as the successor entity to Johnstown Fire Protection District

By: _____ As: _____

Witness my hand and seal this ____ day of _____, 20__.

NOTARIAL CERTIFICATE

STATE OF COLORADO)
) ss
 COUNTY OF LARIMER)
 The foregoing instrument was acknowledged before me by _____ as _____ this ____ day of _____, 20__.

Witness my Hand and Official Seal.
 My commission expires: _____.

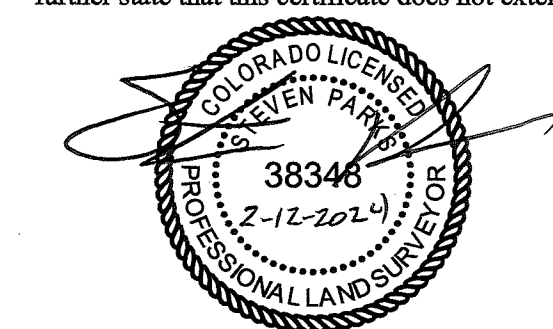
TOWN COUNCIL APPROVAL

This Map to be known as FRFR STATION 1 ZONING MAP is approved and accepted to the Town of Johnstown, Colorado by Ordinance Number _____, passed and adopted on final reading at a regular meeting of the Town Council of the Town of Johnstown, Colorado held on the ____ day of _____, 20__.

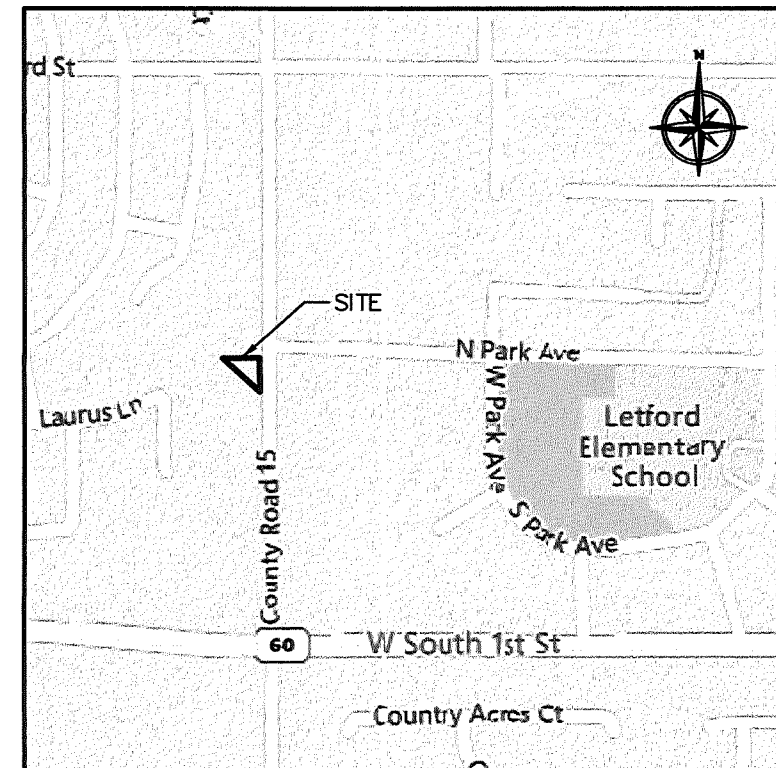
Attest: _____
 Gary Lebsack, Mayor Town Clerk

SURVEYOR'S CERTIFICATE

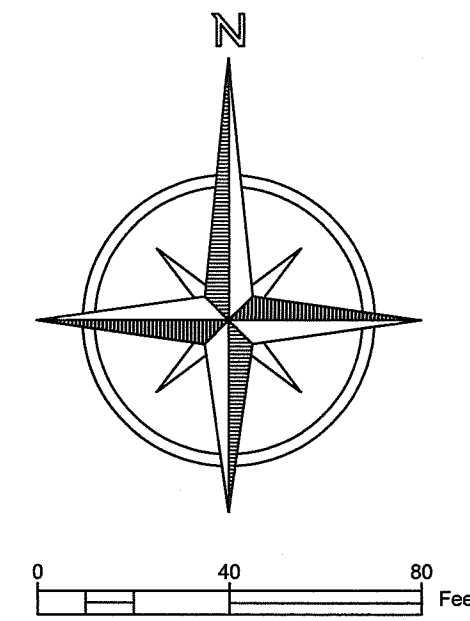
I, Steven Parks, a Colorado Licensed Professional Land Surveyor, do hereby state that this Zoning Map is an accurate representation of the property to the best of my knowledge, information, belief, and in my professional opinion. I further state that this certificate does not extend to any unnamed parties or the successors and/or assigns.



Steven Parks - On Behalf of Majestic Surveying, LLC
 Colorado Licensed Professional Land Surveyor #38348



VICINITY MAP
 SCALE: 1"=500'



Owner: Front Range Fire Rescue Fire Protection District
 101 S. Irene Ave
 Milliken, CO 80543

Applicant: Bernie Covillo
 101 S. Irene Ave
 Milliken, CO 80543
 970-587-4464

Surveyor: Majestic Surveying, LLC
 C/O Steven Parks, PLS
 1111 Diamond Valley Drive, Suite 104
 Windsor, CO 80550
 970-833-5698

BASIS OF BEARINGS AND LINEAL UNIT DEFINITION

Assuming the East line of the Southeast Quarter of Section 6, Township 4 North, Range 67 West of the 6th P.M. monumented as shown on this drawing, as bearing North 00°38'10" West, being a Grid Bearing of the Colorado State Plane, North Zone, North American Datum 1983/2011, a distance of 2650.75 feet and with all other bearings contained herein relative thereto.

The lineal dimensions as contained herein are based upon the "U.S. Survey Foot".

TITLE COMMITMENT NOTE

For all information regarding easements, rights-of-way and title of records, Majestic Surveying, LLC relied upon Title Commitment Number FCIF25197625, dated January 2, 2024, as prepared by Land Title Guarantee Company to delineate the aforesaid information.

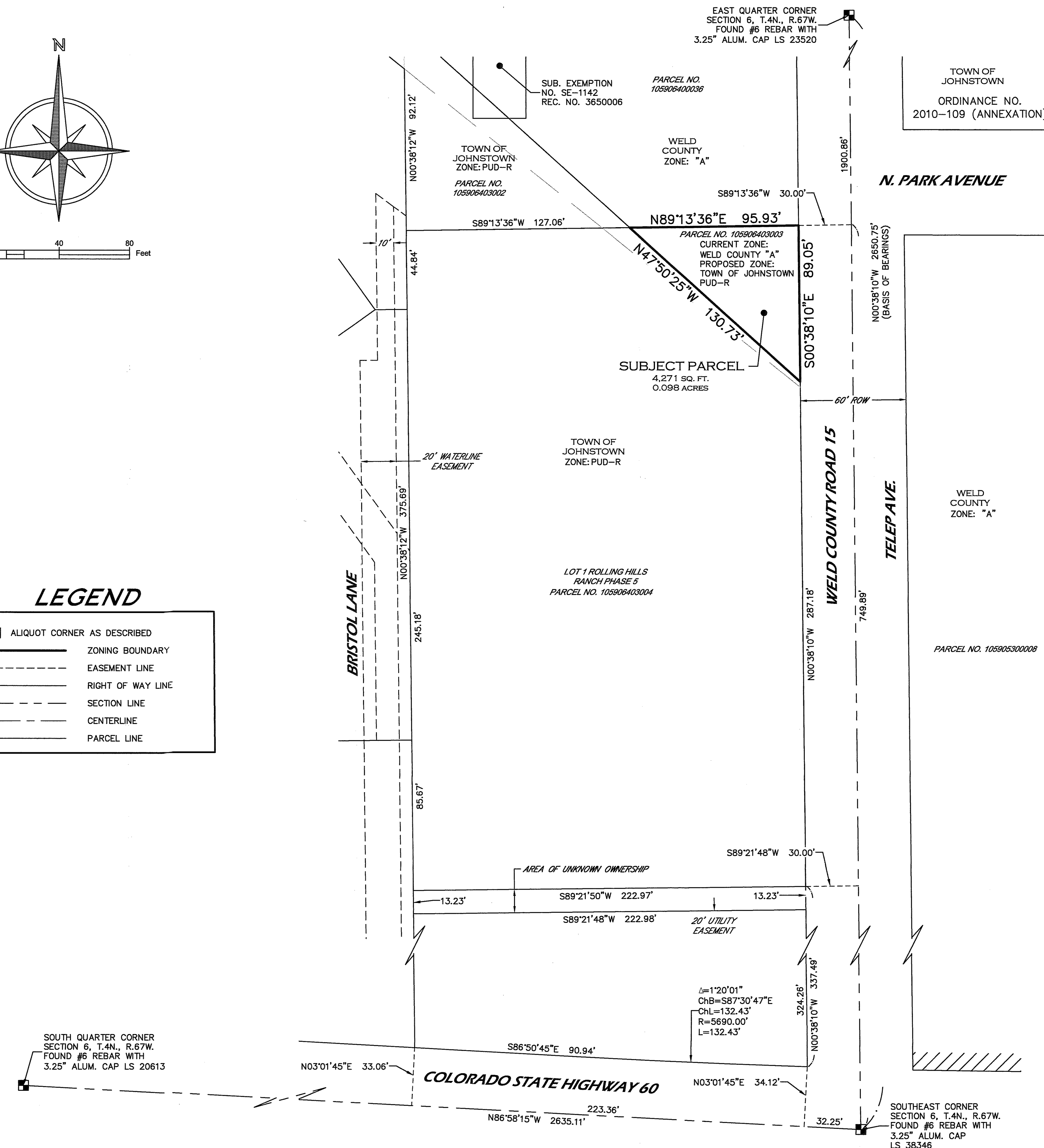
This survey does not constitute a title search by Majestic Surveying, LLC to determine ownership or easements of record.

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. (13-80-105 C.R.S. 2012)

LEGEND

- ALIQUOT CORNER AS DESCRIBED
- ZONING BOUNDARY
- - - - - EASEMENT LINE
- - - - - RIGHT OF WAY LINE
- - - - - SECTION LINE
- - - - - CENTERLINE
- PARCEL LINE



PROJECT NO: 2022198	PROJECT NAME: 100 TELEP AVE.	REVISIONS:	DATE:
DATE: 1-10-2024	CLIENT: FRFR	REDLINES	8-8-22
DRAWN BY: MAK	FILE NAME: 2022198_ZONE	REDLINES	1-4-24
CHECKED BY: SIP	SCALE: 1" = 40'		

**ANNEXATION AGREEMENT
FRONT RANGE FIRE RESCUE PROPERTY ANNEXATION**

THIS AGREEMENT is made and entered into this _____ day of _____, 2024, by and between the **Front Range Fire Rescue Fire Protection District**, a special district organized and existing pursuant to § 32-1-101, C.R.S., et seq. (“District”), and the **Town of Johnstown**, a home-rule municipality of the State of Colorado (“Town”).

RECITALS

WHEREAS, the District desires to annex real property into the Town, situated in the Southeast Quarter of Section 6, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 0.098 acres, being more particularly described on Exhibit A, attached hereto and incorporated herein by this reference (“Property”); and

WHEREAS, the District executed a Petition for Annexation, dated December 19, 2023, a copy of which petition is on file with the Town Clerk; and

WHEREAS, the District has prepared a zoning map identifying and illustrating its request for PUD-R zoning pursuant to Section 16-302 of the Johnstown Municipal Code (which section has been amended and replaced); and

WHEREAS, it is to the mutual benefit of the parties hereto to enter into this Agreement regarding annexation of the Property to the Town and other related matters as set forth herein; and

WHEREAS, the District acknowledges that, upon annexation, the Property will be subject to all ordinances, resolutions and other regulations of the Town, as amended from time to time; and

WHEREAS, the District acknowledges that, when development proceeds, the need for conveyances and dedication of certain property to the Town, including, but not limited to, property for rights-of-ways and easements, shall be directly related to and generated by the development within the Property.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE PREMISES AND THE COVENANTS AS HEREINAFTER SET FORTH, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. ***Incorporation of Recitals.*** The parties confirm and incorporate the foregoing recitals into this Agreement.

2. ***Purpose.*** The purpose of this Agreement is to set forth the terms and conditions of the annexation of the Property to the Town. Except as expressly provided for herein to the

contrary, all terms and conditions herein are in addition to all requirements concerning annexation contained in the Johnstown Municipal Code, the Town’s development regulations and Comprehensive Plan, and the Municipal Annexation Act of 1965, as amended, §§31-12-101, *et seq.*, C.R.S. (the “Act”).

3. **The District.** As used in this Agreement, the term “District” shall include any of the transferees, successors or assigns of the District. In addition to the foregoing and to the extent excluded therefrom, this Agreement shall be binding upon all developers of the Property or any part thereof. All such parties shall be subject to the terms of this Agreement as if they were the original parties thereto.

4. **Further Acts.** The District agrees to execute promptly upon request of the Town any and all surveys and other documents necessary to effectuate the annexation of the Property and the other provisions of this Agreement. The District agrees not to sign any other petition for annexation of the Property or any petition for annexation election relating to the Property, except upon request of the Town.

5. **Annexation Documents.** The District agrees to provide legal documents, surveys, engineering work, newspaper publications, maps, and reports determined by the Town to be necessary to accomplish the annexation.

6. **Zoning and Land Use.** The parties recognize that it is the intent and desire of the District to develop the Property in a manner generally consistent with the zoning and land uses permitted in a PUD-R zone. The District shall take all action necessary to permit the Town to zone the annexed Property within the time prescribed by state statute.

7. **Non-Conforming Use.** The Town agrees to allow existing non-conforming agricultural use, if any, to continue until such time as the Property is platted, but not at a greater level than at its current level of activity and use.

8. **Municipal Services.** The Town agrees to make available to the Property all of the usual municipal services provided by the Town in accordance with the ordinances and policies of the Town. Except as otherwise agreed by the Town, the District shall bear the cost of the delivery of such services.

9. **Public Improvements.** The District agrees to design and construct all required public improvements to Town standards at the District’s expense. The District shall provide financial guarantees for construction of all required improvements as set forth in each phase or filing of the development and dedicate to the Town any or all of the improvements required by Town ordinances or as otherwise agreed. The public improvements and financial guarantees shall be set forth in a development agreement, or similar such agreement, for each filing. All overhead utility lines shall be undergrounded.

10. **Roadway Dedication.** Within ten (10) days of a written request from the Town, the District shall dedicate twenty-five feet (25’) of land adjacent to Telep Avenue to the Town for right of way by deed of dedication in the form set forth on Exhibit B attached hereto and

incorporated herein by this reference, which deed of dedication also includes a legal description of the property subject to the right of way dedication. The Town and Owner agree that such dedication is related to and generated by the development and that no taking thereby will occur requiring any compensation.

11. **Development Fees.** The District recognizes and agrees that the Property shall be subject to the development fees imposed on other comparable developments in the Town pursuant to the Town's regulations and ordinances.

12. **Conformity with Laws.** The District agrees that the design, improvement, construction, development, and use of the Property shall be in conformance with all applicable laws and ordinances and that the District shall comply with all Town ordinances, resolutions and regulations including, without limitation, ordinances, resolutions, and regulations pertaining to annexation, subdivision, zoning, storm drainage, utilities, access to Town streets, and flood control.

13. **Disconnection.** No right or remedy of disconnection of the Property from the Town shall accrue from this Agreement other than that provided by applicable state laws. In the event the Property or any portion thereof is disconnected at the District's request, the Town shall have no obligation to serve the disconnected Property or portion thereof and this Agreement shall be void and of no further force and effect as to such Property or portion thereof.

14. **Special Districts.** Within thirty (30) days after written request by the Town, the District shall apply for inclusion of the Property within one or more special districts serving the Town and the Town may request the District to petition to exclude the Property from another special district. All costs, expenses, attorney fees and judgments for exclusion of the property from any special district shall be borne by the District.

15. **Future Cooperation.** The parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement and will execute such additional documents as necessary to effectuate the same.

16. **No Joint Venture or Partnership/No Assumption of Liability.** Nothing contained in this Agreement is intended to create a partnership or joint venture between the Town and the District or between the Town and any one or more of the individual owners that may exist and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the parties of any activity, function or service, nor does it create a joint enterprise or an agency relationship. Except as specifically otherwise provided in this Agreement, no party shall in any way assume any of the liability of any other party for any act or obligations of the other party.

17. **Failure to Annex.** This Agreement shall be null and void if the Town fails to approve the annexation of the Property.

18. **No Warranties by the Town.** The Town is entering into this Agreement in good faith and with the present intention, on the part of the present Town Council, to comply with this

Agreement. Because certain of the provisions of this Agreement may involve areas of legal uncertainty or be subject to subsequent revisions to the law, the Town does not intend to provide any warranty.

19. **Breach.** In the event of a default or breach by the District of any term, condition, covenant, or obligation under this Agreement, the Town may take such action as it deems necessary to protect the public health, safety and welfare; to protect lot buyers and builders; and to protect the citizens of the Town from hardship. The Town's remedies include:

- (I) The refusal to issue any development permit, building permit or certificate of occupancy. This remedy shall not affect sales to bona fide purchasers nor be applied to bona fide purchasers;
- (II) A demand that the security given for the completion of the public improvements be paid or honored;
- (III) The refusal to consider further development plans within the Property; and/or
- (IV) Any other remedy available at law.

Unless necessary to protect the immediate public health, safety and welfare, the Town shall provide the District ten (10) days' written notice of its intent to take any action under this Paragraph during which ten-day period the District may cure the breach described in said notice and prevent further action by the Town.

20. **Attorney's Fees.** If the District breaches this Agreement, the District shall pay the Town's reasonable costs and attorney's fees incurred in the enforcement of the terms and conditions of this Agreement. Should litigation occur by suit of a third party, the District shall reimburse the Town for the Town's attorney's fees, court costs, and witness fees. Rather than require the Town to defend an action brought by a third party alleging that the Property is not subject to annexation or that the technical requirements of the Act were not met, the District may withdraw the Petition for Annexation. In addition thereto, in the event that any person, corporation, special district, municipal or county government or any other entity asserts a claim against the Town, its officials, or employees pursuant to the provisions of the Act, the District agrees to reimburse the Town all reasonable costs and attorney's fees incurred by the Town in defense of such claims whether or not such defense is successful; provided, however, that nothing herein shall be interpreted as permitting the District to act or participate in any manner whatsoever in the defense of such claims, including, but not limited to, selection of legal counsel or settlement of claims. The District acknowledges and understands that the Town may, in its sole discretion, voluntarily elect not to defend against such an action and may consent to and permit the entry by the court of an order voiding the annexation or reach another means of settlement of claims. In such an event, the District shall also reimburse to the Town any costs or attorney's fees assessed against the Town by the court, if any.

21. **Notice.** All notices required under this Agreement shall be in writing and shall be: 1) hand-delivered; 2) sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth; or 3) sent by electronic mail return receipt requested and received. All notices by hand-delivery shall be effective upon receipt. All notices by mail

shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party, by notice to be given, may change the address to which future notices shall be sent.

Notice to Town:

Town of Johnstown
ATTN: Town Manager
450 S. Parish Avenue
P. O. Box 609
Johnstown, CO 80534
Email: mlecerf@townofjohnstown.com

Notice to the District:

Front Range Fire Rescue Fire Protection
District
Station #1
100 Telep Ave.
Johnstown, CO 80534
Attn: _____
Email: _____

22. **Voluntary Annexation; Election.** The District agrees that it is voluntarily entering into this Agreement. The District represents and submits that, to the extent an election would be required pursuant to § 31-12-112, C.R.S., to approve the annexation or to impose terms and conditions upon the Property to be annexed, the District owns one hundred percent (100%) of the Property, excluding public streets and alleys, and would vote to approve the annexation and all terms and conditions as set forth herein.

23. **Cost Reimbursement to Town.** Developer shall reimburse the Town for professional consultants such as engineers, testing companies, planners, and attorneys necessitated by processing and completion of this development.

24. **No Third Party Rights.** This Agreement is made solely for the benefit of the parties hereto and is not intended to nor shall it be deemed to confer rights to any persons or entities not named as parties hereto.

25. **Governing Law.** The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Weld County, Colorado.

26. **Default.** In the event of default by either party hereunder, the non-defaulting party shall notify the defaulting party in writing of such default(s), specifying the nature and extent thereof. If such default is not cured within thirty (30) days and the non-defaulting party desires to seek recourse, the parties shall participate in mediation at a location that is not more than sixty miles from the Property, the costs of which shall be shared equally by the parties. If mediation is not successful after ninety (90) days, either party may then commence a legal action.

23. **Headings.** The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

24. **No Repeal of Laws.** Nothing contained in the Agreement shall constitute or be interpreted as a repeal of existing codes, ordinances or as a waiver of the Town's legislative, governmental, or police powers to promote and protect the health, safety, and general welfare of the Town or its inhabitants; nor shall this Agreement prohibit the enactment by the Town of any fee which is of uniform or general application.

25. **Amendments to Law.** As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town ordinances, resolution, regulations, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, regulations, or policy, and the parties agree such amendments or revision shall be binding upon the District.

26. **No Vested Rights.** No vested rights shall accrue to the District by virtue of annexation of the Property or this Annexation Agreement.

27. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of all transferees, successors and assigns hereof, and shall constitute covenants running with the land. In addition to the foregoing and to the extent excluded therefrom, this Agreement shall be binding upon all developers of the Property or any part thereof. This Agreement shall be recorded with the County Clerk and Recorder of Weld County, Colorado, at the District's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.

28. **Entire Agreement.** This Agreement embodies the entire agreement of the parties related to the subject matter contained herein. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties related to the subject matter herein.

29. **Amendment.** This Agreement may be amended only by mutual agreement of the Town and the District. Such amendments shall be in writing, shall be recorded with the County Clerk and Recorder of Weld County, Colorado, shall be covenants running with the land and shall be binding upon all persons or entities having an interest in the Property and/or an interest in water rights referenced in this Agreement.

30. **Severability.** The parties agree that if any part, term, portion, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado or any federal law, the validity of the remaining parts, terms, portions, or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, portion, or provision held to be invalid.

[Remainder of page intentionally left blank.]

ATTEST:

**TOWN OF JOHNSTOWN, COLORADO,
A MUNICIPAL CORPORATION**

By: _____
Hannah Hill, Town Clerk

By: _____
Troy D. Mellon, Mayor

ATTEST:

**FRONT RANGE FIRE RESCUE FIRE
PROTECTION DISTRICT**

By: , Secretary

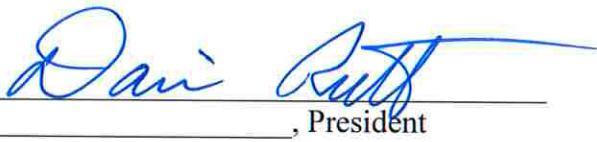
By: , President

EXHIBIT A
PROPERTY

[Faint, illegible text covering the majority of the page, likely representing a list of property items or a detailed report.]

ACCEPTANCE

The Town of Johnstown, Colorado, hereby accepts the above Deed of Dedication for Right of Way for municipal purposes as defined herein.

Dated this ____ day of _____, 20__.

TOWN OF JOHNSTOWN, COLORADO
a Colorado municipality

By: _____
Matthew LeCerf, Town Manager

ATTEST:

By: _____
Hannah Hill, Town Clerk

EXHIBIT 1

Legal Description

PETITION FOR ANNEXATION
To the Town of Johnstown
(Weld County)

The undersigned, in accordance with Article 12, Chapter 31, CRS, as amended, hereby petition the Town Council of the Town of Johnstown, Colorado, for annexation to the Town of Johnstown the unincorporated territory more particularly described below, currently known as the Northeast corner of the FRFR Fire Station #1 parcel, and in support of said Petition, your petitioners allege that:

- (1) It is desirable and necessary that the following described territory be annexed to the Town of Johnstown, Colorado:

See Exhibit A attached hereto and made a part hereof.

- (2) Not less than one-sixth (1/6) of the perimeter of that area proposed to be annexed is contiguous with the Town of Johnstown, Colorado.
- (3) A community of interest exists between the territory proposed to be annexed and the Town of Johnstown, Colorado.
- (4) The territory proposed to be annexed is urban;
- (5) The territory proposed to be annexed is integrated with the Town of Johnstown, Colorado;
- (6) The signatures of the Petition comprise one hundred percent (100%) of the landowners of the territory to be included in the area proposed to be annexed and said landowners attesting to the facts and agreeing to the conditions herein contained will negate the necessity of any annexation election;
- (7) No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
- (a) Is divided into separate parts or parcels without the written consent of the landowner or landowners thereof, unless such tracts or parcels are separated by a dedicated street, road or other public way;
- (b) Comprising twenty (20) acres or more and which, together with the building and improvements situated thereon has an assessed value in excess of Two Hundred Thousand Dollars (\$200,000.00) for ad valorem tax purposes to be annexed without the written consent of the landowner or landowners.

- (8) No part of the area proposed to be annexed is more than three miles from a point on the municipal boundary, as such was established more than one year before this annexation will take place;
- (9) The area proposed to be annexed comprises less than one acre and an impact report as provided in Section 31-12-105.5, CRS, as amended, is not required.
- (10) The area proposed to be annexed is located within Weld County, School District RE-5J - Johnstown, Big Thompson Conservation, Front Range Fire Rescue Fire Protection District, High Plains Library District, Northern Colorado Water Conservancy District, Thompson Rivers Parks and Recreation District, Aims Junior College District, and no others;
- (11) The mailing address of each signer, the legal description of the land owned by each signer and the date of signing of each signature are all shown on this Petition;
- (12) Accompanying this Petition are five (5) prints of the area proposed to be following information:
 - (a) A written legal description of the boundaries of the area proposed to be annexed;
 - (b) A map showing the boundary of the area proposed to be annexed, such map prepared and containing the seal of a registered engineer or land surveyor;
 - (c) Within the annexation boundary map there is shown the location of each ownership tract in unplatted land, and if part or all of the area is to be platted at the time of the effectiveness of the annexation (as opposed to after such effectiveness), then the boundaries and the plat number of plots or of lots and blocks are shown;
 - (d) Next to the boundary of the area proposed to be annexed is drawn the contiguous boundary of the Town of Johnstown, and the contiguous boundary of any other municipality abutting the area proposed to be annexed;
 - (e) The dimensions of the contiguous boundaries are shown on the map.
- (13) The territory to be annexed is not presently a part of any incorporated city, city and county, or town;
- (14) The undersigned agree to the following conditions, which shall be covenants running with the land, and which shall, at the option of the Town, appear on the annexation map:

- (a) Water rights shall be provided as mutually agreed to by the Town and the undersigned; The undersigned specifically agree that they have not sold or transferred any water rights appurtenant to their property within the past year nor will they do so during the pendency of this annexation petition and once annexed to the Town of Johnstown, they will not sell or transfer any water rights appurtenant to the subject property without the prior written approval of the Johnstown Town Council.
- (b) The owners shall participate in providing drainage plan and improvements and payment of a unit drainage fee as may be required by the Town the area;
- (c) The undersigned hereby waive any and all "vested rights" previously created pursuant to Section 24-68-103, CRS, as amended.
- (d) The undersigned and the Town may enter into an Annexation Agreement prior to the effective date of this annexation, which agreement shall be additional conditions as effectively as if set forth in this Petition.

(15) Petitioner represents that: (Check one)

No part of the property to be annexed is included within any site specific development plan approved by Weld County, Colorado.

A site specific development plan has been approved by Weld County, Colorado, which has created a vested right.

(16) Submitted with this Petition is the required \$_____.00 for publication costs.

EXECUTED this 19th day of Dec, 2023.

By: [Signature]

Name: J. MICHAEL WEST

Title: FIRE CHIEF

Name of Annexation: FRFR STATION #1

STATE OF COLORADO)
)ss
COUNTY OF WELD)

Subscribed and sworn to before me this 19 day of December,
2023 by J. MICHAEL WEST as FIRE CHIEF of
FRONT RANGE FIRE RESCUE on behalf of
BOARD OF DIRECTORS.

WITNESS my hand and official seal.

My commission expires: 12-29-2025

CYNTHIA A. HESEMANN
Notary Public
State of Colorado
Notary ID # 20174052865
My Commission Expires 12-29-2025

[Signature]
Notary Public

AFFIDAVIT OF CIRCULATOR

The undersigned, being of lawful age, who being first duly sworn upon oath, deposes and says:

That (he or she) was the circulator of the foregoing Petition for Annexation of lands to the Town of Johnstown, Colorado, consisting of _____ pages, including this page and that each signature thereon was witnessed by your affiant and is the true signature of the person whose name it purports to be.

Circulator

STATE OF COLORADO)
)ss
COUNTY OF)

The foregoing Affidavit of Circulator was subscribed and sworn to before me this _____ day of _____, A.D., _____, by _____.

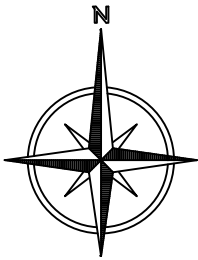
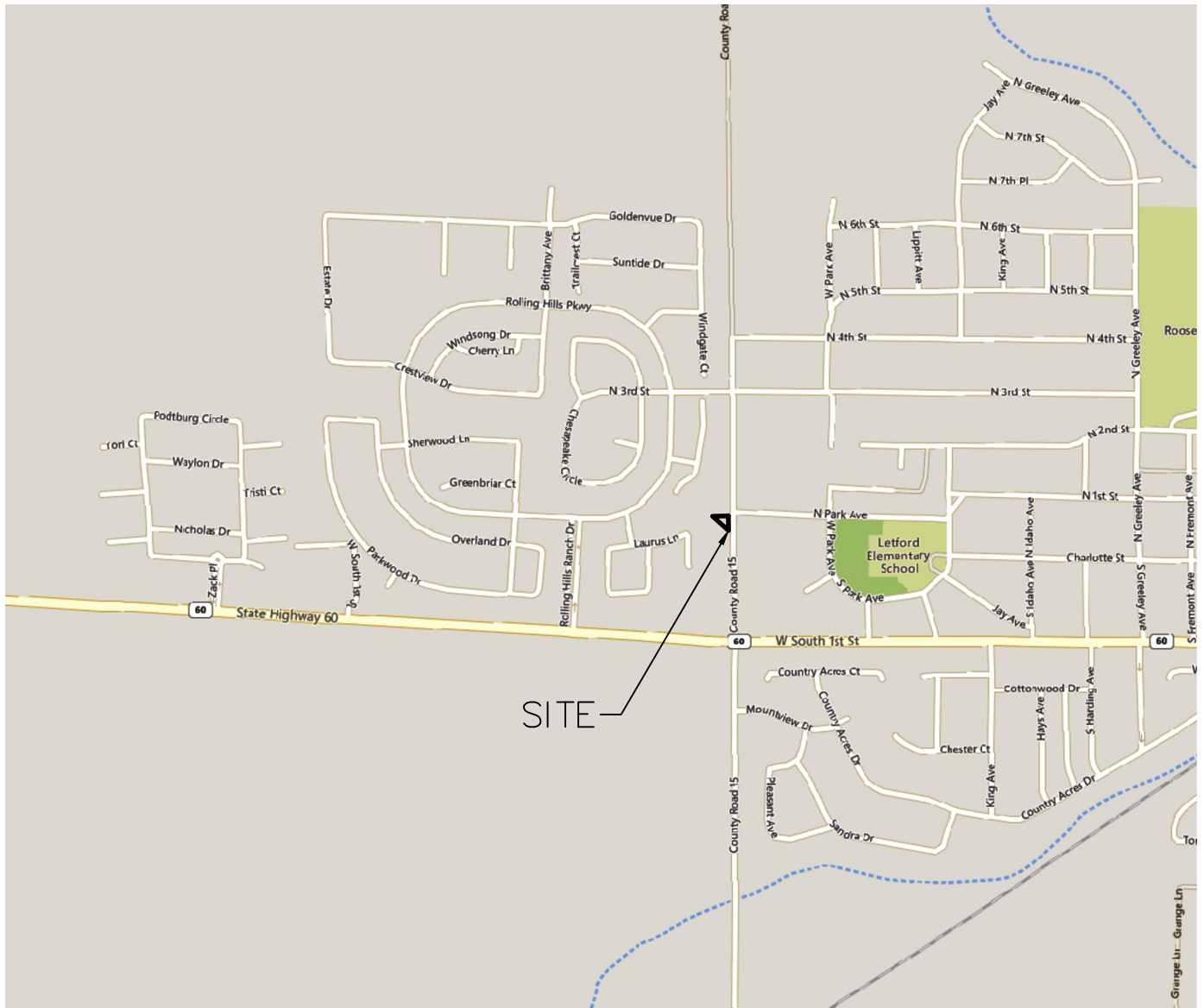
Witness my hand and official seal.

My commission expires: _____

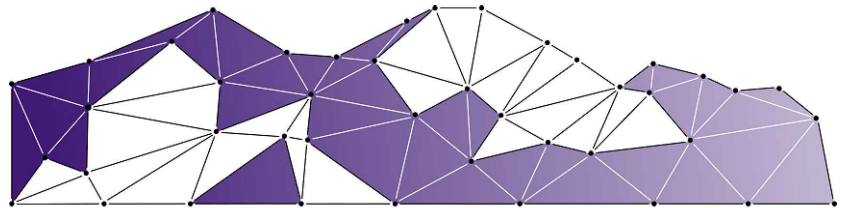
Notary Public

VICINITY MAP

Item #14.



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. (CRS 13-80-105)



MAJESTIC SURVEYING

Steven Parks, PLS 38348
On behalf of Majestic Surveying, LLC

PROJECT NO: 2022198
DATE: 8-8-2022

CLIENT: FRFR
SCALE: 1"=1000'

FRONT RANGE FIRE RESCUE STATION #1

ANNEXATION IMPACT REPORT

1. A statement setting forth the plans of the municipality for extending to or otherwise providing for, within the area to be annexed, municipal services performed by or on behalf of the municipality at the time of annexation;

This annexation involves a very small parcel of land at the northeast corner of the property that contains FRFR Fire Station #1. All utilities are already provided to the building and no new utilities will be required with this annexation.

2. A statement setting forth the method under which the municipality plans to finance the extension of the municipal services into the area to be annexed;

Municipal services are already provided to this overall FRFR parcel and do not need to be extended to the parcel being annexed.

3. A statement identifying existing tax districts within the area to be annexed;

The area proposed to be annexed is located within Weld County, Aims Junior College, Front Range Fire Rescue Fire Protection District, High Plains Library District, Northern Colorado Water, Weld RE-5J School District, Thompson River Red, and no others;

The existing FRFR fire station parcel is located within Weld County, Aims Junior College, Front Range Fire Rescue Fire Protection District, Town of Johnstown, Northern Colorado Water, Weld RE-5J School District, Thompson River Rec, and no others.

TAXING ENTITIES	
MAIN STATION 1 PROPERTY	NE CORNER ANNEXATION
Aims Junior College	Aims Junior College
FRFR	FRFR
Johnstown	High Plains Library District
Northern Colorado Water	Northern Colorado Water
Weld RE-5J School District	Weld RE-5J School District
Thompson River Rec	Thompson River Rec
Weld County	Weld County

4. A statement on the effect of annexation upon local public school district systems, including the estimated number of students generated and the capital construction required to educate such students.

There will be no impact on the public school district system.

5. A map (or maps) of the municipality and adjacent territory to show the following information:

- a. The present and proposed boundaries of the municipality in the vicinity of the proposed annexation;

See Annexation Plat as part of application.

- b. The present streets, major trunk water mains, sewer interceptors and outfalls, other utility lines and ditches, and the proposed extension of such streets and utility lines in the vicinity of the proposed annexation (from Town master plans)

There will be no changes or impacts to the streets or utilities.

- c. The existing and proposed land use pattern in the areas to be annexed (Outline Development Plan);

The current fire station parcel is located within Town of Johnstown Planned Unit Development – Residential (PUD-R) zoning, within Lot 1 Rolling Hills Ranch Phase 5 (Parcel No. 105906403004).

The parcel being annexed is Parcel No. 105906403003. FRFR desires to combine this parcel with the larger parcel previously described to create a single lot.

**TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2024-05**

**A RESOLUTION FINDING SUBSTANTIAL COMPLIANCE FOR
INITIATING ANNEXATION PROCEEDINGS AND SETTING A
PUBLIC HEARING DATE FOR THE FRONT RANGE FIRE
RESCUE FIRE PROTECTION DISTRICT ANNEXATION**

WHEREAS, the Town of Johnstown (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with the authority to administer the affairs of the Town; and

WHEREAS, on or about December 19, 2023, Front Range Fire Rescue Fire Protection District, a special district organized and existing pursuant to § 32-1-101, C.R.S., et seq., submitted a Petition for Annexation; and

WHEREAS, the Town Council has reviewed the Petition for Annexation, and, finding substantial compliance as set forth below, desires to initiate annexation proceedings in accordance with the law and set a public hearing.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, THAT:

Section 1. The Town Council finds that a Petition for Annexation of certain property situated in the Southeast Quarter of Section 6, Township 4 North, Range 67 West of the 6th P.M., County of Weld, State of Colorado, consisting of approximately 0.098 acres, being more particularly described on Exhibit A, which is attached hereto and incorporated herein by this reference, filed with the Town Clerk on or about December 19, 2023, to be known as the “Front Range Fire Rescue Fire Protection District Annexation,” is in substantial compliance with §31-12-107(1), and that a public hearing should be held to determine if the proposed annexation complies with §§31-12-104 and 31-12-105, C.R.S., or such parts thereof as may be required to establish eligibility pursuant to §31-12-101, *et seq.*

Section 2. The Town Council hereby sets a public hearing for such purposes on March 18th, 2024, at 7:00 p.m., at 450 South Parish Avenue, Johnstown, Colorado.

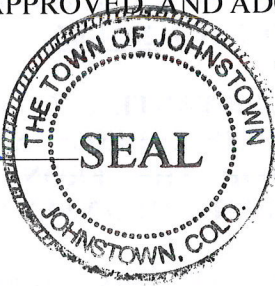
Section 3. The Town Clerk shall publish notice of the hearing once per week for four (4) consecutive weeks in the *Johnstown Breeze*, with the first publication at least thirty (30) days prior to the date of the hearing. The Town Clerk shall also send a copy of the published notice, together with a copy of this Resolution and the Petition for Annexation, by registered mail to the Weld County Board of County Commissioners and to the Weld County Attorney and to any special district or school district having territory within the area to be annexed at least twenty-five (25) days prior to the date fixed for such hearing.

Section 4. This Resolution shall be effective on the date hereof.

PASSED, SIGNED, APPROVED, AND ADOPTED THIS 5 day of February, 2024.

ATTEST:

By: Hannah Hill
Hannah Hill, Town Clerk



TOWN OF JOHNSTOWN, COLORADO

By: Troy D. Mellon
Troy D. Mellon, Mayor



450 S. Parish Avenue
Johnstown, CO 80534
970.587.4664
JohnstownCO.gov

Item #14.

PLANNING & ZONING COMMISSION AGENDA COMMUNICATION

-
- HEARING DATE:** February 14, 2024 at 7:00PM
- SUBJECT:** Front Range Fire – Annexation and Zoning Request
- ACTION PROPOSED:** Public hearing for consideration of Front Range Fire Rescue Annexation and proposed Zoning
- LOCATION:** North of Highway 60, East of Telep Ave, situated by Front Range Fire Station 1 consisting of approximately 0.1 acres.
- ATTACHMENTS:**
1. Resolution 2024-05 setting fourth annexation proceedings
 2. Front Range Fire Annexation Petition
 3. Vicinity Map
 4. Annexation Map
 5. Zoning Map
 6. Annexation Impact Study
- PRESENTED BY:** Lilly Cory, Planner I

BACKGROUND & SUMMARY

Front Range Fire District formally submitted an updated annexation petition on December 19, 2023 with the proposed zoning of PD-R to match the remainder of the site. The subject property consists of approximately 4268.88 square feet, situated in Lot 1, Phase 5 of Rolling Hills Ranch, Town of Johnstown, County of Weld, and State of Colorado. More commonly known as the northeast corner of Front Range Fire Station 1, North of Highway 60 and East of Telep Ave.

The subject property is presently zoned Agriculture (A) in unincorporated Weld County. This small triangular shaped section of land borders incorporated lands within the Town of Johnstown on the west and south. Islands of unincorporated lands exist to the north and east. Small unincorporated islands of land are typically created as a result of non-concurrent development over time, wherein land is sometimes swapped and traded amongst property owners to support individual development projects. This appears to be the case with the subject property, so the

proposed annexation will effectively eliminate part of the island conditions in the vicinity and clean up this boundary issue. The Front Range Fire Department owns the subject property and it currently houses their flagpoles.

SURROUNDING ZONING & LAND USE

- North: AG – Unincorporated Weld County – existing residence and ag lands
- South: PD-R – Residential Town of Johnstown – Front Range Fire Station 1
- East: AG – Unincorporated Weld County – existing agricultural land
- West: PD-R – Residential Johnstown – Rolling Hills Ranch Subdivision

LAND USE HISTORY

Historically, this property has been used to house the flagpoles for Front Range Fire Station 1 and will continue to do so upon annexation.

PUBLIC NOTICE & AGENCY REFERRALS

Notice for the opening of the public hearing was published in the Johnstown Breeze, on February 8th, 2024. Pursuant to Section 17.2.F3 of the Johnstown Municipal Code, notices for Planning and Zoning Commission were mailed to all property owners within 800 feet of the property in question on the 18th of January 2024. Additional notices will be mailed prior to the Town Council public hearing on March 18th, 2024. Notices included a map of the proposed annexation and proposed zoning for residents to review. State required annexation packets were sent out on February 6th, 2024, to the respective county and special districts to inform them of the hearing date and annexation.

NEIGHBORHOOD MEETING

A neighborhood meeting was not held for this meeting due to the size of the subject property and no anticipated change of use with proposed zoning.

PROJECT DESCRIPTION & ANALYSIS

Annexation: This annexation is being considered by the Town for the following reasons:

1. At least 1/6 of the area to be annexed for each individual annexation is contiguous to the Town of Johnstown boundary.
2. The property is located within the Town of Johnstown Growth Management Area.
3. The Town can provide water, sewer, and police services to the property.
4. The Town is authorized to annex the area without an election under Section 30(b) of Article II of the Colorado Constitution.

A resolution finding Substantial Conformance with C.R.S. requirements was passed by the Town Council on February 5th, 2024, and set the public hearing for March 18th, 2024.

The Community that Cares

INFRASTRUCTURE

No additional infrastructure will be required at this time as a result of the proposed annexation.

COMPREHENSIVE PLAN COMPLIANCE

The Johnstown Comprehensive Plan (Comp Plan) creates a long-term vision for the development of the town. The Comp Plan identifies the Town’s Growth Management Area (GMA), which includes incorporated lands within the current town limits, as well as certain unincorporated lands within Larimer and Weld counties. The GMA can be likened to a growth boundary, which represents the logical expansion of the town over time. The property which is the subject of this annexation is contiguous to lands within the corporate boundary of Johnstown and exists within the GMA. Staff finds that the proposed annexation represents a logical expansion of Johnstown’s corporate boundary.

STRATEGIC PLAN COMPLIANCE

Goal: Expect and encourage community centered design.

Strategy: Guide growth in the community through appropriate annexation, zoning, planning, and land use development.

Staff finds that the proposed annexation and zoning is consistent with the goal and strategy referenced above, pursuant to the adopted Johnstown Strategic Plan.

Staff Recommendation

Staff finds that the proposed annexation and zoning are complementary, comply with state statutes, and satisfy the requirements of the Johnstown Land Use & Development Code; therefore, staff recommends that the commission recommend that the Town Council approve the Front Range Fire Annexation and Zoning.

Planner: Lilly Cory

PLANNING AND ZONING MOTIONS:

Approval: Based on the information presented and the content and findings in the staff report, I motion to

- A. Recommend that the Town Council approve annexation case ANNEX 22-0004, more commonly known as Front Range Fire Rescue Annexation; and,
- B. Recommend that the Town Council approve a zoning designation of PUD-R on the subject property to match the balance of the existing Front Range Fire Rescue property.

Alternative Motions:

Approve Annexation and Deny Zoning: Based on the information presented and the content and findings in the staff report, I motion to

- A. Recommend that the Town Council approve annexation case ANNEX 22-0004, more commonly known as Front Range Fire Rescue Annexation; and,
- B. Recommend that the Town Council deny a zoning designation of PUD-R on the subject property for the following reasons...

Denial: Based on the information presented and the content and findings in the staff report, I motion that the Town Council deny annexation case ANNEX 22-0004, more commonly known as Front Range Fire Rescue Establishment of Zoning. due to the following reasons...

Front Range Fire Annexation & Establishment of Zoning

Town Council Meeting
Public Hearing
March 18th, 2024 7p.m.

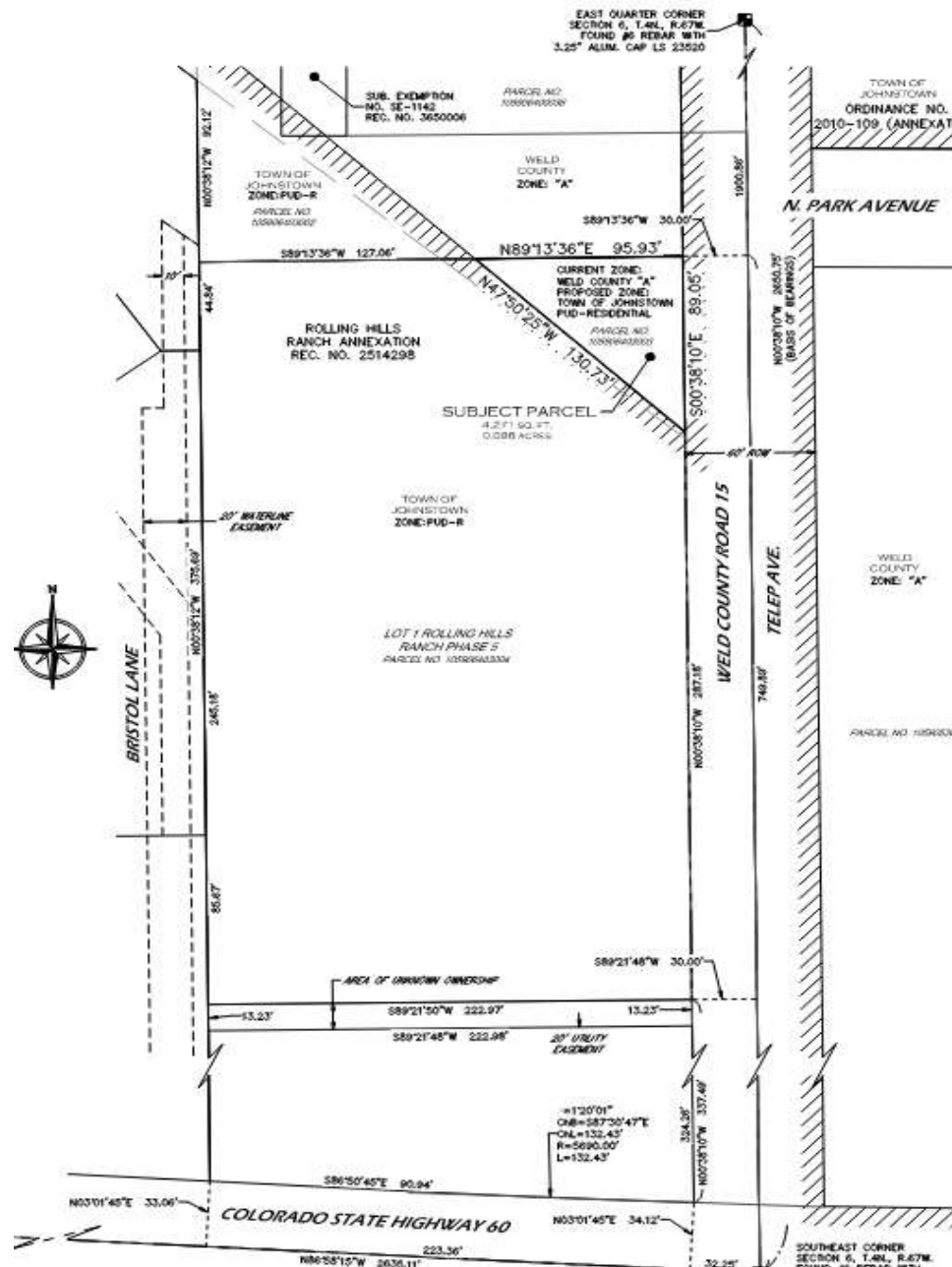
BACKGROUND & LOCATION

- ▶ Owner Initiated Annexation by Front Range Fire District
- ▶ Public Hearing was opened on February 5, 2024 after finding compliance with state annexation requirements (Resolution 2024-05)
- ▶ Northwest Corner of Front Range Fire Rescue Station 1



ANNEXATION MAP

- ▶ There are no oil and gas wells located on the site or other hazards or easements that impact the annexation.



The Community that Cares

STAFF ANALYSIS

Annexation Eligibility :

- ▶ Subject parcel is continuous to town limits by at least a sixth of its boundaries
- ▶ Located within the Johnstown GMA
- ▶ If services are required, the Town can adequately provide utility and police services
- ▶ Property is eligible for annexation without election pursuant to CCR 2.30.b



CURRENT ZONING INFORMATION

▶ SURROUNDING ZONING & LAND USE

- ▶ **North-** A – Unincorporated Weld County – existing residence and agricultural lands
- ▶ **South-** PD-R – Residential Town of Johnstown – Front Range Fire Station 1
- ▶ **East-** A – Unincorporated Weld County – existing agricultural land
- ▶ **West-** PD-R – Residential Johnstown – Rolling Hills Ranch Subdivision



STAFF ANALYSIS

Zoning Eligibility :

- ▶ No change of use is proposed nor anticipated with zoning type
- ▶ Embodies a need for a PD zoning type due to the unique service that Front Range Fire supplies to Johnstown and its residents



The Community that Cares



The Community that Cares

MEMORANDUM OF UNDERSTANDING
BETWEEN THE TOWN OF JOHNSTOWN
AND THE JOHNSTOWN SENIOR CENTER

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into this 5th day of day of March, 2024, by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (“Town”), and the Johnstown Senior Center, a Colorado non-profit corporation (“Senior Center”). The Town and Senior Center may collectively be referred to as the “parties” or singularly as a “party.”

RECITALS

WHEREAS, the Town is an ardent supporter of the older adult community and wishes to encourage opportunities and space for gathering or events; and

WHEREAS, the Town embraces the Senior Center’s mission to serve the older adult community; and

WHEREAS, the Town recognizes the significance of the older adult community and aims to express its understanding and support; and

WHEREAS, the Senior Center is a non-profit entity whose mission is to serve older adults; and

WHEREAS, the Town allows the Senior Center to utilize space in a Town owned facility free of charge for older adult events and for a minimal amount of storage of personal property; and

WHEREAS, the Town also rents space in the facility to members of the public; and

WHEREAS, despite the Senior Center’s use of the space in the facility for many years, the Town and the Senior Center have not formalized their business association; and

WHEREAS, to memorialize their relationship, the Town and the Senior Center desire to enter into this MOU.

AGREEMENT

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Staff Support. The Town will employ a Senior Center Coordinator who will work with the Senior Center to:
 - a. Develop, plan, organize and facilitate senior adult services in the areas of leisure, educational enrichment, and wellness programs for senior adults;
 - b. Coordinate registrations and enrollments for all senior programs, including collecting and accounting for various fees and charges;

- c. Develop monthly and annual calendars for upcoming programs and communicate those programs to members of the public;
- d. Work with the Town's Communications Department to prepare news releases, monthly newsletter updates and other public relations materials;
- e. Work with the Weld County Area Agency on Aging to receive technical assistance, training and advice that will assist in the further development of the local senior program; and
- f. Organize, communicate, and support the weekly meal program, manage contract classes, and manage the day-to-day operations of the facility.
- g. Maintain a safe and clean facility and develop, and enforce safety procedures, rules and regulations to ensure safe operations for all staff, volunteers, and members.
- h. Participate in the development of regional programs and initiatives with colleagues from neighboring communities.
- i. Assist with writing grant applications for local grants to enhance the programming in the community, with approval from the Town of Johnstown and Senior Center Board. For purposes of clarity, the Town shall have no financial obligations to any grant submitted.

2. Facility Use.

- a. The Senior Center shall be entitled to use the facility for older adult events. The Town agrees to assist the Senior Center by providing space in the facility for the Senior Center to use at no cost. The Town and the Senior Center agree to coordinate in good faith for the use of the space in the facility, but the determination as to what space is available to the Senior Center at any given time shall be at the sole discretion of the Town. The Senior Center shall only have access to the portions of the facility that the Town permits and authorizes the Senior Center to use and shall only be entitled to use the facility when a Town employee provides the Senior Center with access to the facility and is present during the duration of the Senior Center event. Notwithstanding the foregoing, if the Senior Center were to enter into a rental agreement with the Town and rent a portion of the facility, in the same manner and form that other members of the public rent the facility, then the Senior Center would be entitled to gain access to the facility and use those portions of the facility that are rented to the Senior Center without a Town employee.
- b. The Senior Center shall be entitled to use the facility for storage of personal property that is used to support the older adult events and at a total square footage not to exceed 300 square feet.
- c. The Senior Center shall not be entitled to use the facility for any purpose not set forth herein absent the Town's written consent. If the Senior Center uses the facility for an unauthorized purpose, the Town may terminate this MOU as provided in Paragraph 4.

3. Term. The term of this MOU shall commence on January 1, 2024, and terminate on December 31, 2024. Unless either party provides written notice to terminate on or before

November 1 of a calendar year, this MOU shall automatically extend for additional one-year terms.

4. Termination. Notwithstanding the term, this MOU may be terminated if:
 - a. The Senior Center is in default of any provision of this MOU;
 - b. The facility becomes damaged to such an extent that, at the Town's discretion, it would not be prudent or feasible to rebuild;
 - c. The Town of Johnstown personal property inside the facility is damaged, destroyed or removed from the facility, in any manner, such that the operation of the facility as a community gathering space is not feasible or practicable; or
 - d. Upon written notice from the Town to the Senior Center with a 60-day notice of termination of this agreement.

5. Personal Property. The personal property that is stored at the facility and owned by the Senior Center is set forth on Exhibit A, attached hereto and incorporated herein by reference. When the Senior Center removes personal property or adds additional personal property, the Senior Center shall provide written notice to the Town Clerk or their designee, who shall keep a running inventory of the Senior Center's personal property. The Town shall be entitled to direct and authorize where the Senior Center's personal property is stored at the facility but shall have no liability or responsibility whatsoever for such personal property.

6. Utilities and Maintenance. The Town shall provide and pay for all utilities, including internet service, to the facility and will maintain the facility in good condition and repair. The Town's Public Works Director is responsible for managing all Town facilities, so decisions regarding maintenance and repairs and the timing of such maintenance and repairs at the facility will be determined by him/her.

7. Insurance. The Town shall maintain liability insurance for the facility. The Town shall maintain property insurance for the Town's personal property at the facility. The Town shall not maintain property insurance for the Senior Center's personal property at the facility. The Senior Center may, at its discretion, obtain adequate insurance coverage to protect its personal property. The Senior Center shall procure and maintain automobile insurance for the Senior Center's vehicle(s) and provide proof of such insurance to the Town on or before January 1 of each calendar year.

8. Financial Commitments. The Town's financial commitments set forth in this MOU are subject to Town-approved budget appropriation during a fiscal year. To the extent the Town does not budget and appropriate funds during any fiscal, the financial commitments set forth herein shall cease. Except as provided herein, the Town does not have any financial obligation to the Senior Center and will only provide the following:
 - a. The Senior Center Coordinator;
 - b. Utilities for the Town owned facility as provided herein; and
 - c. Maintenance and repairs for the Town owned facility as provided herein.

- 9. Compliance. The Senior Center shall comply with all applicable laws, rules and regulations. The Senior Center shall not do or permit any action to be done that might result in a breach of this MOU. The Senior Center's operations will exclusively be managed by the entity and its Board members. (Town staff is not authorized to assist with Senior Center operations, including, but not limited to, performing grant accounting, preparing tax forms or filings, drafting or reviewing legal agreements or similar such functions.) The Senior Center shall not permit, cause, or allow others to cause anything in the facility to be done that might result in:
 - a. A violation of the law, civil or criminal;
 - b. A breach of the peace;
 - c. An increase in insurance rates;
 - d. Negative publicity for the facility or the Town; or
 - e. A decrease in the value of the facility.

- 10. Indemnification. The Senior Center agrees to indemnify, protect and save harmless the Town from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, reasonable attorneys' and experts' fees, expenses and disbursements) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against the Town, relating to or arising from the Senior Center's use of the facility.

- 11. Assignment. The Senior Center may not assign its rights or duties under this MOU without receiving the prior written consent of the Town.

- 12. No Third-Party Beneficiaries. This MOU is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.

- 13. Notices. All notices, consents or other instruments provided for under this MOU shall be deemed properly given when: (1) hand-delivered; 2) sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth; or (3) sent by electronic mail return receipt requested and received. Either party, by notice to be given, may change the address to which future notices shall be sent.

TO SENIOR CENTER:

TO TOWN:

Johnstown Senior Center
 Attention: Johnstown Senior Center President
 101 Charlotte Street
 Johnstown, CO 80534

Town of Johnstown
 Attention: Town Manager
 450 S. Parish
 P. O. Box 609
 Johnstown, CO 80534
 Email: mlecerf@johsntownco.gov

Email: _____

14. Waiver. No consent or waiver, express or implied, by the Town to or of any breach or default by the Senior Center in the performance by the Senior Center of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default by the

Town. Failure on the part of the Town to complain of any act or failure to act or to declare the Senior Center in default, irrespective of how long such failure continues, shall not constitute a waiver by the Town of its rights hereunder.

15. Governing Law and Venue. This MOU and the interpretation thereof shall be governed by the laws of the State of Colorado and the Code. Venue for any claim, proceeding or action arising out of this MOU shall be in Weld County, Colorado.

16. Costs and Attorney's Fees. If any judicial proceedings may hereafter be brought to enforce any of the provisions of this MOU, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

17. Entire Agreement and Amendments. This MOU constitutes the entire agreement and understanding between the parties and supersedes all prior agreements or understandings. Any amendment to this MOU must be in writing and signed by the parties.

18. No Presumption. Each party acknowledges that it has carefully read and reviewed the terms of this MOU. Each party acknowledges that the entry into and execution of this MOU is of its own free and voluntary act and deed, without compulsion. Each party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this MOU and with respect to all matters set forth herein. The parties agree that this MOU reflects the joint drafting efforts of all parties and in the event of any dispute, disagreement or controversy arising from this MOU, the parties shall be considered joint authors and no provision shall be interpreted against any party because of authorship.

19. Headings. The paragraph headings herein are for the convenience and reference of the parties and are not intended to define or limit the scope or intent of this MOU

This MOU is entered into on the 5 day of March, 2024, and upon signature of the authorized representatives of each party, shall become effective and binding on each party.

TOWN OF JOHNSTOWN

ATTEST:

By: 
Hannah Hill, Town Clerk



By: 
Matt LeCerf, Town Manager

JOHNSTOWN SENIOR CENTER

ATTEST:

Severa Valverde
Secretary

By: Jane Hansher
Name: Jane Hansher
Title: President



EXHIBIT A
SENIOR CENTER PERSONAL PROPERTY



822 Seventh Street, Suite 550
Greeley, CO 80631
www.upstatecolorado.org
P. 970.356.4565

February 29, 2024

Matt LeCerf
Town of Johnstown
450 S. Parish
Johnstown, CO 80534

Dear Matt,

On behalf of the Upstate Colorado Economic Development professional team and Board of Directors, I want to thank you again for your commitment and investment in building a stronger local economy. Your partnership allows us to continue to facilitate private business growth and investment, market the region's competitive advantages, advocate on behalf of clients, and connect public and private partners.

Your support enables us to offer comprehensive programs to primary employers looking to locate or expand in Weld County. In 2023, we achieved remarkable milestones, and we are eager to share these successes with you at the **Upstate Colorado 2024 Annual Meeting on Wednesday, March 6**. As a valued investor, you are also invited to exclusive investor-only lunch and learn sessions, NoCo REDI events, and other Upstate hosted events to show our appreciation.

In addition, our team is committed to ensuring that the interests of our communities are represented throughout the legislative process. As we continue to support the business climate in Northern Colorado, please do not hesitate to reach out with any legislative concerns during the current session.

Thank you again for being part of our success. We welcome the opportunity to provide an update on our activities for you governing leadership and/or senior staff. Please do not hesitate to contact me to set up a meeting at your convenience. I look forward to speaking with you soon.

Sincerely,

A handwritten signature in black ink that reads "Rich".

Richard C. Werner
President & CEO
Upstate Colorado Economic Development

Thank you
Let's catch up
soon
- R

2024 ANNUAL INVESTOR REPORT

Upstate Colorado Economic Development



UPSTATECOLORADO
ECONOMIC DEVELOPMENT



COMMUNITY PARTNERS

Ault
 Berthoud
 Brighton
 Dacono
 Eaton
 Erie
 Evans
 Firestone
 Fort Lupton

Frederick
 Garden City
 Gilcrest
 Greeley
 Grover
 Hudson
 Johnstown
 Keenesburg

Kersey
 LaSalle
 Lochbuie
 Longmont
 Mead
 Milliken
 New Raymer
 Northglen

Nunn
 Pierce
 Platteville
 Severance
 Thornton
 Timnath
 Windsor
 Weld County

DEMOGRAPHICS

358,111
 POPULATION

3.3%
 UNEMPLOYMENT

35.3
 MEDIAN AGE

\$89,182
 HOUSEHOLD INCOME

ECONOMIC DRIVER CLUSTERS

- Manufacturing
- Agriculture & Food Processing
- Energy

TARGETED GROWTH CLUSTERS

- Bioscience & Medical Devices
- Distribution & E-Commerce
- Fabrication & Production Tech Mfg.
- Food Processing
- Information Technology
- Plastics

170,653
 LABOR FORCE

\$17.3 BILLION
 GRP

88.3%
 HS DIPLOMA

\$63,453
 AVERAGE ANNUAL WAGE



Upstate Colorado Economic Development is a nonprofit, county-wide economic development corporation formed as a partnership between government and the private sector. We are governed by a 13-member Board of Directors and receive financial support from each of the partner sectors.

We develop business leads through direct contact with companies, consultants, realtors, etc. We also receive leads from state/metro partners and our local partners. Business opportunities managed by Upstate are jointly worked with community and regional partners.

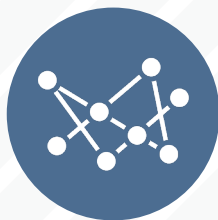
At Upstate, we envision a region with a healthy and sustainable economy that creates wealth, preserves the quality of life, and improves the standard of living for area residents. Our mission is to facilitate and attract investment, create new job opportunities, stimulate income growth, and expand the local community tax base.

Upstate Colorado Economic Development is dedicated to fostering economic opportunity in Weld County through four main objectives:



MARKET

The Region's Competitive Advantages to Promote Business Attraction /Retention



CONNECT

Government / Private Sector to Improve Capacity for Economic Development



FACILITATE

Private Business Job Growth and Investment



ADVOCATE

On Behalf of Our Partners and Clients

MARKET

COMPANY ATTRACTION ACTIVITY

In 2023, Upstate worked **75 new business leads**. 32% of leads came directly to Upstate, 52% from our state and Metro Denver partners, and 15% from our local community partners showing a strong regional attraction approach.

MARKETING AND ECONOMIC DATA DISSEMINATION

The Upstate website is a comprehensive resource, offering community landing pages with real estate search functions, workforce details, and incentive information. In 2023, the website attracted **8,047 users**. The Property Search feature had **648 unique visitors** and the Data Center saw **386 unique visitors**. The primary national audience locations were **Colorado, Virginia, and Texas**, and international locations were China and Germany.

Through collaborations with key partners, we are committed to maintaining and sharing economic data for Weld County and Northern Colorado. As part of our process for prospect fulfillment, we provide detailed labor and demographic information, customized primary employer data, municipal overviews, and administer business assistance programs.

OUTREACH EFFORTS

In 2023, Upstate staff was able to attend national conferences and promote the benefits of doing business in Weld County and Northern Colorado.

Events included Site Selector's Guild Annual Conference, Metro Denver EDC Site Selection Conference, NoCo Trade Mission, IAMC Conference, and IEDC Conference. In addition to national marketing efforts at events and conferences, Upstate supported efforts in promoting Weld County and the Northern Colorado region. Upstate ran ads in support of NoCo REDI in the 2023 BizWest Northern Colorado Market Facts publication with an ad driving traffic to data available on NoCo REDI's website.



CONNECT

We work to define and capitalize upon Weld’s large size, diverse strengths, and economic opportunities. To this effort, we continue the following programs:

UPSTATE LEADERSHIP COUNCIL PROGRAMS

Our Leadership Council is a group of Upstate investors who act as a catalyst for future growth through financial support of targeted initiatives.

WELDWORKS LABOR TEAM

A team made up of Employment Services of Weld County, Aims Community College, Upstate, and relevant community representatives designed to provide technical assistance to new companies locating to the region, as well as existing employers looking to expand. The team identifies labor development opportunities by comprehensively reviewing various local, county, and state programs.



COMPANY SITE TOURS

In partnership with our communities and development partners, Upstate Colorado hosts prospective companies looking to locate in Weld County and Northern Colorado. These tours provide a one-on-one experience for company reps giving them a first hand view of real estate, transportation, local culture and collaboration, and allows us to build relationships.

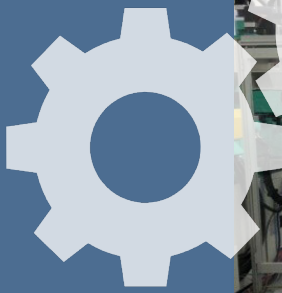
NORTHERN COLORADO REGIONAL ECONOMIC DEVELOPMENT INITIATIVE (NOCO RED I)

Upstate and economic development partners continue to work collectively through NoCo REDI. Of the **51 leads worked regionally, 9 became active projects** representing **\$1.1B** in capital investment and **1,600 jobs**.

51 LEADS

worked regionally in partnership with the Northern Colorado Regional Economic Development Initiative





FACILITATE

2023 BUSINESS ACTIVITY SUMMARY

RETENTION & EXPANSION

RECRUITMENT

13
CONTACTS

75
NEW LEADS

9
ACTIVE
EXPANSION
PROJECTS

22
ACTIVE
RECRUITMENT
PROJECTS

5
EXPANSIONS

3
LOCATIONS

2,806
NEW JOBS

147
NEW JOBS

\$868.5M
EXPECTED
INVESTMENT

\$34.3M
EXPECTED
INVESTMENT

BUSINESS RETENTION / EXPANSION EFFORTS

Working with community partners, we continue efforts to contact key Weld employers. In 2023, Upstate had contact with **13 existing businesses** of which **9 (69%) had expansion projects or needed in-depth assistance**. 5 Weld County companies announced expansions in 2023, representing in 2,806 new jobs and the retention of 2,475 FTE.

LEAD DEVELOPMENT / PROSPECT MANAGEMENT

Upstate and our partners worked **75 new leads**, which included forwarding **289 Weld property brochures**. **22 (29%)** became active recruitment opportunities and 3 have located or announced plans to locate. These companies expect to invest approximately **\$34.3M** and create **147 new jobs** at build-out.

BUSINESS LEAD MANAGEMENT / DISTRIBUTION

Business leads come from companies, consultants/site selectors, state/metro partners, and local/private sectors. We blindly distribute these leads to our local partners (communities, real estate agents, etc.), search real estate databases, and manage/package the initial response, which includes real estate opportunities, demographics, labor information, incentive overview, etc. We coordinate and support site tours with companies, brokers, owners, and community reps, as warranted.

LOCATION PROPOSAL DEVELOPMENT

As companies seek to pursue a location in Weld County, we coordinate and develop a comprehensive attraction/expansion proposal based on project requirements. This proposal includes potential incentives from the community, county, and state, along with in-depth information on labor, taxes, and more. Additionally, we outline necessary applications, approval processes and any other relevant information.

WELD ENTERPRISE ZONE (EZ) MARKETING / ADMINISTRATION

Upstate markets the EZ state income tax credits available to companies looking at locating / expanding within the Weld EZ boundaries. We provide detailed tax credit information, certify company eligibility, assist companies in claiming credits, and complete all state reporting. In 2023, Upstate approved **161 eligible companies who collectively earned \$8.6M in state income tax**

credits by investing \$504.1M, creating 371 new jobs, and retaining 11,122 jobs

We also administer the state income tax credit available to contributors who donate to approved, nonprofit organizations / projects that are helping to improve conditions within the distressed Weld EZ boundaries. We determine project eligibility, assist in applying for local/state approval, certify contributions, and complete state reporting. In 2023 **we certified 532 contributions with a collective value of \$997k for 9 approved nonprofit organizations/projects. Contributors collectively earned \$237,935 in state income tax credits.**

FINANCE PROGRAM MARKETING / ADMINISTRATION

Upstate manages the **Weld/Larimer Revolving Loan Fund** and the **Greeley Community Development Fund** to assist businesses and their lending partners in meeting company financial needs. In 2023, the RLF serviced two loans **totaling \$900,000.**



161

COMPANIES

371

NEW JOBS

\$504.1

MILLION INVESTED

as a result of certifying Weld Enterprise Zone companies.

ADVOCATE



BUSINESS ADVOCACY

We engage with the private sector and elected officials at the local, county, state, and federal levels to advocate on behalf of business interests. In 2023, **staff testified on behalf of business at multiple city/ county / state hearings**, and worked with legislative representatives on statewide ballot initiatives pertaining to transportation, workforce, and advocacy of the energy sector.

POLICY DEVELOPMENT

Through active involvement with the Northern Colorado Legislative Alliance (NCLA) and the Economic Development Council of Colorado (EDCC) **we support and monitor / influence issues impacting business**. We also assist Weld communities in developing local incentive policies.

INDUSTRY SECTOR PARTNERSHIPS

Upstate continues to support the Northern Colorado Manufacturing Sector Partnership, as well as several regional industry groups in the energy, bioscience, agriculture, construction, and healthcare sectors.



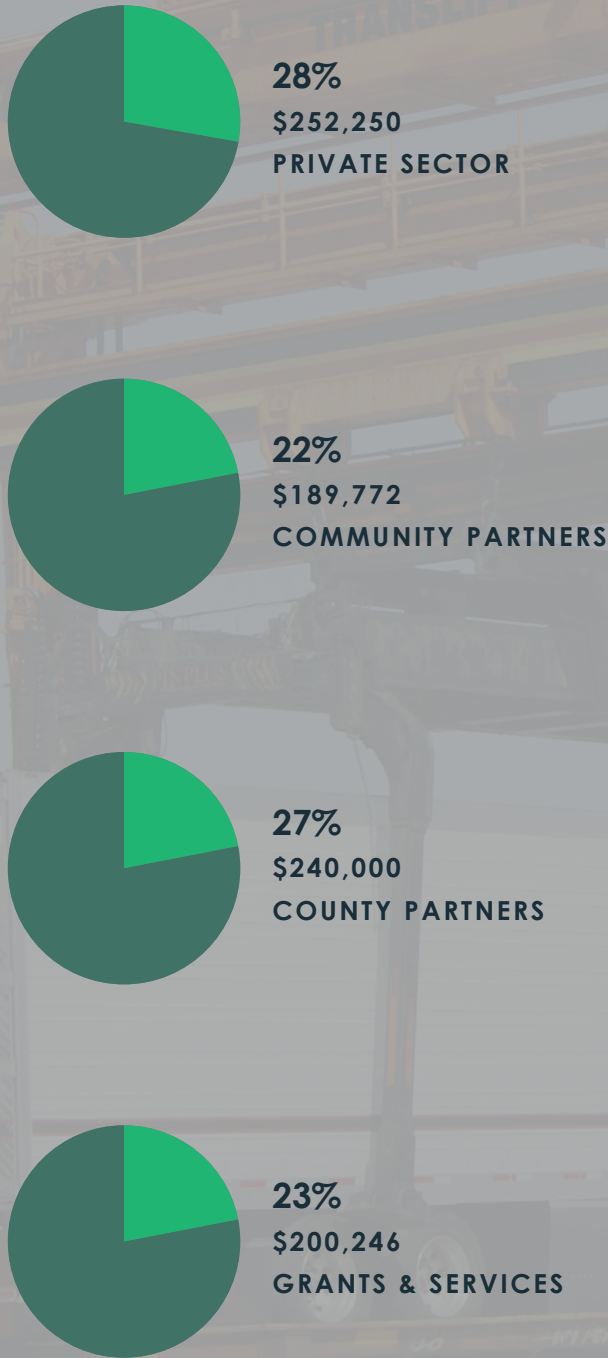
Regional Grant Navigation Program

During the first year of the program, the Regional Grant Navigator focused on federal grants funded through the Infrastructure Investment & Jobs Act (IIJA) and the Inflation Reduction Act (IRA), focusing on five key areas: transportation, energy, water, broadband, and environment. The objective was to understand regional and local plans, priorities, and strategies to understand what grant opportunities are most relevant to municipalities in the region.

Throughout 2023, efforts were directed towards achieving this aim by engaging in individual meetings with communities and by attending regional meetings. In addition to identifying grant opportunities, the Regional Grant Navigator assisted with grant application writing and strategizing, preparing letters of support, and connecting communities to relevant experts including consultants and state and federal partners.

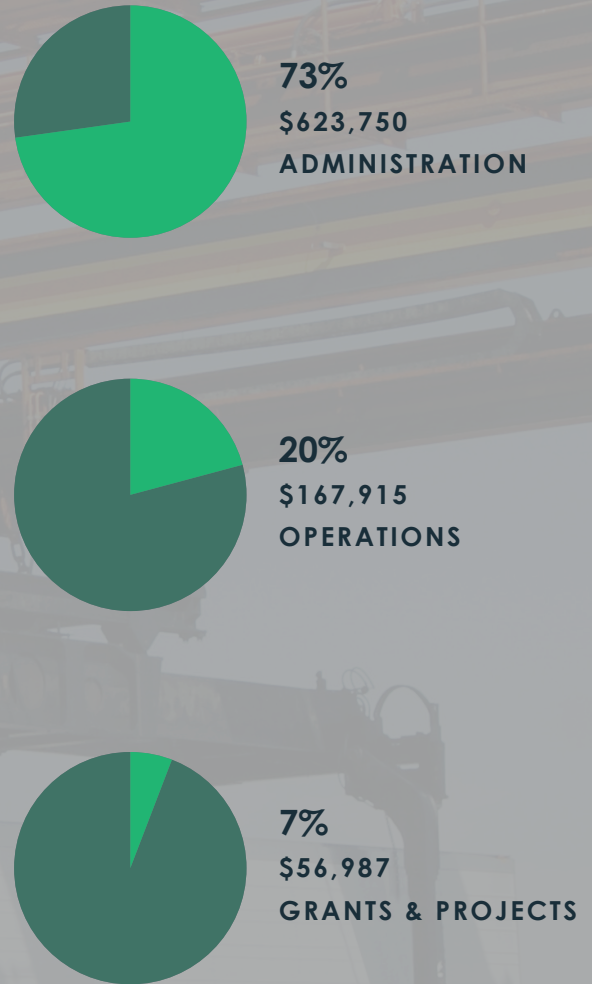
FINANCIAL REPORT

INCOME



TOTAL: \$882,268

EXPENSES



TOTAL: \$848,652



PARTNERS

Upstate is a nonprofit economic development agency serving Weld County and its communities. We thank our investor partners for their support in 2023.

CHAIRMAN'S ADVISORS

Burlington Northern Railway Company
City of Greeley
Weld County

LEADERSHIP COUNCIL

Aims Community College
Bank of Colorado
Banner/North Colorado Medical Center
Town of Berthoud
City of Brighton
Broe Real Estate Group
Brownstein Hyatt Farber Schreck

City of Dacono
Town of Eaton
Town of Erie
City of Evans
Town of Firestone
FNBO
City of Fort Lupton
Town of Frederick
JE Dunn Construction
Town of Johnstown
Town of Lochbuie
Martin Marietta
McWhinney
Phelps-Tointon, Inc.
United Power
Xcel Energy

PREMIER INVESTORS

Front Range PhamaLogic
NAI Affinity
Occidental Petroleum Corp. (Anadarko)

INVESTORS

4X Industrial
174 Power Global
Town of Keenesburg
Lightsource BP
Town of Platteville
Poudre Valley Capital
Poudre Valley REA
Realtec Commercial
Roche Constructors, Inc.
Town of Severance

SUPPORTERS

Anderson & Whitney, P.C.
Town of Ault
Coan, Payton & Payne, LLC.
EPS Group, Inc.
Fort Lupton Development Corp.
Town of Garden City
Town of Gilcrest
Hammers Construction
Town of Kersey
Town of LaSalle
Marc Arnusch Farms
NCCAR
Town of Nunn
Sears Real Estate

Item #15.



UPSTATECOLORADO

ECONOMIC DEVELOPMENT

Supporting Job Opportunities in Greeley & Weld County Communities

822 7th Street, Suite 550, Greeley, CO 80631

970-356-4565

upstatecolorado.org

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