



Town of Johnstown

TOWN COUNCIL REGULAR MEETING

450 S. Parish, Johnstown, CO

Monday, December 21, 2020 at 7:00 PM

MISSION STATEMENT: *“The mission of the government of the Town of Johnstown is to provide leadership based upon trust and integrity, commitment directed toward responsive service delivery, and vision for enhancing the quality of life in our community.”*

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 printed 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.](#) Minutes - December 7, 2020
- [2.](#) Minutes - December 14, 2020
- [3.](#) November 2020 Financial Statements
- [4.](#) **Second Reading** Ordinance No. 2020-187 an Ordinance Repealing and Readopting Chapter 2 of the Johnstown Municipal Code Concerning Administration and Personnel and, as a Part Thereof, Adding Provisions Concerning Municipal Campaign Finance, and Making Related Amendments to Section 1-21 of Article II of Chapter 1 of the Johnstown Municipal Code Concerning General Definitions.
- [5.](#) **Second Reading** Ordinance No. 2020-188, an Ordinance Repealing and Readopting Article VI of Chapter 11 of the Johnstown Municipal Code Concerning the Johnstown Municipal Code
- [6.](#) **Second Reading** Ordinance No. 2020-189; An Ordinance Repealing And Readopting Chapter 13 Of The Johnstown Municipal Code Concerning Municipal Utilities
- [7.](#) **Second Reading** Ordinance No. 2020-190; An Ordinance Amending Article II Of Chapter 13 of The Johnstown Municipal Code to Add Section 13-55 Establishing A Special Fee Concerning Regional Sanitary Sewer Improvements to Be Paid by Benefitted Properties in the Area Generally Located Near And Adjacent to State Highway 60 and Remitted to the Sanitary Sewer Utility Enterprise
- [8.](#) **Second Reading** - Ordinance No. 2020-191, an Ordinance Amending Sections 4-111, 5-111, 5-113, 6-6, 6-42, 6-46, 6-63, 6-83, 6-111, 6-133, 6-135, 6-161, 6-186, 6-189, 7-62, 7-131, 8-87, 15-4, 16-62, 17-13 and 17-51 of the Johnstown Municipal Code Concerning the Referral of the Town's Fees, Rates and Charges to the Town Fee Schedule.

- [9.](#) Second Amendment to Water Sewer Service Agreement with Johnstown Plaza, LLC

TOWN MANAGER REPORT

- [10.](#) Town Manager's Report

TOWN ATTORNEY REPORT

PUBLIC HEARING

- [11.](#) **Public Hearing - First Reading** - Ordinance Number 2020-192, An Ordinance Amending Section 17-263 (b) of Article XIV of Chapter 27 of the Johnstown Municipal Code Concerning Special Flood Hazard Areas
- [12.](#) **PUBLIC HEARING** - The Ridge at Johnstown Filing No. 2 Final Subdivision and Final Development Plan

NEW BUSINESS

- [13.](#) Consider Approving the Subdivision and Development Agreement for The Ridge at Johnstown Filing #2
- [14.](#) The Ridge at Johnstown Filing 2 - Water and Sewer Service Agreement
- [15.](#) Resolution 2020-41, Resolution Adopting Cemetery Rules and Regulations
- [16.](#) Consider Agreement for Design and Engineering Services for the Phase 2 Central Sanitary Sewer Interceptor Project to IMEG, Inc.
- [17.](#) Consider Agreement for Design and Engineering Services for the Phase 3 North Sanitary Sewer Interceptor Project to IMEG, Inc.
- [18.](#) Resolution 2020-42 Creation of a Town Water Bank for Economic Development Purposes
- [19.](#) Resolution 2020-44 Creation of a Second Micro Grant Program

COUNCIL REPORTS AND COMMENTS

MAYOR'S COMMENTS

ADJOURN

AMERICANS WITH DISABILITIES ACT NOTICE

In accordance with the Americans with Disabilities Act, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at (970) 587-4664 within 48 hours prior to the meeting in order to request such assistance.

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141



Town of Johnstown

**TOWN COUNCIL REGULAR MEETING
450 S. Parish, Johnstown, CO
Monday, December 07, 2020 at 7:00 PM**

MINUTES

CALL TO ORDER

Mayor Lebsack called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance. The meeting was held remotely due to COVID concerns.

ROLL CALL

PRESENT

Mayor Gary Lebsack
Councilmember Chad Young
Councilmember Damien Berg
Councilmember Jesse Molinar
Councilmember Kevin Lemasters
Councilmember Troy Mellon

ABSENT

Councilmember Amy Tallent

The following staff members were also present in the remote meeting: Matt LeCerf, Town Manager, Avi Rocklin, Town Attorney, Mitzi McCoy, Finance Director, Kim Meyer, Planning Director, Brian Phillips, Chief of Police and Jamie Desroiser, Communication Manager.

AGENDA APPROVAL

Motion made by Councilmember Berg, seconded by Councilmember Lemasters to approve the Agenda as submitted. Motion carried with a roll call vote.

PUBLIC COMMENT

Jim Hatfield asked about the Use By Special Review Permit Approval with Kerr McGee that was included in the Informational Section of the packet. He was concerned the proposed well sites may be in the ROW of the I-25 and Highway 60 Interchange. He also stated Resolution 2020-37 conflicted with the proposed Cemetery Ordinance scheduled for approval later on the agenda.

Rebecca Brace expressed her concern about the letter that was sent to all the residents notifying them of a water violation. She wanted to know what was being done to prevent these situations happening again.

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CONSENT AGENDA

Motion made by Councilmember Mellon, seconded by Councilmember Berg to approve the Consent Agenda. Motion carried with a roll call vote.

1. Minutes - November 16, 2020
2. List of Bills - December 2020

TOWN MANAGER REPORT

3. Town Manager's Report- Matt LeCerf provided information in reference to the TOC violation letter that was mailed to all residents of Johnstown.

PUBLIC HEARING

4. **Public Hearing- First Reading** Ordinance No. 2020-187 an Ordinance Repealing and Readopting Chapter 2 of the Johnstown Municipal Code Concerning Administration and Personnel and, as a Part Thereof, Adding Provisions Concerning Municipal Campaign Finance, and Making Related Amendments to Section 1-21 of Article II of Chapter 1 of the Johnstown Municipal Code Concerning General Definitions. - This ordinance would repeal and replace Chapter 2 of the Johnstown Municipal Code in order to not conflict with the Home Rule Charter and to revise and amend certain administrative and personnel policies and procedures, as well as amend the general definitions in Section 1-21 of Article II Chapter 1 clarifying the meaning of the Board of Trustees is the Town Council.

Mayor Lebsack opened the public hearing at 7:38 p.m. and having no public comment closed the hearing at 7:57 p.m.

Motion made by Councilmember Mellon, seconded by Councilmember Molinar Jr. to approve Ordinance 2020-187 with amendments to Section 2-3, 2-24 and 2-154. Motion carried with a roll call vote.

5. **Public Hearing - First Reading** - Ordinance Number 2020-188 An Ordinance Repealing and Readopting Article VI of Chapter 11 of the Johnstown Municipal Code Concerning the Johnstown Cemetery – Ordinance 2020-188 repeals and readopts Article VI of Chapter 11 of the Johnstown Municipal Code to adopt new policies and procedures for the Johnstown Cemetery and remove reference to the amount of Town's fees, which will be set in the Town Fee Schedule and set forth conduct that is prohibited in the Cemetery so that such conduct can be enforced in municipal court.

Mayor Lebsack opened the public hearing at 7:59 p.m. Jim Hatfield had concerns that some of the definitions in the ordinance were not matching in the Rules and Regulations. Having no further public comments, the hearing closed at 8:10 p.m.

Motion made by Councilmember Berg, seconded by Councilmember Young to approve Ordinance 2020-188 an Ordinance Repealing and Readopting Article VI of Chapter 11 of the Johnstown Municipal Code concerning the Johnstown Cemetery. Motion carried with a roll call vote.

6. **Public Hearing - First Reading** - Ordinance No. 2020-189; An Ordinance Repealing and Readopting Chapter 13 of the Johnstown Municipal Code Concerning Municipal Utilities – This ordinance revises and amends Chapter 13 to reflect new policies and procedures and omit references to

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Johnstown, Colorado

the amount of Town's fees, rates and charges and provide that such fees, rates and charges be included in the Town Fee Schedule.

Mayor Lebsack opened the public hearing at 8:11 p.m. and having no public comment closed the hearing at 8:12 p.m.

Motion made by Councilmember Lemasters, seconded by Councilmember Molinar Jr. to approve Ordinance 2020-189 repealing and readopting Chapter 13 of the Johnstown Municipal Code concerning municipal utilities. Motion carried with a roll call vote.

7. Public Hearing – First Reading - Ordinance No. 2020-190; An Ordinance Amending Article II Of Chapter 13 of The Johnstown Municipal Code to Add Section 13-55 Establishing A Special Fee Concerning Regional Sanitary Sewer Improvements to Be Paid by Benefitted Properties in the Area Generally Located Near and Adjacent to State Highway 60 and Remitted to the Sanitary Sewer Utility Enterprise – This ordinance establishes the Regional Sewer Fee. The fee ensures the Town's ability to recover its cost and to pay any debt or loans.

Mayor Lebsack opened the public hearing at 8:14 p.m. and having no public comment closed the hearing at 8:22 p.m.

Motion made by Councilmember Berg, seconded by Councilmember Young to adopt Ordinance Number 2020-189, repealing approve Ordinance 2020-190 on first reading. Motion carried with a roll call vote.

8. Public Hearing- First Reading Ordinance No. 2020-191 an Ordinance Amending Sections 4-111, 5-111, 5-113, 6-6, 6-42, 6-46, 6-63, 6-83, 6-111, 6-133, 6-135, 6-161, 6-186, 6-189, 7-62, 7-131, 8-87, 15-4, 16-62, 17-13 and 17-51 of the Johnstown Municipal Code Concerning the Referral of the Town's Fees, Rates and Charges to the Town Fee Schedule – This ordinance amends sections within the municipal code that references the various Town fees, rates and charges and refers them to the Town Fee Schedule.

Mayor Lebsack opened the public hearing at 8:25 p.m. and having no public comment closed the hearing at 8:29 p.m.

Motion made by Councilmember Lemasters, seconded by Councilmember Mellon to approve Ordinance 2020-191 on first reading. Motion carried with a roll call vote.

NEW BUSINESS

9. Consider Resolution 2020-37 Resolution Adopting Cemetery Rules and Regulations- this item was tabled to December 21, 2020.

10. Consider Resolution 2020-38 Resolution Adopting a Consolidated Town Fee Schedule – The Town Fee Schedule is designed to move all of the Town Fees that are included in the Johnstown Municipal Code into the Town Fee Schedule. Motion made by Councilmember Berg, seconded by Councilmember Mellon to approve Resolution 2020-38 Adopting a Consolidated Town Fee Schedule. Motion carried with a roll call vote.

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EXECUTIVE SESSION

Motion made by Councilmember Berg, seconded by Councilmember Lemasters to recess into Executive Session at 9:50 p.m.

13. An executive session to discuss the purchase of real property pursuant to C.R.S. Section 24-6-402(4)(a).

14. An executive session to receive legal advice from the Town attorney pursuant to C.R.S. Section 24-6-402(4)(b) regarding acquisition of rights-of-way.

Mayor Lebsack reopened the Regular Meeting at 10:29 and stated Council went into Executive Session to obtain legal advice from the Town Attorney.

ADJOURN

The meeting adjourned at 10:30 p.m.

Mayor

Town Clerk



Town of Johnstown

TOWN COUNCIL SPECIAL MEETING

450 S. Parish, Johnstown, CO

Monday, December 14, 2020 at 6:00 PM

MINUTES

CALL TO ORDER

Mayor Lebsack called the Special Council Meeting to order at 6:00 p.m. and led the Pledge of Allegiance. The meeting was held remotely due to COVID concerns.

PRESENT

Mayor Gary Lebsack
Councilmember Chad Young
Councilmember Amy Tallent
Councilmember Damien Berg
Councilmember Jesse Molinar
Councilmember Kevin Lemasters
Councilmember Troy Mellon

The following staff members were also present in the remote meeting: Matt LeCerf, Town Manager, Avi Rocklin, Town Attorney, Mitzi McCoy, Finance Director and Jamie Desroiser, Communications Manager.

AGENDA APPROVAL

Motion made by Councilmember Berg, seconded by Councilmember Tallent to add item #3 Discussion of the Town of Johnstown Micro Grant. Motion carried with a roll call vote.

PUBLIC COMMENT

Mr. Gary Freeberg of 121 N Greeley Avenue addressed the Council in reference to the vacant lot he purchased from Mr. Neil York and not having sufficient water to build his home.

NEW BUSINESS

1. Resolution No. 2020-39, A Resolution of Johnstown, Colorado, Summarizing Expenditures and Revenues for Each Fund and Adopting and Appropriating the Budget for the Calendar Year 2021- The Town Home Rule Charter requires the Council adopt the budget for the next fiscal year by ordinance or resolution on or before the final day of the current fiscal year. Motion made by Councilmember Lemasters to approve Resolution 2020-39, A Resolution of Johnstown, Colorado, Summarizing Expenditures and Revenues for Each Fund and Adopting and Appropriating the Budget for the Calendar Year 2021. Motion carried with a roll call vote.
2. Resolution No. 2020-40, A Resolution Levying General Property Taxes for the Year 2021, to Help Defray the Cost of Government for the Town of Johnstown, Colorado for the 2021 Budget Year – This resolution sets the mill levy for the General Fund operations. Motion made by Councilmember Young, seconded by Councilmember Mellon to approve Resolution 2020-40, A Resolution Levying General

Property Taxes for the Year 2021, to Help Defray the Cost of Government for the Town of Johnstown, Colorado, for the 2021 Budget Year. Motion carried with a unanimous vote.

Discussion – Johnstown Micro Grant – Staff will present a Resolution at the December 21 Council meeting authorizing Round 2 funding.

ADJOURN

The meeting adjourned at 7:10 p.m.

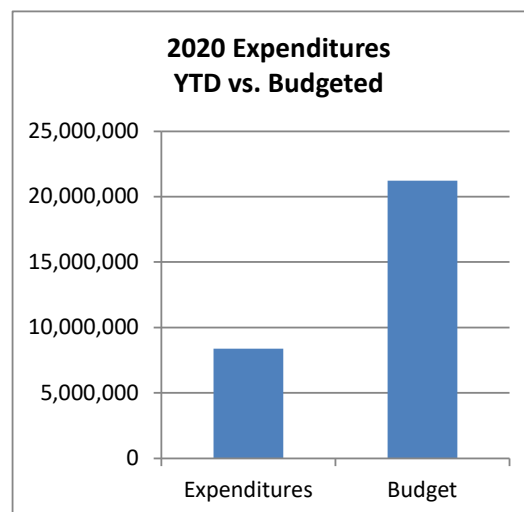
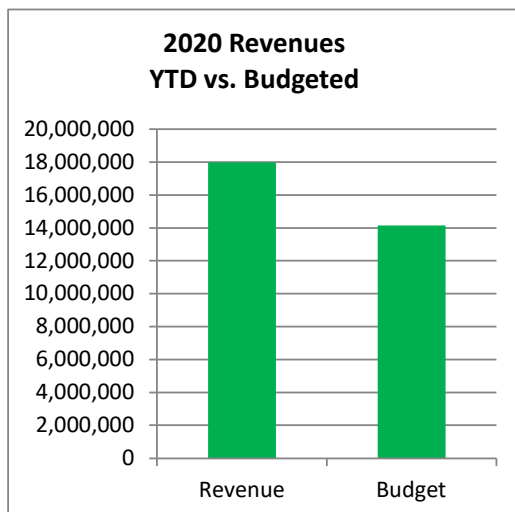
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - General Fund
Period Ending November 30, 2020
Unaudited

Item #3.

General Fund	2020 Actuals Nov	2020 Adopted Budget	% Complete
Beginning Fund Balance	44,232,368	44,232,368	
<u>Revenues:</u>			
Taxes & Fees	14,914,071	12,631,080	118.1%
Licenses & Permits	1,798,963	828,200	217.2%
Fines & Forfeitures	138,161	171,000	80.8%
Intergovernmental	140,286	15,000	935.2%
Earnings on Investment	146,422	288,000	50.8%
Miscellaneous Revenue	840,521	216,200	388.8%
<i>Transfers In</i>	-	-	
Total Operating Revenues	17,978,423	14,149,480	127.1%
<u>Expenditures:</u>			
Legislative	630,397	978,200	64.4%
Town Manager	331,965	722,750	45.9%
Town Clerk	284,049	338,850	83.8%
Finance	160,144	230,950	69.3%
Planning	597,761	762,600	78.4%
Building Inspections	183,857	236,200	77.8%
Police	2,796,260	3,522,080	79.4%
Public Works	103,973	133,650	77.8%
Buildings	243,934	210,200	116.0%
<i>Transfers Out</i>	3,053,838	14,097,660	21.7%
Total Expenditures	8,386,177	21,233,140	39.5%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	9,592,246	(7,083,660)	
Prior Period Adjustment			
Ending Fund Balance*	53,824,614	37,148,708	

* - Unaudited

92% of the fiscal year has elapsed



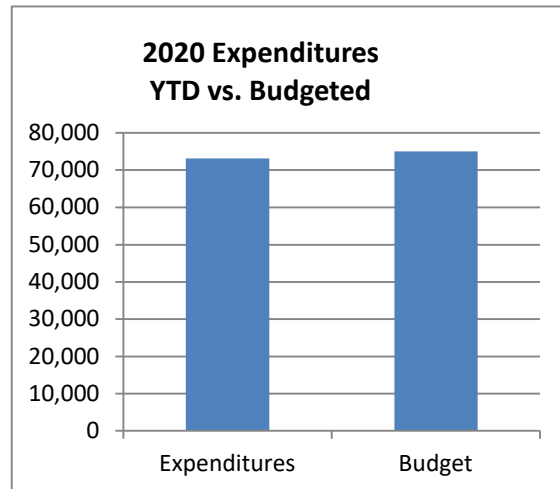
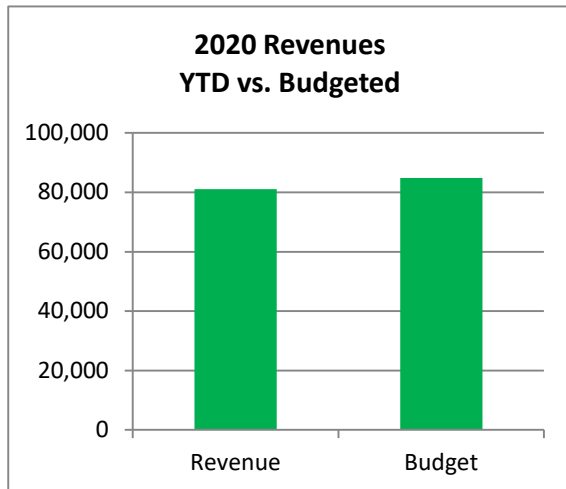
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Conservation Trust Fund
Period Ending November 30, 2020
Unaudited

Item #3.

Conservation Trust Fund	2020 Actuals Nov	2020 Adopted Budget	% Complete
Beginning Fund Balance	0	0	
<u>Revenues:</u>			
Intergovernmental	81,042	84,800	95.6%
Earnings on Investment	11	100	10.9%
Total Operating Revenues	81,053	84,900	95.5%
<u>Expenditures:</u>			
Operations	73,102	-	
Capital Outlay	-	75,000	0.0%
Total Expenditures	73,102	75,000	97.5%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	7,951	9,900	
Ending Fund Balance*	7,951	9,900	

* - Unaudited

92% of the fiscal year has elapsed



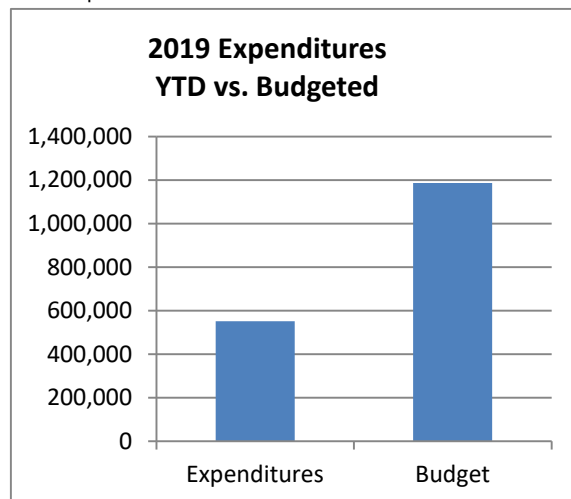
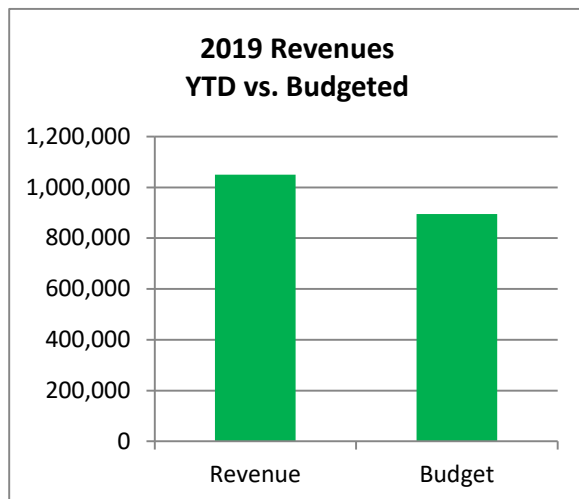
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Parks and Open Space Fund
Period Ending November 30, 2020
Unaudited

Item #3.

	2020 Actuals Nov	2020 Adopted Budget	% Complete
Parks and Open Space Fund			
Beginning Fund Balance	6,230,528	6,230,528	
<u>Revenues:</u>			
Taxes & Fees	759,515	359,817	211.1%
Miscellaneous Revenue	47,921	315,700	15.2%
Transfers In	220,000	220,000	100.0%
Total Operating Revenues	1,050,350	895,517	117.3%
<u>Expenditures:</u>			
Operations	353,688	458,750	77.1%
Capital Outlay	198,146	728,000	27.2%
Transfers Out	-	-	
Total Expenditures	551,833	1,186,750	46.5%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	498,516	(291,233)	
Ending Fund Balance*	6,729,044	5,939,295	

* - Unaudited

92% of the fiscal year has elapsed



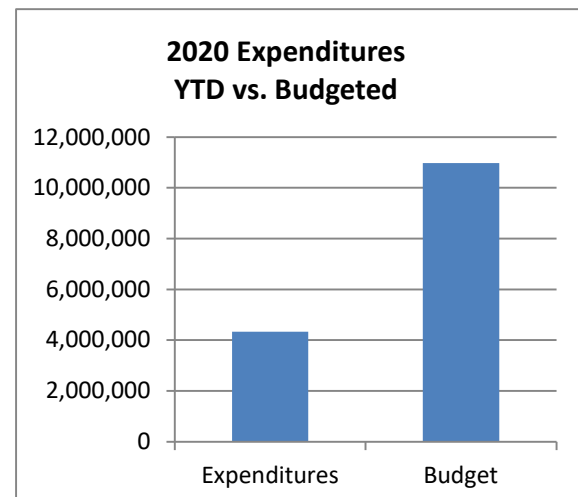
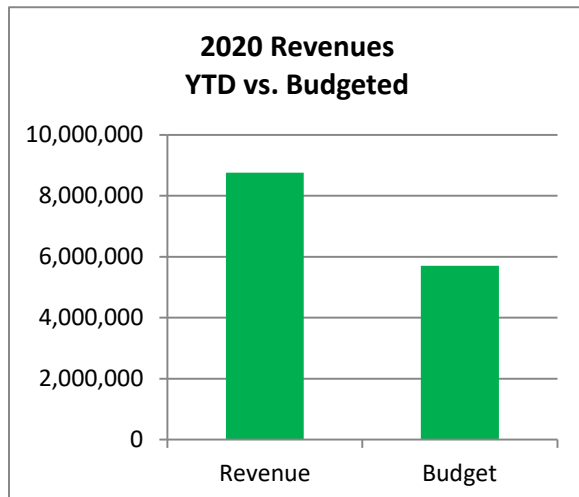
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Street and Alley Fund
Period Ending November 30, 2020
Unaudited

Item #3.

Street and Alley Fund	2020 Actuals Nov	2020 Adopted Budget	% Complete
Beginning Fund Balance	9,763,088	9,763,088	
<u>Revenues:</u>			
Taxes & Fees	2,828,675	838,000	337.6%
Intergovernmental	893,028	1,511,650	59.1%
Charges for Services	748,426	1,024,000	73.1%
Capital Investment Fees	1,807,046	305,000	592.5%
Earnings on Investment	53,992	27,000	200.0%
Miscellaneous Revenues	426,667	-	0.0%
Tranfers In	2,000,000	2,000,000	100.0%
Total Operating Revenues	8,757,834	5,705,650	153.5%
<u>Expenditures:</u>			
Operations & Maintenance	1,657,946	2,284,050	72.6%
Capital	2,679,431	8,684,500	30.9%
Total Expenditures	4,337,376	10,968,550	39.5%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	4,420,457	(5,262,900)	
Ending Fund Balance*	14,183,545	4,500,188	

* - Unaudited

92% of the fiscal year has elapsed



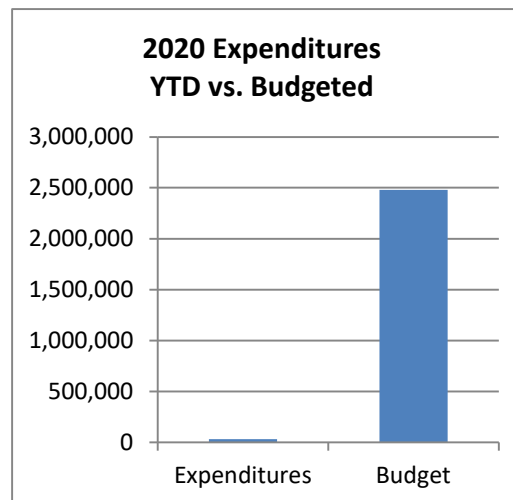
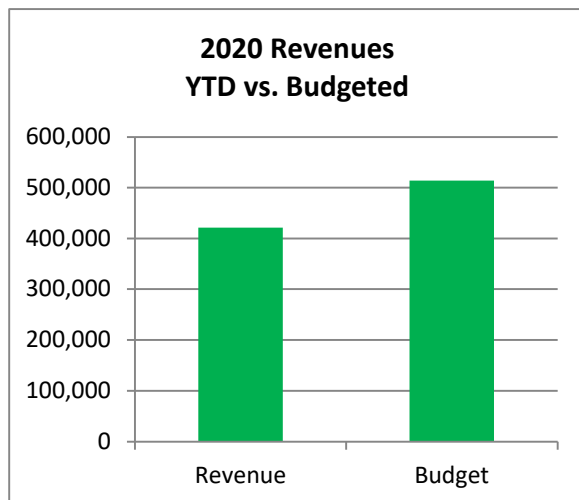
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Capital Projects Fund
Period Ending November 30, 2020
Unaudited

Item #3.

Capital Projects Fund	2020 Actuals Nov	2020 Adopted Budget	% Complete
Beginning Fund Balance	12,684,794	12,684,794	
<u>Revenues:</u>			
Taxes and Fees	350,550	450,000	77.9%
Miscellaneous Revenue	-	-	
Interest	70,441	79,000	89.2%
<i>Transfers In</i>	-	(15,000)	
Total Operating Revenues	420,991	514,000	81.9%
<u>Expenditures:</u>			
Capital Outlay	31,517	2,479,700	0.0%
<i>Transfers Out</i>	-	-	0.0%
Total Expenditures	31,517	2,479,700	1.3%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	389,474	(1,965,700)	
Ending Fund Balance*	13,074,268	10,719,094	

* - Unaudited

92% of the fiscal year has elapsed



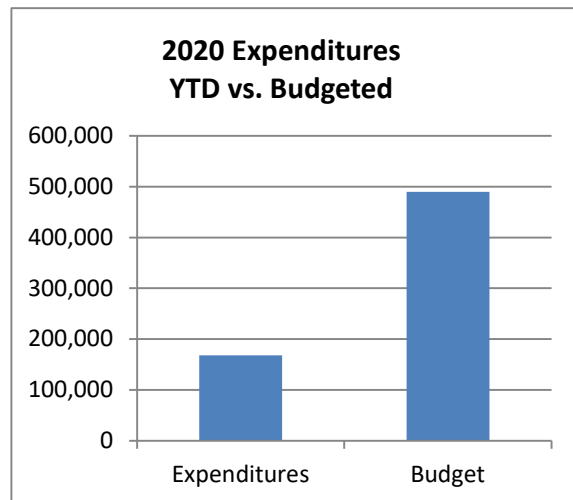
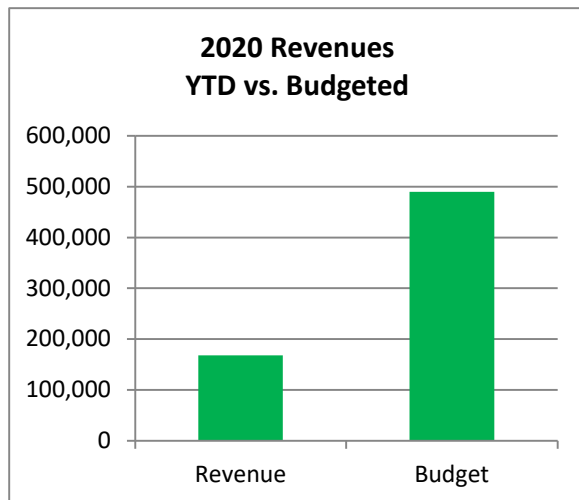
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Tax Allocation Fund
Period Ending November 30, 2020
Unaudited

Item #3.

	2020 Actuals Nov	2020 Adopted Budget	% Complete
Tax Allocation Fund			
Beginning Fund Balance	95,951	95,951	
<u>Revenues:</u>			
Taxes & Fees	168,204	490,000	34.3%
Earnings on Investment	-	100	0.0%
Total Operating Revenues	168,204	490,100	34.3%
<u>Expenditures:</u>			
Miscellaneous	168,204	490,000	34.3%
Total Expenditures	168,204	490,000	34.3%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	-	100	
Ending Fund Balance*	95,951	96,051	

* - Unaudited

92% of the fiscal year has elapsed



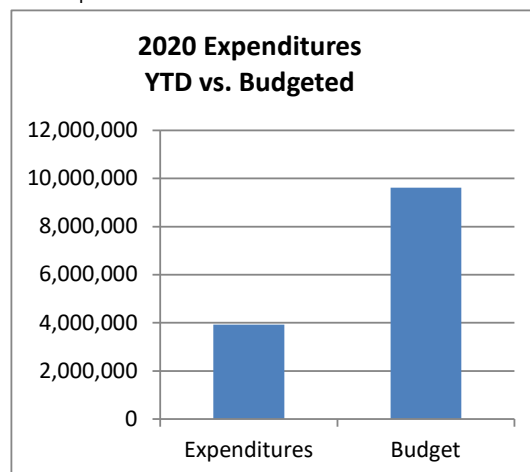
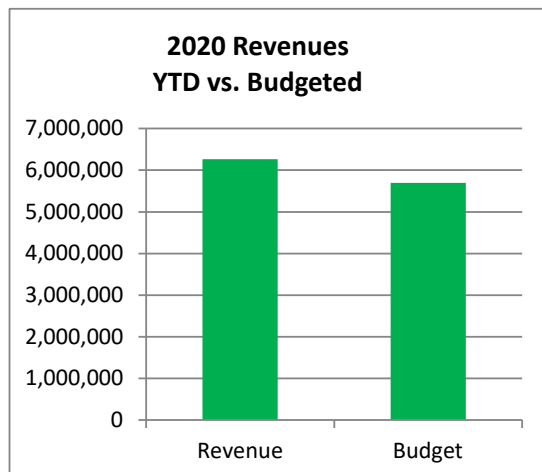
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Water Fund
Period Ending November 30, 2020
Unaudited

Item #3.

Water Fund	2020 Actuals Nov	2020 Adopted Budget	%
			Complete
Beginning Cash Balance	19,765,629	19,765,629	
<u>Revenues:</u>			
Charges for Services	3,247,227	2,518,000	129.0%
Total Operating Revenues	3,247,227	2,518,000	129.0%
<u>Expenses:</u>			
Administration	247,505	522,550	47.4%
Operations	1,700,099	1,887,920	90.1%
Capital Outlay	1,670,377	6,853,000	24.4%
Depreciation	310,574	355,000	87.5%
Transfers Out	-	-	
Total Operating Expenses	3,928,555	9,618,470	40.8%
Operating Income (Loss)	(681,328)	(7,100,470)	
<u>Non-Operating Revenues (Expenses)</u>			
Tap Fees	1,033,521	804,625	128.4%
Capital Investment Fees	904,857	100,000	904.9%
Misc. Revenues	296,652	2,144,000	13.8%
Interest Expense	101,573	126,000	80.6%
Total Non-Operating Revenues (Expenses)	2,336,602	3,174,625	73.6%
Excess (Deficiency) of Revenues and Other Sources over Expenses	1,655,274	(3,925,845)	
Ending Cash Balance*	21,420,903	15,839,784	

* - Unaudited

92% of the fiscal year has elapsed



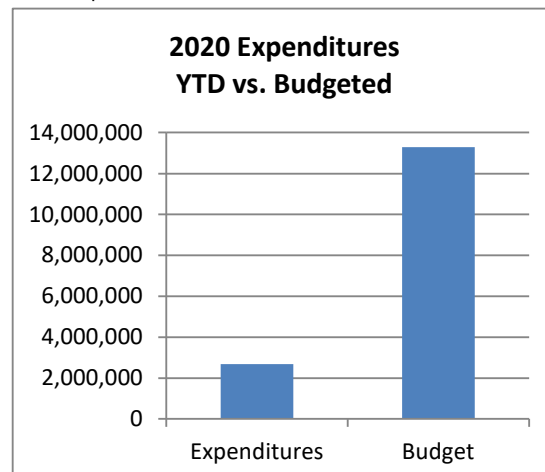
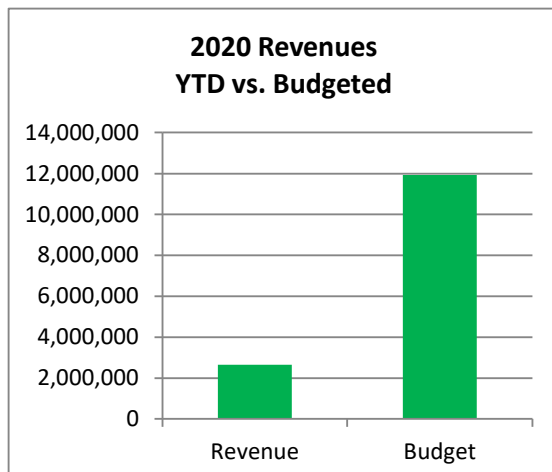
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Sewer Fund
Period Ending November 30, 2020
Unaudited

Item #3.

Sewer Fund	2020 Actuals Nov	2020 Adopted Budget	% Complete
Beginning Cash Balance	9,346,239	9,346,239	
<u>Revenues:</u>			
Charges for Services	1,951,171	1,950,000	100.1%
Total Operating Revenues	1,951,171	1,950,000	100.1%
<u>Expenses:</u>			
Administration	235,867	310,500	76.0%
Operations	986,972	1,895,870	52.1%
Capital Outlay	1,291,860	10,874,000	11.9%
Depreciation	176,918	205,000	86.3%
Total Operating Expenses	2,691,618	13,285,370	20.3%
Operating Income (Loss)	(740,447)	(11,335,370)	
<u>Non-Operating Revenues (Expenses)</u>			
Capital Improvement Fees	674,630	660,000	102.2%
Misc. Revenues	13,246	1,001,000	1.3%
Interest Expense	15,410	81,000	19.0%
Transfers	-	10,000,000	0.0%
Total Non-Operating Revenues (Expenses)	703,286	11,742,000	6.0%
Excess (Deficiency) of Revenues and Other Sources over Expenses	(37,161)	406,630	
Ending Cash Balance*	9,309,078	9,752,869	

* - Unaudited

92% of the fiscal year has elapsed



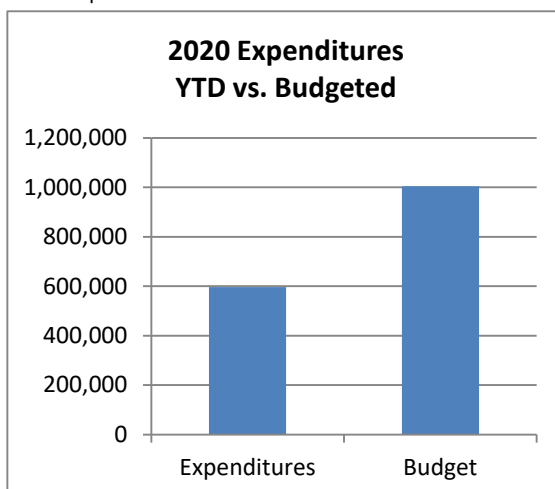
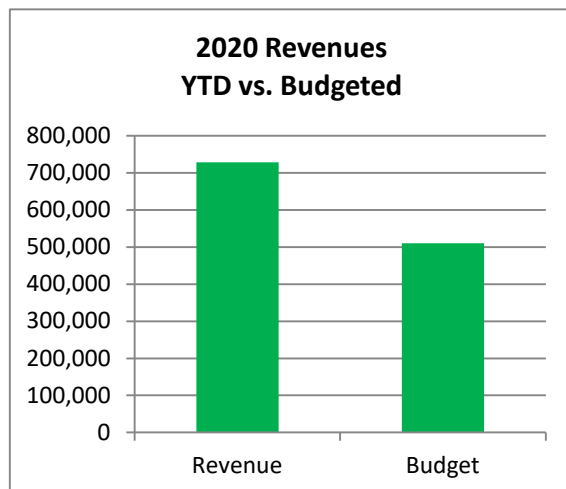
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Drainage Fund
Period Ending November 30, 2020
Unaudited

Item #3.

Drainage Fund	2020 Actuals Nov	2020 Adopted Budget	% Complete
Beginning Cash Balance	3,248,246	3,248,246	
<u>Revenues:</u>			
Charges for Services	420,711	435,000	96.7%
Total Operating Revenues	420,711	435,000	96.7%
<u>Expenses:</u>			
Administration	118,629	143,100	82.9%
Operations	199,431	345,900	57.7%
Capital Improvements	278,289	515,000	54.0%
Transfer Out	-	-	
Total Operating Expenses	596,348	1,004,000	59.4%
Operating Income (Loss)	(175,637)	(569,000)	
<u>Non-Operating Revenues (Expenses)</u>			
Capital Revenues	296,432	50,000	592.9%
Misc. Revenues	-	-	
Interest Expense	11,617	25,200	46.1%
Total Non-Operating Revenues (Expenses)	308,049	75,200	409.6%
Excess (Deficiency) of Revenues and Other Sources over Expenses	132,412	(493,800)	
Ending Cash Balance*	3,380,658	2,754,446	

* - Unaudited

92% of the fiscal year has elapsed



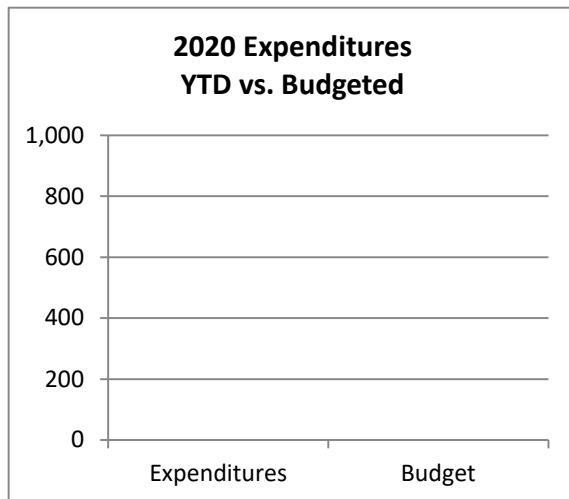
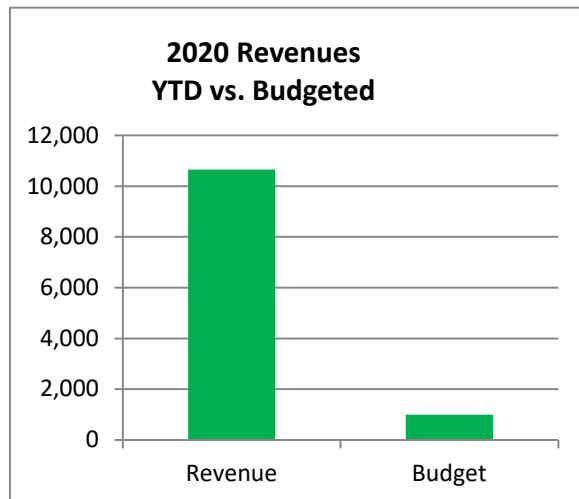
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Cemetery Perpetual Fund
Period Ending November 30, 2020
Unaudited

Item #3.

Cemetery Perpetual Fund	2020 Actuals Nov	2020 Adopted Budget	% Complete
Beginning Fund Balance	133,339	133,339	
<u>Revenues:</u>			
Miscellaneous Revenue	9,749	903	1079.6%
Earnings on Investment	903	100	903.3%
Total Operating Revenues	10,652	1,003	1062.0%
<u>Expenditures:</u>			
Operations & Maintenance	-	-	
Capital Outlay	-	-	
Transfers Out	-	-	
Total Expenditures	-	-	
Excess (Deficiency) of Revenues and Other Sources over Expenditures	10,652	1,003	
Ending Fund Balance*	143,991	134,342	

* - Unaudited

92% of the fiscal year has elapsed



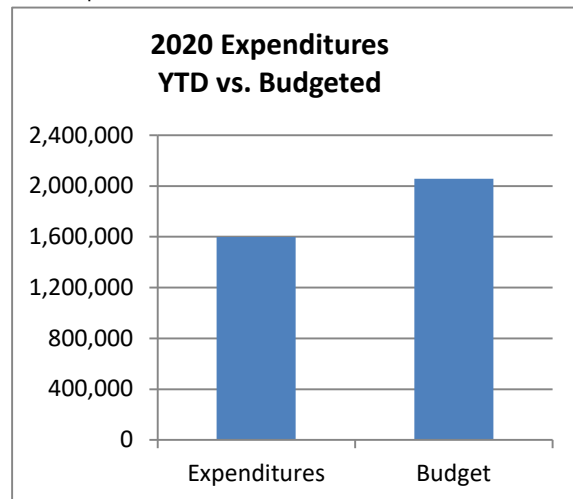
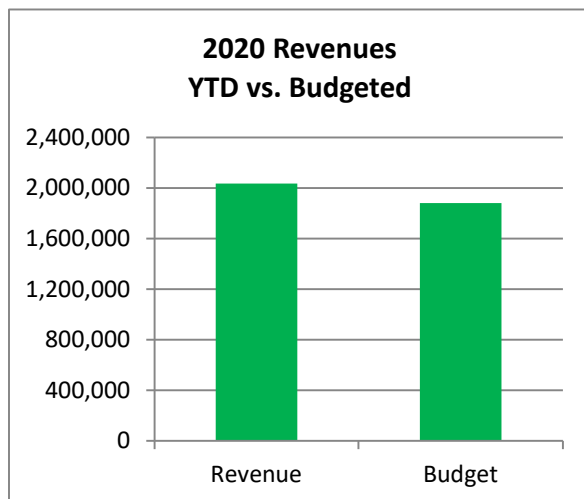
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Library Fund
Period Ending November 30, 2020
Unaudited

Item #3.

Library Fund	2020 Actuals Nov	2020 Adopted Budget	% Complete
Beginning Fund Balance	4,649,884	4,649,884	
<u>Revenues:</u>			
Intergovernmental	656,375	824,716	79.6%
Miscellaneous Revenue	149,417	11,000	1358.3%
Capital Investment Fees	344,112	20,000	1720.6%
Interest	2,338	1,500	155.9%
Transfers In	883,394	1,022,660	86.4%
Total Operating Revenues	2,035,636	1,879,876	108.3%
<u>Expenditures:</u>			
Operations	553,955	2,057,500	26.9%
Capital Outlay	1,045,332	-	0.0%
Total Expenditures	1,599,287	2,057,500	77.7%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	436,349	(177,624)	
Ending Fund Balance*	5,086,233	4,472,260	

* - Unaudited

92% of the fiscal year has elapsed



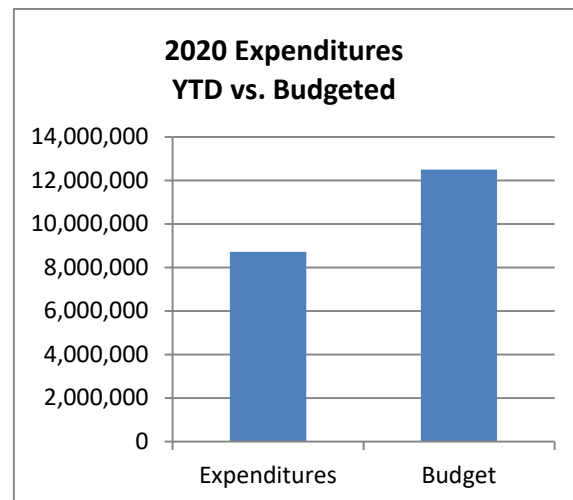
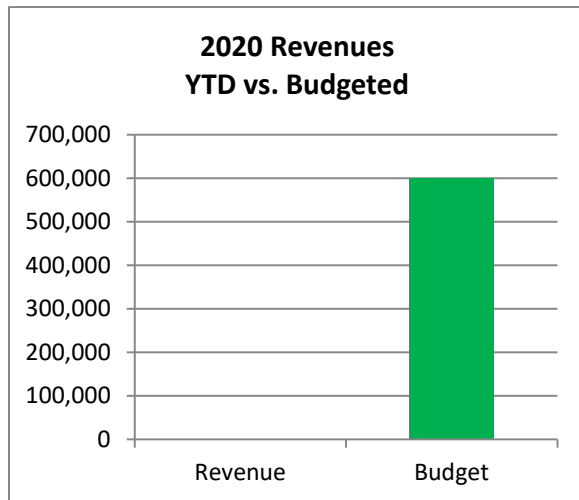
Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Recreation Center Fund
Period Ending November 30, 2020
Unaudited

Item #3.

	2020 Actuals Nov	2020 Adopted Budget	% Complete
Recreation Center Fund			
Beginning Fund Balance	10,536,360	10,536,360	
<u>Revenues:</u>			
Transfers In	-	600,000	0.0%
Earnings on Investment	-	-	
Total Operating Revenues	-	600,000	0.0%
<u>Expenditures:</u>			
Operations & Maintenance		500,000	0.0%
Capital Outlay	8,718,715	12,000,000	72.7%
Total Expenditures	8,718,715	12,500,000	69.7%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	(8,718,715)	(11,900,000)	
Ending Fund Balance*	1,817,645	(1,363,640)	

* - Unaudited

92% of the fiscal year has elapsed





Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: **Second Reading** Ordinance No. 2020-187 an Ordinance Repealing and Readopting Chapter 2 of the Johnstown Municipal Code Concerning Administration and Personnel and, as a Part Thereof, Adding Provisions Concerning Municipal Campaign Finance, and Making Related Amendments to Section 1-21 of Article II of Chapter 1 of the Johnstown Municipal Code Concerning General Definitions.

ACTION PROPOSED: Consider Final Approval of Ordinance No. 2020-187

ATTACHMENTS: 1. Ordinance No. 2020-187

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

This Ordinance was presented and approved on First Reading by Town Council on December 7, 2020. This ordinance will repeal and replace Chapter 2 of the Johnstown Municipal Code as well as providing amendments to section 1-21 of Article II of Chapter 1 of the Johnstown Municipal Code.

At the December 7, public hearing, Council requested changes to Section 2-3, 2-24 and 2-154. The changes were made to: (i) clarify that the appointment of a new Councilmember continues until a successor is elected at the next regular election; (ii) set forth Town Council's compensation; and (iii) clarify seniority for purposes of the line of succession during a disaster emergency. These changes are included in the attached updated ordinance and can be easily located as they are shown as change detect items in the ordinance. Should Council approve the item, a clean copy will be codified into the Johnstown Municipal Code.

A work session was conducted on November 9, 2020 to go over this Chapter as well as others in the Municipal Code scheduled for revisions. Changes have been made based on the feedback from Council and are included in the ordinance for your consideration. With respect to Chapter 2

The Community That Cares

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Administration and Personnel, some of the more notable changes include the following as described below.

- General definition changes
- Time for Regular Elections
- Filling of Vacancies
- Clarification regarding special meetings
- Items related to the recent April charter changes
- Slight modifications to emergency and remote meetings regarding disasters, pandemics, etc. based on our experience from this past year.
- Inclusion of a new Municipal Campaign Finance section based on changes in State Statute.
- Changes to Officers and employees regarding key staff members mentioned in the municipal code.
- Deletion of the Drug Screen and Testing section which is included in the TOJ Personnel Handbook.
- There are a couple questions Staff have regarding the sections that discuss
 - Ethics code
 - Financial disclosure by elected officials.

With respect to changes in Section 1-21 of Article II Chapter 1, the changes that are proposed are directly related to definitions. Probably the most notable includes pointing out synonyms of Board of Trustees and Town Council in instances throughout the Johnstown Municipal Code where Board of Trustees is currently used as a reference point when identifying the Town Council.

It has been some time since Chapter 2 and Section 1-21 have been revised and these are general clean up items that were requested by the Council to provide a more up to date Johnstown Municipal Code.

LEGAL ADVICE:

The ordinance was drafted by the Town Attorney.

FINANCIAL ADVICE:

Not Applicable.

RECOMMENDED ACTION:

Approve Ordinance 2020-187 as presented on second reading.

Reviewed and Approved for Presentation,

Town Manager

TOWN OF JOHNSTOWN, COLORADO**ORDINANCE NO. 2020-187****AN ORDINANCE REPEALING AND READOPTING CHAPTER 2 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING ADMINISTRATION AND PERSONNEL AND, AS A PART THEREOF, ADDING PROVISIONS CONCERNING MUNICIPAL CAMPAIGN FINANCE, AND MAKING RELATED AMENDMENTS TO SECTION 1-21 OF ARTICLE II OF CHAPTER 1 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING GENERAL DEFINITIONS**

WHEREAS, the Town of Johnstown, Colorado is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

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

WHEREAS, Chapter 2 of the Johnstown Municipal Code (“Code”) regulates administration and personnel matters in the Town; and

WHEREAS, Chapter 2 was adopted prior to adoption of the Town’s Home Rule Charter and certain of the provisions contained therein conflict with the provisions of the Home Rule Charter; and

WHEREAS, to harmonize Chapter 2 with the Home Rule Charter and to otherwise revise and amend certain administrative and personnel policies and procedures, the Town Council desires to repeal and readopt Chapter 2 in its entirety and to make related amendments to the general definitions contained in Section 1-21 of Article II of Chapter 1 of the Code; and

WHEREAS, as a part of the revisions and amendments to Chapter 2, to effectuate Senate Bill 19-232, signed by the Governor on May 29, 2019, amending the Fair Campaign Practices Act, Section 1-45-101, *et seq.*, C.R.S., to provide that complaints arising out of a municipal campaign finance matter must be exclusively filed with the clerk of the municipality, rather than with the Colorado Secretary of State, the Town Council desires to include a new article, Article VII entitled “Municipal Campaign Finance,” creating a process for the filing of municipal campaign finance complaints and the resolution of such alleged violations; and

WHEREAS, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Section 1-21. Section 1-21 of Article II of Chapter 1 of the Johnstown Municipal Code is hereby amended to read in full as follows:

Sec. 1-21. Definitions.

In the construction of this Code and of all ordinances and resolutions passed by the Town Council, the following terms and rules shall have the meanings set forth herein, unless otherwise provided or unless such meaning would be inconsistent with the manifest intent of the Town Council:

Board of Trustees means the Council or Town Council of the Town of Johnstown, Colorado.

Charter means the Town of Johnstown Home Rule Charter, as amended from time to time.

Code means the Johnstown Municipal Code as designated in Section 1-1.

Computation of time means, in computing any period of time prescribed within this Code, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. A half-holiday shall be considered as other days and not as a holiday. As used in this Section, legal holiday includes New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Veteran's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Thanksgiving, Friday following Thanksgiving, Christmas Eve, Christmas and any other day appointed as a holiday by the President or the Congress of the United States or pursuant to state statute. When an authorized holiday occurs on a Saturday or Sunday, the official observance shall be the previous Friday or the following Monday, respectively.

Council or Town Council means the elected or appointed governing body constituting the Town Council of Johnstown, and includes the Mayor and the Councilmembers.

Councilmember means each member of the Town Council, except the Mayor.

County means the County of Weld or the County of Larimer, State of Colorado, as appropriate.

C.R.S. means the Colorado Revised Statutes.

Law denotes applicable federal law, the constitution and statutes of the State of Colorado, the ordinances of the Town and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

Mayor means the Mayor of the Town.

Misdemeanor means and is to be construed as meaning a violation and is not intended to mean crime or criminal conduct.

Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words swear and sworn shall be equivalent to the words affirm and affirmed.

Officer, board or commission shall be construed as if followed by the words of the Town.

Ordinance means a law of the Town; provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

Owner, applied to a building or land, shall include any part owner, joint owner, tenant in common or joint tenant, of the whole or of a part of such building or land.

Person means associations, corporations, firms, partnerships and bodies politic and corporate as well as individuals.

Personal property includes all property other than real property.

Preceding, following means next before and next after, respectively.

Property includes real, tangible and intangible personal property.

Real property includes lands, tenements and hereditaments.

Roadway means that portion of a street improved, designed or ordinarily used for vehicular traffic.

Shall is mandatory; *may* is permissive.

Sidewalk means any portion of the street between the curb, or the lateral line of the roadway and the adjacent property line, intended for the use of pedestrians.

State means State of Colorado.

Street includes any highway, alley, street, avenue, public place, square, bridge, viaduct, underpass, overpass, tunnel or causeway in the Town, dedicated or devoted to public use.

Tenant or occupant, applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

Town means the Town of Johnstown, Colorado, or the area within the territorial limits of the Town of Johnstown, and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitutional or statutory provision.

Town Fee Schedule means a schedule of the Town's fees, rates and charges adopted by resolution of the Town Council.

Section 2. Repeal and Readoption of Chapter 2. Chapter 2 of the Johnstown Municipal Code is hereby be repealed in its entirety and readopted to read as follows in its entirety:

Chapter 2 – Administration and Personnel

ARTICLE I Mayor and Town Council

Sec. 2-1. Corporate authority.

Sec. 2-2. Time for regular elections; procedure for special elections.

Sec. 2-3. Filling of vacancies.

Sec. 2-4. Write-in candidate's affidavit.

Sec. 2-5. Election may be cancelled; when.

Sec. 2-6. Mayor.

Sec. 2-7. Mayor pro tem.

Sec. 2-8. Councilmembers.

Sec. 2-9 Candidate nomination procedures for mail ballot elections.

Sec. 2-10. Town Council authority.

Sec. 2-11. Vacation of office by moving from Town.

Sec. 2-12. Authority to enter into intergovernmental contracts.

Sec. 2-13. Time and place for regular meetings.

Sec. 2-14. Special meetings.

Sec. 2-15. Remote meetings.

Sec. 2-16. Quorum; authority to demand attendance of absent members.

Sec. 2-17. Agenda.

Sec. 2-18. Resolution or motion required; roll call vote.

Sec. 2-19. Adoption of ordinances.

Sec. 2-20. Mayor to vote; votes required for passage.

Sec. 2-21. Recording and authentication of ordinances.

Sec. 2-22. Suspension of the rules.

Sec. 2-23. Financial disclosure by elected officials.

Sec. 2-24. Compensation.

Sec. 2-25. Town Fee Schedule.

Secs. 2-26 - 2-40. Reserved.

Sec. 2-1. Corporate authority.

The corporate authority of the Town is, by state law and by the Charter, vested in the Town Council, consisting of one (1) Mayor and six (6) Councilmembers.

Sec. 2-2. Time for regular elections; procedure for special elections.

Each regular election shall be held on the first Tuesday in April in even-numbered years. All special elections called by the Town Council for any purpose shall be called by a resolution adopted not less than thirty (30) days before the election. The resolution calling a special election shall describe the purpose of the election.

Sec. 2-3. Filling of vacancies.

The Town Council shall have power, by appointment, to fill all vacancies of the Town Council if the vacancy occurs more than ninety (90) days before the next general municipal election. The appointee shall be selected by a majority vote of the remaining members of the Council and such appointment shall be made within thirty (30) days after such vacancy occurs. If the Mayor or a Councilmember is not able to attend a meeting wherein an appointee is to be selected, the Mayor or such Councilmember may provide his or her ballot, duly signed, to the Town Clerk prior to the meeting and the Town Clerk shall retain such ballot as part of the record of the proceedings in the same manner as other ballots are retained. [All such appointments shall continue until a successor is elected at the next regular election.](#) If the term of the person creating the vacancy was to extend beyond the next regular election, the person elected to fill the vacancy shall be elected for the unexpired term. Where a vacancy or vacancies exist and a successor or successors are to be elected at the next election to fill the unexpired term or terms, the three (3) candidates for Councilmember receiving the highest number of votes shall be elected to four (4) year terms, and the candidate or candidates receiving the next highest number of votes, in descending order, shall be elected to fill the unexpired term or terms. If three or more vacancies exist at any one time and there will not be a regular municipal election within the ninety (90) days immediately after the date that the third vacancy occurred, Town Council shall call a special election.

Sec. 2-4. Write-in candidate's affidavit.

No write-in vote for a Town office shall be counted unless an affidavit of intent has been filed with the Town Clerk by the person who desires the office and is qualified to assume the duties of that office if elected. The affidavit of intent shall be filed with the Town Clerk no later than sixty-four (64) days before the day of the election.

Sec. 2-5. Election may be cancelled; when.

- (1) If the only matter before the voters is the election of persons to office and if, at the close of business on the sixty-fourth (64th) day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the Town Clerk shall certify such fact to the Town Council. The Town Council shall thereafter hold a meeting and, by resolution, instruct the Town Clerk to cancel the election and declare the candidates elected.
- (2) Notice of such cancellation shall be published and shall be posted at each polling place and in not less than one (1) other public place.

Sec. 2-6. Mayor.

- (1) Qualifications. The Mayor shall be a registered elector who has resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election; provided that, in case of annexation, any person who has resided in the annexed territory for the time prescribed shall be deemed to have met the residency requirements for the Town to which the territory was annexed.
- (2) Election and term of office. At the regular municipal election every four (4) years, a Mayor shall be elected to serve a four (4) year term.
- (3) Powers and duties generally:

- (a) The Mayor shall preside over the meetings of the Town Council and shall perform such duties as may be required of him or her by the Charter, the provisions of the Code or other ordinances of the Town.
- (b) Insofar as required by the Charter, and for all ceremonial purposes, the Mayor shall be the executive head of the Town and shall be the presiding officer of the Town Council.
- (c) The Mayor shall execute and authenticate by his or her signature such instruments as the Council or any statutes or ordinances shall require.
- (d) Except as may be required by the Charter or statute, the Mayor shall exercise only such powers as the Council shall specifically confer upon him or her.

Sec. 2-7. Mayor Pro Tem.

- (1) At its first meeting following each election, the Town Council, by the affirmative vote of a majority vote of the entire Town Council, shall choose one (1) of the Councilmembers as Mayor Pro Tem who, in the absence of the Mayor from any meeting of the Town Council, or during the Mayor's absence from the Town or his or her inability to act, shall perform the duties of Mayor.
- (2) If the entire Town Council is not present at such first meeting and the members of the Town Council who are present, after duly voting, are not able to choose a Mayor Pro Tem by the required majority vote, then the most senior Councilmember shall be deemed to be the temporary Mayor Pro Tem until the first meeting wherein the entire Town Council is present, at which time the Town Council shall choose a Mayor Pro Tem.
- (3) For purposes of this Section, seniority shall be determined by the number of consecutive years a Councilmember has served on the Town Council. If two or more Councilmembers have served the same amount of consecutive years, then seniority shall be determined by the number of cumulative years that a Councilmember has served on the Town Council.

Sec. 2-8. Councilmembers.

- (1) Councilmember election and terms of office. At each regular municipal election, three (3) members of the Town Council shall be elected to serve four (4) year terms.
- (2) Qualifications. Councilmembers shall be registered electors who have resided within the limits of the Town for a period of at least twelve (12) consecutive months immediately preceding the date of the election; provided that, in case of annexation, any person who has resided within the annexed territory for the time prescribed shall be deemed to have met the residency requirements for the Town to which the territory was annexed.

Sec. 2-9. Candidate nomination procedures for mail ballot elections.

Any person who desires to be a candidate in a mail ballot election conducted during a regular municipal election shall comply with the nominating procedures set forth in the Colorado Municipal Election Code of 1965, except that:

- (1) Candidate nomination petitions may be circulated and signed beginning on the ninety-first (91st) day prior to the day of election and ending on the seventy-first (71st) day prior to the day of the election.

- (2) Each candidate nomination petition shall be filed with the Town Clerk no later than the seventy-first (71st) day prior to the day of the election.
- (3) Any candidate nomination petition may be amended to correct or replace those signatures which the Town Clerk finds are not in apparent conformity with the requirements of the Colorado Municipal Election Code by filing such changes no later than the close of business on the sixty-third (63rd) day before the election.
- (4) Any person who has been nominated and who has accepted a nomination may cause his or her name to be withdrawn from such nomination by filing a written and signed affidavit withdrawing from such nomination with the Town Clerk at any time prior to sixty-three (63) days before the election. If the only matter before the voters is the election of persons to office and if the withdrawal results in there not being more candidates than offices to be filled at such election, then the election may be cancelled as otherwise set forth in this Article.

Sec. 2-10. Town Council authority.

The Town Council shall constitute the legislative body of the Town and shall have power and authority to exercise all power conferred upon or possessed by the Town, and shall have the power and authority to adopt such laws, ordinances and resolutions as it shall deem proper in the exercise thereof.

Sec. 2-11. Vacation of office by moving from Town.

If any Councilmember shall move from, or become, during the term of his or her office, a nonresident of the Town, he or she shall be deemed thereby to have vacated his or her office. Such vacancy shall be filled as provided in the Charter and in this Article.

Sec. 2-12. Authority to enter into intergovernmental contracts.

- (1) The Town may cooperate or contract with other local governments to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs, the imposition of taxes or the incurring of debt, only if such cooperation or contracts shall be authorized by each party thereto with the approval of the Town Council and the other legislative body or other authority having the power to so approve.
- (2) Any such contract shall set forth fully the purposes, powers, rights, obligations and responsibilities, financial and otherwise, of the contracting parties.
- (3) Where other provisions of law provide requirements for special types of intergovernmental contracting or cooperation, those special provisions shall control.
- (4) Any such contract may provide for the joint exercise of the function, service or facility, including the establishment of a separate legal entity to do so.

Sec. 2-13. Time and place for regular meetings.

The Town Council shall hold regular meetings on the first and third Monday of each month at 7:00 p.m.; provided, however, that when the day fixed for any regular meeting of the Town Council falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the following Wednesday. Except as otherwise provided in this Article, all regular meetings of the Town Council shall be held in the Town Hall.

Sec. 2-14. Special meetings.

Special meetings shall be called by the Town Clerk at the request of the Mayor and two Councilmembers or at the request of three Councilmembers. A special meeting shall be held on notice to each Councilmember and the Mayor, either personally, in writing or by electronic or telephonic means. The Town Council shall not take action on any item of business at any special meeting of the Council unless it has been stated in the advance notice of the meeting or authorized by unanimous vote of all Councilmembers and the Mayor present at such special meeting.

Sec. 2-15. Remote meetings.

- (1) Authorization for a remote meeting. When an in-person meeting is not reasonable or prudent to protect the public health, safety or welfare, the Mayor may, by providing written notice to the Town Manager and each Councilmember, direct that a Town Council meeting be conducted remotely. The Mayor's written notice shall be provided by hand delivery or electronic mail, be posted on the front entryway of Town Hall and, as soon as practicable, on the Town's website and be included in the minutes of the remote meeting. A remote meeting shall be considered a regular meeting or special meeting, as applicable, and, except as set forth herein or otherwise impractical, all meeting requirements shall apply to the remote meeting.
- (2) Type of remote meeting; notice. In the discretion of the Town Manager, remote meetings may be conducted by telephone, video conferencing or other electronic means. The Town Manager shall endeavor to ensure that Town Council, Town staff and the public are able to hear or read the discussion and testimony presented during the remote meeting. The Town Manager shall provide direct notice regarding the manner in which to participate in the remote meeting to Town Council and Town staff and shall post notice for the benefit of the public on the front entryway of Town Hall and, as soon as practicable, on the Town's website.
- (3) Public participation. The Town Manager shall take reasonable and practical measures to ensure that each remote meeting is open to the public and provides the public with an opportunity to be heard, unless public participation is not practicable or feasible due to the emergency situation. If public participation is not available, any action taken at the remote meeting shall be effective only until the next meeting that allows for public participation. At that next meeting, Town Council may ratify any action taken at the remote meeting that did not allow for public participation. If Town Council fails to ratify the action, such action shall be deemed rescinded.
- (4) Voting. All votes during a remote meeting shall be conducted by roll call.
- (5) Minutes. Minutes of the remote meeting shall be taken and retained in the records of the Town and shall be open to public inspection.
- (6) Public meeting with remote public participation. To protect the public health, safety or welfare, in lieu of a remote meeting, the Mayor may request, but not require, that members of the public participate in a public meeting remotely. In such case, the Mayor shall direct the Town Manager to provide notice to the public that attendance at a public meeting is discouraged by posting such message on the front entryway of Town Hall and on the Town's website. The Town Manager's notice shall include the manner in which the public may attend and be heard at the meeting remotely.

Sec. 2-16. Quorum; authority to demand attendance of absent members.

No action shall be taken by the Town Council at a meeting unless a quorum is present. A majority of the Town Council shall constitute a quorum. A lesser number may adjourn from time to time and

compel the attendance of absent members. Any member of the Town Council, at any regular or special meeting, may, in writing, demand the attendance of the absent members, which demand shall be entered on the record forthwith by the Town Clerk, who shall thereupon notify the absent members of the time and place of the meeting.

Sec. 2-17. Agenda.

All reports, communications, ordinances, resolutions, contracts, documents or other matters to be submitted to the Town Council shall, prior to each meeting, be delivered to the Town Clerk, who shall immediately arrange a list of such matters according to the order of business. Each Councilmember, the Mayor, the Town Manager and the Town Attorney will be furnished with a copy of the order of business, together with a copy of the minutes of the last preceding meeting, prior to the Town Council meeting and as far in advance of the meeting as time for preparation shall permit.

Sec. 2-18. Resolution or motion required; roll call vote.

Every subject coming before the Town Council meeting for its action shall be submitted by ordinance, resolution or motion. On consideration of every ordinance and of every resolution authorizing the expenditure of money or the entering into of a contract, the yeas and nays shall be recorded.

Sec. 2-19. Adoption of ordinances.

Introduction, adoption, approval and publication of ordinances enacted by the Town Council shall be in accordance with the Charter.

Sec. 2-20. Mayor to vote; votes required for passage.

The Mayor shall be considered a member of the Town Council and shall have the same voting powers as any member of the Town Council. Except where a greater number is required by the Charter, the final adoption of any ordinance shall require the affirmative vote of a majority of the Council, and resolutions and motions shall require the affirmative vote of a majority of the Council present at the meeting adopting such resolutions and motions. An emergency ordinance necessary for the immediate preservation of public property or assets, health, welfare, peace, or safety shall require the affirmative vote of five (5) members of Town Council.

Sec. 2-21. Recording and authentication of ordinances.

All ordinances shall be numbered, authenticated by the signature of the Mayor and Town Clerk and recorded by the Town Clerk in the official records of the Town.

Sec. 2-22. Suspension of the rules.

Any of the provisions of this Article may be temporarily suspended in connection with any matter under consideration by a recorded vote of three-fourths ($\frac{3}{4}$) of the members of the Town Council present at a meeting wherein such suspension is voted upon, except that this shall not be construed to permit any action that is contrary to the Charter.

Sec. 2-23. Financial disclosure by elected officials.

- (1) Application. The provisions of this Section shall apply to the Mayor, Councilmembers and all candidates for election to the aforementioned offices.
- (2) Definitions. In this Section, unless the context otherwise requires:

Business means any activity which is engaged in for the purpose of earning a profit.

Business entity includes a corporation, general or limited partnership, sole proprietorship, joint venture, unincorporated association, real estate investment trust or other business trust.

Business with the Town shall mean any one (1) or any combination of sales, purchases, leases or contracts to, from or with the Town, or agency thereof, involving consideration of five hundred dollars (\$500.00) or more on a cumulative basis during the calendar year for which a required statement is to be filed. As of the awarding or execution of a contract or lease, the total then ascertainable consideration thereby committed to be paid, regardless of the period of time over which such payments are to be made, shall be included.

Description of any real property means a legal description of the property, or the address of the property if such address is sufficient to enable a reasonable person to locate and identify the property.

Interest shall mean:

- (a) Any legal or equitable interest, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or part, jointly or severally, directly or indirectly, at any time during the calendar year from which a required statement is to be filed;
- (b) An interest in: any stock or similar security, preorganization certificate or subscription, investment contract, voting trust certificate, limited or general partnership or joint venture, business trust, or certificate of interest or participation in a profit-sharing agreement or in an oil, gas or other mineral royalty or lease; or any other equity interest, however evidenced, which entitles the owner or holder thereof, directly or indirectly to receive or direct any part of the profits from, or to exercise any part of the control over, a business entity, as well as any interest which, conditionally or unconditionally, with or without consideration, is convertible thereto;
- (c) An interest in a note, bond, debenture or any other evidence of a creditor interest;
- (d) However, it shall not include an interest held solely in the capacity of a personal representative, agent, custodian, fiduciary or Council member, nor an interest in a time or demand deposit in a financial institution, nor an interest in an insurance or endowment policy or annuity contract.

Legal or equitable interest does not include any interest over which the owner of the interest exercises only ministerial control or from which the owner of the interest derives no tangible benefit. Without limitations, such interests shall not include title, rights or interests held by one as agent, executor or Council member, or in another fiduciary capacity, unless coupled with a beneficial interest in the subject matter.

Person includes any natural person, corporation, partnership, trust, unincorporated association, or other organization, entity or enterprise.

Source of income means any source from which a person obtained income, except that, in the case of income received in pursuit of a business or profession in the course of which income is received from a number of clients, patients or customers, the source of the income shall be deemed to be the business or profession and not the individuals from whom the income is received.

(3) Information to be disclosed.

- (a) Every person described in Subsection (1) above shall disclose the following information:
 - (i) Any source of income from which the person, his or her spouse or minor children residing with the person derived more than five hundred dollars (\$500.00) during the preceding year.
 - (ii) The name of any business, however organized, in which the person, his or her spouse or minor children residing with the person have any legal or equitable interest or serve as a director or fiduciary or is a member.
 - (iii) A description of any real property located in Weld or Larimer County, Colorado, in which the person, his or her spouse or minor children residing with the person have any legal or equitable interest.
 - (iv) The name of any client, patient, customer or other single source which provides twenty percent (20%) or more of the total income of individual, his or her spouse or minor children residing with the person.
 - (v) The name of each creditor for the person, his or her spouse or minor children residing with the person, to whom is owed an amount in excess of five hundred dollars (\$500.00), including the interest rate, excluding customary household expenses, retail credit accounts, contracts for commercial retail sale and mortgage contracts on the principal place of dwelling of the person filing.
- (b) A schedule of the identity of the person to whom a liability is owed doing business with the Town, owed at any time during the year for which the statement is filed, excluding customary household expenses, retail credit accounts, contracts for a commercial retail sale and mortgage contracts on the principal place of dwelling of the person filing.
- (c) Notwithstanding the requirements of Subsection (3)(a) above, no person shall be required to disclose any interest which could not be affected materially by any action, failure to act or decision of the person making disclosure, acting within the scope of the official duties of the office which the person holds or seeks.

(4) Procedure for making disclosure. Every person required by this Section to make disclosure shall file a completed financial disclosure statement in the office of the Town Clerk at the following stated times:

- (a) Every candidate for election to the offices named in Subsection (1) above shall file a completed financial disclosure statement on the date upon which such candidate files a nomination petition for election to municipal office, except that no person shall be required by this Section to file a financial disclosure statement during the same year the person filed an affidavit pursuant to Subsection (4)(b) below.
- (b) The Mayor and each Councilmember shall submit an affidavit on or before April 15 of each year during which the official holds office, averring that the financial disclosure statement, as may be amended from time to time, is substantially correct and that there are no material changes; provided, however, that no official whose term of office expires before April 15 of any year shall be required to file such affidavit.

- (c) If the disclosable information required by this Section materially changes at any time during an official's term, the Mayor or the Councilmember, as the case may be, shall file an updated financial disclosure statement within seven (7) days after such disclosable change to the financial information occurs.
- (5) Duties of Town Clerk.
- (a) Within thirty (30) days of the effective date of the ordinance codified in this Section, the Town Clerk shall prepare and have available in the office of the Town Clerk a form to be entitled "Financial Disclosure Statement." Said form shall contain instructions, consistent with the provisions of this Section, explaining the manner in which the form is to be filled out. There shall be designated spaces on the form for disclosure of each matter required by this Section to be disclosed, and a space sufficient for an acknowledgment before a notary public. The form shall also contain a place for the signature of the person making disclosure; an affidavit that the information disclosed is true, accurate and complete to the best knowledge of the party making disclosure, and a place for the date upon which the statement was completed and the date upon which the statement was received by the Town Clerk. The Town Clerk shall also prepare and have available in the office of the Town Clerk a form entitled "Annual Affidavit." The Annual Affidavit shall contain a statement that the information provided on the Financial Disclosure Statement, as may be amended from time to time, is substantially correct and that there are no material changes to the disclosed information. The Annual Affidavit form shall contain a place for the signature of the official making the foregoing statements and a notary block.
 - (b) Any financial disclosure statement filed by any person required by this Section to make disclosure shall be preserved by the Town Clerk until six (6) months after:
 - (i) The defeat of the person making disclosure, in the case of an unsuccessful candidate for elective municipal office;
 - (ii) The date upon which the person leaves office, in the case of an elected or appointed municipal official; or
 - (iii) Receipt by the Town Clerk of a more current disclosure statement.
 - (c) The Town Clerk shall permit any person who requests permission to inspect any financial disclosure statement on file in the office of the Town Clerk to inspect or copy the same during normal business hours of the office of the Town Clerk. A reasonable charge may be assessed for any copy provided by the office of the Town Clerk.
 - (d) If any person required to file a financial disclosure statement fails to file the same, the Town Clerk shall, within three (3) days of the deadline for filing, notify the person that such person may be in violation of this Section.
- (6) Affirmative defense. It shall be an affirmative defense to any prosecution under this Section that, within seven (7) days after receipt of notice pursuant to Subsection (5)(d) above, the person filed a completed financial disclosure statement, and no prosecution under this Section shall be initiated until such seven-day period has passed.
- (7) Rules of construction. This Section shall be construed in such a way as to ensure that the electorate is fully and effectively informed of all matters required by this Section to be disclosed.

If any portion of this Section is adjudged invalid or unenforceable for any reason, the remainder of the Section shall continue in force unless to give effect to the remaining provisions would defeat the policy embodied in this Section.

- (8) Appointment of special associate municipal judge. If any charge of violation of this Section is filed in the Municipal Court, the presiding municipal judge shall forthwith notify the court administrator of the state and request the court administrator to furnish to the presiding municipal judge the name or names of one (1) or more municipal judges of the state who may be available to try such case; and the presiding municipal judge shall determine the availability of such judge or judges to try such case and shall designate a municipal judge whose name is furnished by the court administrator to try such case. Such judge shall be an associate municipal judge of the Town during and for all the purposes of such case and the trial and decision thereof, upon taking an oath of office as an associate municipal judge of the Town. Such judge shall be paid reasonable compensation for services rendered.

Sec. 2-24. Compensation.

- (1) ~~Pursuant to the Charter, the~~ Mayor shall receive the sum of two hundred dollars (\$200.00) and each Councilmember shall receive the sum of one hundred twenty-five dollars (\$125.00) ~~such salary and benefits as prescribed by ordinance~~ for each regular meeting of the Town Council that he or she attends, but no compensation shall be given for attendance at special meetings or work sessions.
- (2) To be eligible for compensation, the Mayor and each Councilmember must be present for at least three-fourths ($\frac{3}{4}$) of the votes taken at the meeting attended, the roll call counting as one (1) vote. Votes missed as a result of a conflict of interest by a Councilmember shall not be counted in the total against that member.
- (3) The Mayor Pro Tem, if acting as Mayor for three-fourths ($\frac{3}{4}$) of the meeting, shall receive the compensation of the Mayor for the meeting.

Sec. 2-25. Town Fee Schedule.

Town Council shall have the power to establish, modify and amend by resolution a schedule of the fees, rates and charges levied and assessed by the Town for municipal services, which shall be known as the Town Fee Schedule.

Secs. 2-26 - 2-40. Reserved.

ARTICLE II Officers and Employees

Sec. 2-41. Intent of Article.

Sec. 2-42. Appointment of Town Manager.

Sec. 2-43. Duties of Town Manager.

Sec. 2-44. Plan of administrative organization.

Sec. 2-45. Relationship of the Town Council to Town Manager.

Sec. 2-46. Appointment of Town Attorney.

Sec. 2-47. Duties of Town Attorney.

Sec. 2-48. Appointment of Town Clerk.

Sec. 2-49. Duties of Town Clerk.

Sec. 2-50. Appointment of Town Treasurer.

Sec. 2-51. Duties of Town Treasurer.

Secs. 2-52 – 2-70. Reserved.

Sec. 2-41. Intent of Article.

Nothing in this Article shall impair the responsibility of the Town Council for the overall operation of the Town government as required by the Charter and state law.

Sec. 2-42. Appointment of Town Manager.

- (1) There is hereby created the position of Town Manager. The Town Manager shall serve at the pleasure of the Town Council. The appointment or removal of the Town Manager shall require the affirmative vote of a majority of the entire Town Council.
- (2) The Town Manager shall be hired without regard to any consideration other than fitness, competency, training and experience in professional administration. The Town Council shall be authorized to establish the beginning and continuing salary of the Town Manager. The Town Council may, in its discretion, enter into a contract with the Town Manager. Upon termination, the Town Council may, in its discretion, provide termination pay.
- (3) At the time of his or her hiring, the Town Manager need not be a resident of the Town or State, but, during tenure of office, he or she shall reside within the Town.
- (4) Before entering upon the duties of the office, the Town Manager shall take an oath of office.
- (5) The Town Council may require the Town Manager to furnish a bond conditioned upon the faithful performance of his or her duties in such amounts and with such sureties as appropriate.

Sec. 2-43. Duties of Town Manager.

- (1) The Town Manager shall have the power to hire and remove employees of the Town, except for elected officials and Councilmembers or Commission appointees, including the Town Attorney and the Municipal Judge. He or she shall have the power to suspend and discipline affected employees in accordance with written personnel policies and procedures adopted by the Town Council or personnel rules and regulations established by the Town Manager pursuant to the Charter.
- (2) In addition to those powers enumerated in Subsection (1) above and those set forth in the Charter, the Town Manager shall have the following powers:

- (a) To supervise the administration of the enforcement of all laws and ordinances of the Town, except to the extent that the administration of such enforcement is confided to other Town officials by law or ordinances;
- (b) To be responsible to the Town Council for the administration of all departments of the Town, save and except those departments confided to the supervision of other Town officers by law or administrative functions of such departments to the extent requested or delegated by the Town officers having primary responsibility for the operation of such departments;
- (c) To issue such administrative regulations and outline general administrative procedures applicable to areas and departments confided to his or her supervision in the form of rules which are not in conflict with the Charter or the Town ordinances;
- (d) To assist in preparing the budget and to submit the same to the Town Council;
- (e) In cooperation with the Town Treasurer, to keep the Town Council fully informed as to the financial condition of the Town;
- (f) To recommend to the Town for adoption such measures as he or she may deem necessary or proper for the efficient and proper operation of the Town;
- (g) To prepare and submit to the Town Council for each regular meeting a report of the Town's affairs, including a summary of the reports of the operations of all Town departments;
- (h) Subject to the requirements of state law, if applicable, the Charter and ordinances, and in accordance with rules and regulations now or hereafter promulgated by the Town Council, to purchase materials and authorize budgeted expenditures of funds on behalf of the Town;
- (i) To develop proposals to achieve intergovernmental cooperation between the Town and other units of local government regarding growth concerns and to such areas as joint purchasing, law enforcement, street repairs and maintenance, animal control and the like as directed by the Town Council;
- (j) To work with department heads and employees to solve internal organizational problems both within departments and across departmental lines;
- (k) To meet with individuals, groups, community or regional organizations and business or industrial concerns to represent the Town and discuss Town policies;
- (l) To attend conferences and seminars to keep abreast of current trends in the field of municipal management;
- (m) To review and update personnel policies;
- (n) To attend Town Council meetings; and
- (o) To perform such other duties as may be prescribed by ordinance or by direction of the Town Council.

Sec. 2-44. Plan of administrative organization.

The Town Manager may propose a plan of administrative organization to the Town Council, which, if approved by the Town Council, may be adopted by ordinance or resolution. The administrative plan shall provide for such departments and officers as may be deemed necessary for the efficient administration of the Town.

Sec. 2-45. Relationship of the Town Council to Town Manager.

Neither the Mayor nor any Councilmember shall in any way interfere with the Town Manager in his or her exercise of the powers and duties granted by the Charter and this Article. Except for the purpose of inquiry, the Mayor and Councilmembers shall deal with the Town Manager solely through the Town Council, and neither the Mayor nor any Councilmember shall give orders to any of the subordinates of the Town Manager.

Sec. 2-46. Appointment of Town Attorney.

The Town Council, by a majority vote, shall appoint a qualified attorney at law admitted to practice in Colorado as the Town Attorney and shall fix his or her compensation. The Town Attorney shall serve at the pleasure of the Town Council. The removal of the Town Attorney shall require the majority vote of the entire Council. Before entering upon the duties of the office, the Town Attorney shall take an oath of office.

Sec. 2-47. Duties of Town Attorney.

The Town Attorney shall, in addition to the duties contained in the Charter, perform the following duties:

- (1) Act as legal advisor to, and be attorney and counsel for, the Town Council and be responsible solely to the Town Council. He or she shall advise any officer or department head of the Town in matters relating to his or her official duties when so requested by the Town Council or the Town Manager or his or her designee;
- (2) Prosecute ordinance violations and conduct for the Town cases in Municipal Court, unless a Town Prosecutor is appointed as provided in the Charter. He or she shall file with the Town Clerk copies of such records and files relating thereto;
- (3) Prepare or review all ordinances, contracts, bonds and other written instruments which are submitted to him or her by the Town Council or the Town Manager or his or her designee, and promptly give his or her opinion as to the legal consequences thereof;
- (4) Call to the attention of the Town Council all matters of law, and changes or developments therein, affecting the Town; and
- (5) Perform such other duties as may be prescribed for him or her by the Town Council.

Sec. 2-48. Appointment of Town Clerk.

The Town Manager shall appoint a Town Clerk to perform such duties required by the Charter, applicable laws, ordinances, rules, regulations and policies and such other duties as directed by the Town Manager. Before entering upon the duties of the office, the Town Clerk shall take an oath of office. The Town Manager may require, upon conferral with Town Council, that the Town Clerk furnish a bond conditioned upon the faithful performance of his or her duties as Town Clerk in such amounts and with such sureties as appropriate.

Sec. 2-49. Duties of Town Clerk.

The Town Clerk shall, in addition to the duties contained in the Charter, perform the following duties:

- (1) Be the Town Clerk of the Town Council, attend all meetings of the Town Council and keep a permanent journal of its proceedings;
- (2) Be the custodian of all of the Town's records, and, except as otherwise required by law, allow that such records be open at all reasonable times for inspection;
- (3) Certify by his or her signature all ordinances and resolutions enacted or passed by the Town Council;
- (4) Provide and maintain in his or her office a supply of forms required by the Town to be filed for any purpose;
- (5) Be the custodian of all bonds of all officers or employees of the Town; and.
- (6) Perform such other duties as may be prescribed for him or her by law or by the Town Manager.

Sec. 2-50. Appointment of Town Treasurer.

The Town Manager shall appoint a Town Treasurer to perform such duties required by the Charter, applicable laws, ordinances, rules, regulations and policies and such other duties as directed by the Town Manager. Before entering upon the duties of the office, the Town Treasurer shall take an oath of office and shall furnish a bond conditioned upon the faithful performance of his or her duties as Town Treasurer in such amounts and with such sureties as appropriate.

Sec. 2-51. Duties of Town Treasurer.

In addition to other duties that may be prescribed pursuant to this Article, the Town Treasurer shall perform the following duties:

- (1) The Town Treasurer shall receive all monies belonging to the Town and give receipts therefor; shall keep his or her books and accounts in such manner as may be prescribed by the Town Council; shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto; and shall report to the Town Council, at each regular monthly meeting thereof, the state of the Treasury at the date of such account and the balance of money in the Treasury. He or she shall also accompany such statement of accounts with a statement of all monies received in the Treasury and on what account, during the preceding month, together with all warrants redeemed and paid by him or her, and such warrants and their supporting vouchers shall be delivered and filed in the Town Clerk's office upon every day of such statement. All books and accounts of the Town Treasurer shall always be subject to inspection of the Mayor or any Councilmember;
- (2) If there shall be no funds in his or her hands for the payment of any Town warrant presented to him or her for such payment, it shall be his or her duty to register such warrants in a book to be kept by him or her for that purpose, and the Town Treasurer shall endorse upon all such warrants so presented to him or her the time and date of such registry. Whenever the Town Treasurer shall pay such warrant, he or she shall enter the payment and the amount of interest allowed or paid on such warrant in the registry;

- (3) The Town Treasurer shall perform all other duties, keep all records and make all reports that are required by other provisions of the Charter, the Code, other ordinances of the Town or state law; and
- (4) When the Town Treasurer shall vacate such office, he or she shall turn over and deliver to his or her successor all monies, books, papers, property or things belonging to the Town and remaining in his or her charge as Treasurer.

Secs. 2-52 – 2-70. Reserved.

ARTICLE III Municipal Court

Sec. 2-71. Municipal Court created; jurisdiction.

Sec. 2-72. Appointment of Municipal Court judge.

Sec. 2-73. Procedure governed by Colorado Municipal Court Rules and the court; maximum penalty for contempt.

Sec. 2-74. Fines imposed by the Municipal Court.

Secs. 2-75—2-90. Reserved.

Sec. 2-71. Municipal Court created; jurisdiction.

As further provided in the Charter, there is hereby created and established a Municipal Court in and for the Town. The Municipal Court shall have jurisdiction to hear, try, and determine all alleged violations of the Charter, ordinances and other enactments of the Town. In addition to persons over the age of eighteen (18) years, the Municipal Court shall have jurisdiction over juveniles between the ages of ten (10) and eighteen (18) years.

Sec. 2-72. Appointment of Municipal Court judge.

The Town Council shall appoint, by a majority vote of the entire Council, a presiding municipal judge and such deputy municipal judges as the Council deems necessary. Each municipal judge shall be appointed for a two-year term.

Sec. 2-73. Procedure governed by Colorado Municipal Court Rules and the court; maximum penalty for contempt.

The procedure in the Municipal Court shall be governed by Colorado Municipal Court Rules. The Municipal Court may make rules for procedures which are not inconsistent with such Colorado Municipal Court Rules, including powers incident to compelling attendance of witnesses, punishment for contempt and enforcement of orders of court.

Sec. 2-74. Fines imposed by the Municipal Court.

- (1) Surcharges.

- (a) For parking citations, a surcharge in the amount provided by resolution of the Town Council in the Town Fee Schedule shall be added to the fine.
 - (b) For traffic citations that do not require a mandatory court appearance, a surcharge in the amount provided by resolution of the Town Council in the Town Fee Schedule shall be added to the fine.
 - (c) For all other citations, after determining the appropriate fine for each person convicted of violating an ordinance of the Town, the Municipal Judge shall add thereto a surcharge calculated as a percentage of the total fine, which percentage shall be provided by resolution of the Town Council in the Town Fee Schedule.
- (2) Maximum fine. The total fine, including the surcharge, shall not exceed the maximum fine permitted under state law.
- (3) Disposition of surcharge proceeds. All proceeds of the surcharges shall be paid into the General Fund of the Town to be used for the purpose of law enforcement training or for the purchase of equipment for traffic enforcement and traffic safety.

Secs. 2-75—2-90. Reserved.

ARTICLE IV Police Department

Sec. 2-91. Created; composition.

Sec. 2-92. Rules and regulations.

Sec. 2-93. Employment, oath, powers and duties of Chief of Police.

Sec. 2-94. Duties of police officers.

Sec. 2-95. Oath for police officers.

Sec. 2-96. Extraterritorial duty on request.

Sec. 2-97. Removal, disposition of lost, abandoned or confiscated property.

Secs. 2-98—2-110. Reserved.

Sec. 2-91. Created; composition.

There is hereby created a Police Department for the Town which shall consist of one (1) Chief of Police and as many police deputies, officers and personnel as may from time to time be deemed necessary for the safety and good order of the Town.

Sec. 2-92. Rules and regulations.

The Police Department shall be operated and managed in accordance with such departmental rules and regulations as may from time to time be adopted by the Town Council, the Town Manager or the Chief of Police.

Sec. 2-93. Employment, oath, powers and duties of Chief of Police.

The Town Manager shall hire a Chief of Police who shall be the head of the Police Department and report directly to the Town Manager. Before entering upon the duties of such office, the Chief of Police shall take and subscribe to an oath that he or she will support the Constitution and laws of the State, Constitution of the United States and ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter.

It shall be the duty of the Chief of Police to, among others as may be prescribed by the Town Manager:

- (1) Enforce the ordinances of the Town, the laws of the state and the rules and regulations of the Police Department, and perform such duties as may be required by the Town Council acting through the Town Manager;
- (2) Direct the operations of the Police Department, subject to the rules and regulations thereof;
- (3) When appropriate, arrest any person violating any of the Town ordinances or state laws; and
- (4) Reconcile and keep records of the accounts of the Police Department.

Sec. 2-94. Duties of police officers.

All members of the Police Department shall:

- (1) Perform all duties required by the Chief of Police;
- (2) Suppress all riots, disturbances and breaches of the peace, apprehend all disorderly persons in the Town and pursue and arrest any person fleeing from justice;
- (3) Enforce the ordinances of the Town and the laws of the state and, when appropriate, arrest any person violating any of the Town ordinances or state laws;
- (4) Report offenses as may come to their knowledge to the proper Town official or the Municipal Judge and, if appropriate, endeavor to secure a warrant for the arrest of offenders; and
- (5) Execute and return all writs and processes directed by the Municipal Judge, and serve the same in any part of the County.

Sec. 2-95. Oath for police officers.

Before entering upon the duties of his or her office, each police officer shall take and subscribe an oath that he or she will support the Constitution and laws of the state, the Constitution of the United states and the ordinances of the Town, and that he or she will faithfully perform the duties of the office upon which he or she is about to enter.

Sec. 2-96. Extraterritorial duty on request.

The Chief of Police may, in his or her discretion, upon request of a chief of police or person exercising the functions thereof in any other jurisdiction, assign police officers under his or her control together with such equipment as he or she shall deem to be proper to perform temporary duty in the requesting jurisdiction.

Sec. 2-97. Removal, disposition of lost, abandoned or confiscated property.

The Police Department is authorized to remove and dispose of all property, other than automobiles, which is found to be lost or abandoned, or which is confiscated, upon the streets or alleys of the Town or upon private property within the Town limits. Disposal of such removed or confiscated property shall be in accordance with policies and procedures prescribed by the Chief of Police and in accordance with state law. All proceeds from the sale of such property, if at all, shall be placed in the General Fund of the Town.

Secs. 2-98—2-110. Reserved.

ARTICLE V Fire Department

Sec. 2-111. Fire prevention.

Sec. 2-112. Appeals.

Secs. 2-113—2-130. Reserved.

Sec. 2-111. Fire prevention.

The International Fire Code adopted by the Town pursuant to Chapter 18 of the Code shall be enforced by the Front Range Fire Rescue Fire Protection District or the Loveland Fire Rescue Authority, as appropriate.

Sec. 2-112. Appeals.

Whenever the Fire Chief shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the International Fire Code do not apply or that the true intent and meaning of the International Fire Code have been misconstrued or wrongly interpreted, the applicant may appeal the decision of the Fire Chief to the Board of Appeals within thirty (30) days from the date of the decision appealed.

Secs. 2-113—2-130. Reserved.

ARTICLE VI Social Security

Sec. 2-131. Participation authorized.

Sec. 2-132. Payroll deductions and contributions.

Sec. 2-133. Agreements authorized.

Secs. 2-134—2-140. Reserved.

Sec. 2-131. Participation authorized.

The Town is hereby authorized to extend social security coverage and the benefits related thereto to employees of the Town and do all other necessary things to effectuate such coverage.

Sec. 2-132. Payroll deductions and contributions.

The Town Manager, or his or her designee, is hereby authorized to establish a system of payroll deductions and make all required payments into the appropriate social security contribution fund.

Sec. 2-133. Agreements authorized.

The Town Manager, or his or her designee, is hereby authorized to execute a plan and agreement to extend coverage to the employees of the Town in accordance with federal and state law. Such plan and agreement shall provide that the participation of the Town shall be in effect as of April 1, 1951.

Secs. 2-134—2-140. Reserved.

ARTICLE VII Municipal Campaign Finance

Sec. 2-141. Definitions.

Sec. 2-142. Complaints; duties of Town Clerk.

Sec. 2-143. Hearing Officer.

Sec. 2-144. Enforcement by Town Clerk.

Secs. 2-145 - 2-150. Reserved.

Sec. 2-141. Definitions.

For the purposes of this Article, the following terms shall have the meaning set forth herein:

Article XXVIII shall mean Article XXVIII of the Colorado Constitution, entitled Campaign and Political Finance, as amended from time to time.

Town Clerk shall mean the Town Clerk of the Town of Johnstown or such person's designee.

FCPA shall mean the Fair Campaign Practices Act, Section 1-45-101, et seq., C.R.S., as amended from time to time.

Sec. 2-142. Complaints; duties of Town Clerk.

- (1) Any person who believes a violation of Article XXVIII or the FCPA has occurred related to a Town election may file a written complaint with the Town Clerk.
- (2) Complaints must be filed in writing with the Town Clerk no later than thirty (30) calendar days after the complainant knew or should have known by the exercise of reasonable diligence of the alleged violation.
- (3) A written complaint filed with the Town Clerk shall include the following information:
 - (a) The name, address, e-mail address, telephone number and signature of the complainant (if the complainant is represented by counsel, include the counsel's name, address, e-mail address, telephone number and signature);
 - (b) The name of the person alleged to have committed a violation (the "respondent"); and

- (c) The particulars of the violation and any available documentation or evidence supporting the allegation.
- (4) If an incomplete complaint is received, the date on which the originally filed complaint was received is considered the filed date if a complete copy is received within three (3) business days of notification from the Town Clerk that the complaint was incomplete.
- (5) If the Town Clerk determines that the complaint was not timely filed, the Town Clerk shall dismiss the complaint and provide written notice to the complainant and respondent. The Town Clerk's dismissal is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.
- (6) If the Town Clerk determines that the complaint is timely filed, the Town Clerk shall provide notice along with a copy of the complaint to the respondent by personal service, regular mail or electronic mail.
- (7) The respondent shall have thirty (30) days from the date of the notice to cure the violation set forth in the complaint or respond to the complaint. If a response is filed, the respondent shall provide a copy of the response to the complainant by personal service, regular mail or electronic mail.
- (8) If the respondent does not cure the violation in the complaint, as determined by the Town Clerk, the Town Clerk shall appoint an independent hearing officer who is not an officer or employee of the Town.
- (9) In addition to the procedures set forth herein, the Town Clerk is authorized to adopt rules and regulations consistent with the provisions hereof as may be required to implement this Article.
- (10) For purposes of this Article, electronic mail delivery shall only be effective upon acknowledgment of receipt of the electronic mail by the intended recipient.

Sec. 2-143. Hearing Officer.

- (1) Upon appointment by the Town Clerk, the hearing officer shall determine whether the complaint identifies a violation of Article XXVIII or the FCPA and whether the complainant asserted facts to support the alleged violation. If the complaint does not meet that threshold, the hearing officer shall dismiss the complaint and provide written notice to the complainant and respondent. The hearing officer's dismissal is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.
- (2) If the complaint is not dismissed, an informal hearing shall be scheduled as soon as practicable but, unless an enlargement of time is granted for good cause, the hearing shall be held within forty-five (45) days of the referral of the complaint to the hearing officer.
- (3) Notice of the hearing and any applicable rules governing the hearing process shall be sent to the complainant and to the respondent.
- (4) The hearing officer shall have authority to issue administrative subpoenas requiring the attendance of a witness or party. It shall be unlawful for a witness or party to fail to comply with such subpoena, and any person convicted of a violation hereof shall be punished in accordance with Article IV of Chapter 1 of the Code, as amended from time to time.

- (5) At the hearing, the complainant and the respondent shall be allowed to be heard and may, in addition to testimony, present written documents and evidence. The complainant shall have the burden of proof by proving the alleged violation(s) by a preponderance of the evidence.
- (6) Following the conclusion of the hearing, the hearing officer shall issue a written order within twenty (20) calendar days.
- (7) If the hearing officer determines that a violation has occurred, the hearing officer's written order may include appropriate relief including, without limitation, any of the following:
 - (a) Order disclosure of the source and amount of any undisclosed contributions or expenditures;
 - (b) Order the return to the donor of any contribution made that was the subject of the violation;
 - (c) Order the respondent to reimburse the fund of the Town from which moneys were inappropriately diverted; and/or
 - (d) Impose a civil penalty in accordance with the Colorado Department of State's published guidelines or as otherwise appropriate.
- (8) The hearing officer's written order is a final decision, and subject to review under Rule 106 of the Colorado Rules of Civil Procedure.

Sec. 2-144. Enforcement by Town Clerk.

If the Town Clerk has reason to believe that a violation of the FCPA or Article XXVIII has occurred, the Town Clerk may commence enforcement proceedings in accordance with the procedures set forth in this Article.

Secs. 2-145—2-150. Reserved.

ARTICLE VIII Disaster Emergency Preparedness

Sec. 2-151. Procedures

Sec. 2-152. Disaster emergency response powers.

Sec. 2-153. Compensation.

Sec. 2-154. Line of succession.

Sec. 2-155. Conflicting ordinances, orders, rules and regulations suspended.

Sec. 2-156. Violation of regulations.

Sec. 2-157. Penalty.

Sec. 2-158. Applicability of state law.

Secs. 2-159—2-180. Reserved.

Sec. 2-151. Procedures.

- (1) Declaration of disaster emergency. In compliance to the extent practicable with the Colorado Disaster Emergency Act, Section 24-33.5-701, et seq., C.R.S., as amended, the Mayor may declare that a disaster emergency exists when an emergency event has occurred, is occurring or is imminent. For the purposes of this Article, a disaster is the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural cause or cause of human origin, including but not limited to, fire, flood, earthquake, wind, storm, epidemic, pandemic, hazardous substance incident, oil spill or water contamination requiring action to avert danger or damage, epidemic, air pollution, blight, drought, infestation, explosion, civil disturbance, hostile military or paramilitary action or a condition of riot, insurrection or invasion existing in the Town and to protect the public peace, health, safety or welfare.
- (2) Declaration in writing. Declaration of a disaster emergency by the Mayor shall be in writing and shall describe the nature of the emergency, the area threatened, the conditions that have brought it about and, if known, the conditions that would remedy it. The Town Manager shall be responsible for publication and dissemination of information to the public and shall file the declaration with the Town Clerk and forward a copy to the Colorado Division of Emergency Management. At the next meeting, to be held not more than seven days after the Mayor's declaration of emergency, Town Council shall ratify the declaration of emergency. If the declaration of emergency is not ratified, the declaration shall be rescinded, but there shall be no consequence for action taken in good faith prior to the rescission.
- (3) Effect of declaration. The issuance of a declaration of a disaster emergency shall empower the Town Manager to exercise any and all of the emergency powers permitted by state and local law. The Town Council shall convene to perform its legislative powers as the situation demands and shall receive reports through the Town Manager and evaluate and enact policy and other incident support as required. In case of a disaster emergency requiring immediate action of the Town Council to protect public peace, health, safety or welfare, the Town Council may convene an emergency meeting without any advance public notice or with such limited advance public notice as the Mayor or the Town Manager finds feasible in the circumstances, with public notice to be achieved as soon as possible and all action taken during an emergency meeting to be ratified at the next regular or special meeting wherein public notice is provided. If the action is not ratified, it shall be deemed rescinded, but there shall be no consequence for action taken in good faith prior to the rescission. Nothing in this Article shall abridge or curtail the powers of the Town Council.
- (4) Duration. A state of disaster emergency shall remain in effect until the Town Council or Town Manager declares in writing that the threat of danger has passed or that the disaster emergency conditions no longer exist. The Town Council may, by motion, terminate a state of disaster emergency at any time. Upon continuing or terminating a disaster emergency, the Town Manager shall immediately issue and publish a notice effecting the same. Any declaration continuing or terminating a state of emergency shall be filed with the Town Clerk and a copy shall be forwarded to the Colorado Division of Emergency Management.

- (5) Resolution. Notwithstanding the foregoing, in lieu of a declaration of emergency by the Mayor, the Town Council may pass a resolution declaring an emergency and implementing the procedures set forth in this Article.

Sec. 2-152. Disaster emergency response powers.

- (1) Upon the issuance of the disaster emergency declaration and for as long as said declaration is in effect, the Town Manager shall have and may exercise any and all emergency powers granted by applicable state or local law subsequent to issuance of the disaster emergency declaration.
- (2) During the course of a declared disaster emergency, a Town employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that an emergency situation exists and that an entry on private property is required in order to protect life or minimize an imminent threat to property.
- (3) During the course of a declared disaster emergency, the Town Manager may, on behalf of the Town, enter into reciprocal aid, mutual aid, joint powers agreements, intergovernmental assistance agreements or other contracts or plans with other governmental entities necessary for the protection of life and property. Such agreements may include the furnishing or exchange of supplies, equipment, facilities, personnel and/or services.
- (4) During the course of a declared disaster emergency, the Town Manager may promulgate such regulations as the Manager deems necessary, to protect life and property and preserve critical resources. These regulations shall be confirmed at the earliest practical time by the Town Council, shall be circulated to the public and shall be disseminated to the news media. These regulations may include, but shall not be limited to, powers granted by applicable state law. Specifically, during the course of any declared disaster emergency, the Town Manager may:
 - (a) Suspend the provisions of the Code that prescribe procedures for conduct of Town business, if strict compliance would in any way prevent, hinder or delay necessary action in coping with the emergency;
 - (b) Transfer, reassign or otherwise change the direction, personnel or functions of Town departments for the purpose of performing or facilitating emergency services;
 - (c) Direct and compel evacuation of persons from any stricken or threatened area within the Town if the Town Manager deems this action necessary for the preservation of life or other emergency mitigation, response, or recovery measures;
 - (d) Prescribe routes, modes of transportation and destinations in connection with evacuation;
 - (e) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises therein;
 - (f) Make provisions for the availability and use of temporary emergency housing;
 - (g) Waive all provisions for competitive bidding and may direct the purchasing agent to purchase necessary supplies in the open market at not more than commercial prices;
 - (h) Prohibit or restrict the movement of vehicles in order to facilitate the work of disaster forces or to facilitate the mass movement of persons from critical areas within or without the Town;
 - (i) Declare a public curfew; or

- (j) Cause to be carried out such other measures or regulations as are necessary to preserve public peace, health, and safety.
- (5) During the course of a declared disaster emergency, the Town Manager is authorized to exercise all powers permitted by the Charter, Code and state law to require emergency services of any Town officer or employee and command the aid of as many citizens of the Town as the Town Manager deems necessary in the execution of the Town Manager's duties. Such persons shall be entitled to all privileges, benefits and immunities as are provided by state law for civil defense workers.

Sec. 2-153. Compensation.

Compensation for services or private property used by the Town in responding to an emergency shall be compensated as specified by contract or as required by state law, subject to the principles and procedures set forth in Section 24-33.5-711, C.R.S., and Articles 1 to 7 of Title 38 of the Colorado Revised Statutes.

Sec. 2-154. Line of succession.

- (1) If the Mayor is unable to perform the duties set forth in this Article, then the duties conferred upon the Mayor shall be performed by the Mayor Pro Tem. If the Mayor Pro Tem is unable to perform the duties set forth in this Article, then the most senior available member of the Town Council shall perform the duties. For purposes of this Section, seniority shall be determined by the number of consecutive years a Councilmember has served on the Town Council. If two or more Councilmembers have served the same amount of consecutive years, then seniority shall be determined by the number of cumulative years that a Councilmember has served on the Town Council.
- (2) If the Town Manager is not able to perform the duties set forth in this Article, then the duties conferred upon the Town Manager shall be performed by the Chief of Police. If the Chief of Police is unable to perform the duties set forth in this Article, then the duties conferred upon the Town Manager shall be performed by the Public Works Director. If the Public Works Director is not able to perform the duties set forth in this Article, then the Mayor shall designate a Town staff member to perform the duties.
- (3) The Town Council may, by motion, modify the succession of authority provided herein.

Sec. 2-155. Conflicting ordinances, orders, rules and regulations suspended.

Any ordinances, orders, rules or regulations promulgated during a declared disaster emergency shall take precedence over existing ordinances, order, rules and regulations if a conflict arises.

Sec. 2-156. Violation of regulations.

It shall be unlawful for any person to violate any of the provisions of this Article or of the ordinances, orders, rules or regulations issued pursuant to the authority contained in this Article, or to willfully obstruct, hinder or delay any person in the exercise of any duty or authority pursuant to the provisions of this Article. Police, code enforcement and such other law enforcement and peace officers as may be authorized by the Town Manager in writing shall be authorized to enforce the ordinances, orders, rules and regulations made or issued pursuant to this Article.

Sec. 2-157. Penalty.

Any person convicted of a violation of any provision of this Article or of any ordinance, order, rule or regulation issued pursuant to the authority contained herein shall be punished by a fine or by imprisonment or by both such fine and imprisonment pursuant to the provisions in Article IV of Article 1 of the Code.

Sec. 2-158. Applicability of state law.

The Colorado Disaster Emergency Act, Section 24-33.5-701, et seq., C.R.S., as amended, shall govern the implementation of the duties, powers, immunities and other provisions set forth in this Article to the extent applicable.

Secs. 2-159—2-180. Reserved.

ARTICLE IX Planning and Zoning Commission

Sec. 2-181. Created.

Sec. 2-182. Composition; appointments; term.

Sec. 2-183. Qualifications of members; compensation.

Sec. 2-184. Officers; meetings; rules and records.

Sec. 2-185. Duties and powers

Sec. 2-186. Preparation and purpose of master plan

Sec. 2-187. Referral and adoption of master plan.

Secs. 2-188—2-200. Reserved.

Sec. 2-181. Created.

Pursuant to Section 31-23-201, et seq., C.R.S., as amended, there is hereby created a Planning and Zoning Commission for the Town.

Sec. 2-182. Composition; appointments; term.

The Planning and Zoning Commission shall consist of seven (7) members who shall be appointed at the discretion of the Town Council. The term of each appointed member shall be four (4) years or until his or her successor takes office. Members are not term limited.

Sec. 2-183. Qualifications of members; compensation.

All members of the Planning and Zoning Commission shall be residents in the Town. If any member ceases to reside in the Town, his or her membership shall immediately terminate. All members of the Planning and Zoning Commission shall serve as such without compensation.

Sec. 2-184. Officers; meetings; rules and records.

The Planning and Zoning Commission shall elect its chairman from among the appointed members and create and fill such other of its offices as it may determine. The term of the chairman shall

be two (2) years, with eligibility for re-election. The Planning and Zoning Commission shall hold at least one (1) regular meeting in each month, unless there is no Town business to come before the Commission during any such month. The Planning and Zoning Commission may adopt rules for the transaction of business and shall keep a record of the resolutions, transactions, findings and determinations.

Sec. 2-185. Duties and powers.

The Planning and Zoning Commission shall have all of the powers and perform each and all of the duties specified by Section 31-23-201, et seq., C.R.S., as amended, together with any other duties or authority which may hereafter be conferred upon it by state law. The performance of such duties and the exercise of such authority is to be subject to each and all of the limitations expressed in such legislative enactment or enactments.

Sec. 2-186. Preparation and purpose of master plan.

Consistent with Section 31-23-206, C.R.S., as amended, the Planning and Zoning Commission shall prepare a master plan and, after public hearing, refer such approved master plan to Town Council. In the preparation of a master plan, the Commission shall make careful and comprehensive surveys and studies of present conditions and future growth of the Town with due regard to its relations to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the Town and its environs, which will, in accordance with present and future needs, best promote health, safety, order, prosperity and general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public facilities and infrastructure.

Sec. 2-187. Referral and adoption of master plan.

Upon referral from the Planning and Zoning Commission, the Town Council shall conduct a public hearing to consider the master plan and thereafter adopt the master plan, adopt the master plan with modifications, deny adoption of the master plan or remand the proposed master plan to the Planning and Zoning Commission for further modifications and subsequent referral to Town Council for adoption.

Secs. 2-188—2-200. Reserved.

ARTICLE X Tree Board

Sec. 2-201. Creation.

Sec. 2-202. Functions.

Sec. 2-203. Operation.

Secs. 2-204—2-220. Reserved.

Sec. 2-201. Creation.

There shall be a Tree Board. Unless otherwise designated by ordinance or resolution, Town Council shall act as the Tree Board.

Sec. 2-202. Functions.

- (1) The Tree Board shall make recommendations concerning the purchase or disposition of trees, shrubs, vines, hedges or plants located upon the public right-of-way of any street, alley, sidewalk or other public place in the Town.
- (2) The Tree Board shall make recommendations concerning the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants upon the public right-of-way of any street, alley, sidewalk or other public place in the Town.
- (3) The Tree Board may make any other recommendations regarding the subject matter of trees and related vegetation in the Town.
- (4) Upon direction of Town Council, Town staff shall implement the Tree Board's recommendations.

Sec. 2-203. Operation.

The Tree Board shall meet at least one time annually. A majority of the members of the Tree Board shall be a quorum for the transaction of business.

Secs. 2-204—2-220. Reserved.**ARTICLE XI Ethics Code**

Sec. 2-220. Declaration of policy.

Sec. 2-221. Definitions.

Sec. 2-222. Code of ethics.

Sec. 2-223. Disclosure and resolution of conflict.

Sec. 2-224. Violations; penalty.

Sec. 2-225. Guideline violations.

Secs. 2-226—2-240. Reserved.

Sec. 2-220. Declaration of policy.

The proper operation of government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for all Town officials and employees is adopted. The purpose of this ethics code is to establish guidelines for standards of conduct for all such officials and employees by setting forth those acts or actions that are incompatible with the best interests of the Town, by directing disclosure by such officials and employees of private financial or other interests in matters affecting the Town and by imposing sanctions upon public officers or employees who violate the provisions of this Article.

Sec. 2-221. Definitions.

As used in this Article, the following words shall have the following meanings:

Business entity means any corporation, limited liability company, sole proprietorship, firm, partnership representation, association, venture, trust or corporation for profit.

Contract means any express or implied agreement which creates, modifies, or terminates a particular relationship with the Town, and shall include the designation of a depository for public funds.

Interest means a pecuniary or valuable benefit accruing to a public officer or employee, individually, as a result of a contract or transaction which is, or may be, the subject of an official act or action by or with the Town, except for such contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated.

- (a) For the purposes of this Article, a public officer or employee shall be deemed to have an interest in the affairs of:
- (i) Any relative;
 - (ii) Any person or business entity with whom a contractual relationship exists with the public officer or employee;
 - (iii) Any business entity in which the public officer or employee is an officer, director, owner, employee or investor;
 - (iv) Any business entity in which the stock of, or legal or beneficial ownership of, in excess of five percent (5%) of the total legal and beneficial ownership, is controlled by or owned by the public officer or employee.

Official action means any legislative, administrative or appointive act of any officer or employee of the Town, or any agency, board, committee or commission thereof.

Public officer or employee means any person holding a position by election, appointment or employment in the service of the Town, whether paid or unpaid.

Relative means any person related to any public officer/employee by blood or marriage, to include, but not be limited to, parents, spouses, children, brothers and sisters, parents-in-law, nephews, nieces, aunts, uncles, first cousins, grandparents, grandchildren, and children-in-law, and a divorce or separation between spouses shall not be deemed to terminate any such relationship.

Sec. 2-222. Code of ethics.

The following requirements shall constitute a code of ethics establishing reasonable standards and guidelines for the ethical conduct of public officers and employees of the Town.

- (1) No public officer or employee having the power or duty to perform an official act, related to a contract or transaction which is the subject of an official act or action of the Town, shall:
 - (a) Have or thereafter acquire an interest in such contract or transaction, unless said contract or transaction resulted from the proper bid process for the Town;
 - (b) Have an interest in any business entity representing, advising or appearing on behalf of any person involved in such contract or transaction with the Town;
 - (c) Have solicited or accepted present or future employment with a person or business entity involved in such contract or transaction with the Town, or;

- (d) Have solicited, accepted or granted a present or future gift, favor, service, or thing of value from or to a person involved in a contract or transaction with the Town, except that provisions of this Subsection shall not apply to an occasional nonpecuniary gift of fifty dollars in value or less, or to an award publicly presented in recognition of public service.
- (2) No public official or employee shall attempt to influence the hiring, rate of pay, or appointment of any relative by the Town.
- (3) No relative shall be hired into any position unless proper notification and advertisement has been made to insure all potential applicants receive an equal opportunity for employment.
- (4) No public officer or employee with respect to any contract or transaction which is, or may be, the subject of an official act or action of the Town shall personally acquire an interest in any property which may be affected by such action; nor disclose any confidential information concerning a contract or transaction which may involve the Town for the purpose of advancing any private interest.
- (5) No public employee shall engage in or accept private employment or render service for private interest when such employment or service would tend to impair his or her independence of judgment or action in the performance of his or her official duties.
- (6) No public official shall engage in or accept private employment or render service for private interest when such employment or service would tend to impair his or her independence of judgment or action in the performance of his or her official duties, unless such official discloses the conflict for the public record and abstains from voting on such issue. Furthermore, the official shall remove himself or herself from the room where such discussion and voting takes place.
- (7) No public officer or employee shall appear on behalf of any person, other than himself or herself, his or her spouse, minor children, parents or grandparents before any Town agency. However, a member of the Town Council may appear before any municipal agency on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations.
- (8) No public officer or employee who in his or her capacity as such officer or employee participates in the making of a contract in which he or she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his or her part shall enter into any contract with the Town unless the contract is awarded through proper bid process.
- (9) No public officer shall request or permit the unauthorized use of any Town-owned vehicles, equipment, personnel, materials or property for personal convenience or profit.
- (10) No public officer or employee shall request or grant a special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen in similar circumstances or need.
- (11) A public official or employee shall not, at any time within two (2) years after his or her termination from his or her position with the Town, appear before any board, commission, committee, or agency of the Town in relation to or with respect to any matter in which he or she was directly involved in the review, acceptance, policy formulation, or administration of such matter while a Town official or employee.
- (12) At any meeting or gathering of three (3) or more members of the Town Council or any appointed board of the Town, the members shall not discuss any public business, nor shall matters pertaining to public business be presented unless such meeting is open to the general public and prior notice for such meeting has been given.

Sec. 2-223. Disclosure and resolution of conflict.

A public officer or employee shall remove himself or herself from any conflict or as follows:

- (1) Any elected or appointed public official or employee who has an interest in any proposed action before the Town Council or a board or commission of which the public official or employee is a member shall immediately disclose the nature and extent of such interest, which such disclosure being a matter of public record.
- (2) The public official or employee shall not vote on the proposed action before the Town Council, other board or commission.
- (3) Said public official or employee shall not participate in any discussion on the proposed action.

Sec. 2-224. Violations; penalty.

A public officer or employee who violates any of the provisions of this ethics code shall be subject to the following penalties:

- (1) In all cases, the determination of the Town Council as to whether there has been a violation shall be final.
- (2) In the case of a Town Council member, if a violation is established to the satisfaction of a majority of the Town Council, such violation shall be grounds for an official reprimand by the Town Council.
- (3) In the case of a board member, if a violation is established to the satisfaction of a majority of the Town Council, such violation shall be grounds for an official reprimand by the Town Council and grounds for termination of such person's appointment to any board of which he or she is a member. If the Town Council votes to terminate the appointment of a board member upon such grounds, the Town Council may appoint another person to fulfill the term of the individual removed from office.

Sec. 2-225. Guideline violations.

Any apparent violations of any of this Article may be referred to the Town Council for investigation. If, upon investigation, the Town Council finds that a violation of the guidelines contained in Section 2-222 has occurred, the Town Council may caution or reprimand the public officer or employee responsible thereof or take such other action as it deems to be in the best interests of the Town.

Secs. 2-226—2-240. Reserved.

Section 3. 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 4. Code revisions. Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

Section 5. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town's Home Rule

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 on January 1, 2021. Copies of the entire Ordinance shall be available at the office of the Town Clerk.

INTRODUCED, AND APPROVED, subject to amendments, on first reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED AS AMENDED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: **Second Reading** – Ordinance 2020-188, An Ordinance Repealing and Readopting Article VI of Chapter 11 of the Johnstown Municipal Code Concerning the Johnstown Cemetery

ACTION PROPOSED: Consider Final Approval of Ordinance No. 2020-188

ATTACHMENTS: 1. Ordinance No. 2020-188

PRESENTED BY: Diana Seele, Town Clerk

AGENDA ITEM DESCRIPTION: Article VI of Chapter 11 of the Johnstown Municipal Code (“Code”) concerns the Johnstown Cemetery (“Cemetery”). With limited exception, the provisions contained therein were adopted as part of the prior Town Code. To adopt new policies and procedures and omit reference to the amount of the Town’s fees, the Town Manager, Town Clerk and Town Public Works Director recommend that Article VI of Chapter 11 of the Code be repealed and readopted.

Of note, the revised provisions:

- Provide that the Town Manager shall be entitled to: (i) adopt policies and procedures to implement the provisions of the ordinance and manage the Cemetery and (ii) delegate duties related to the Cemetery to qualified Town staff, including the Town Clerk and Public Works Director;
- Acknowledge the newly built columbarium and the availability of niches;
- Recognize a procedure for the sale of burial spaces;
- Designate the allocation of the cemetery funds;
- Endeavor to establish a priority regarding the right to interment in, and use of, burial spaces;
- Refer to state law to determine whether a burial space has been abandoned;
- Direct that Cemetery fees shall be adopted by resolution of the Town Council and set forth in the Town Fee Schedule;

The Community That Cares

www.TownofJohnstown.com

- Allow the Town Manager to convene the Cemetery Committee to act in an advisory role; and
- Set forth conduct that is prohibited in the Cemetery so that such conduct may be enforced in municipal court.

LEGAL ADVICE:

The Town Attorney prepared Ordinance No. 2020-188.

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve Ordinance No. 2020-188 as presented on second reading.

Reviewed and Approved for Presentation,

Town Manager

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2020-188

AN ORDINANCE REPEALING AND READOPTING ARTICLE VI OF CHAPTER 11 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING THE JOHNSTOWN CEMETERY

WHEREAS, the Town of Johnstown, Colorado is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

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

WHEREAS, Article VI of Chapter 11 of the Johnstown Municipal Code (“Code”) concerns the Johnstown Cemetery; and

WHEREAS, the Town Manager, Town Clerk and Town Public Works Director recommend that Article VI of Chapter 11 of the Code be revised to: (i) reflect new policies and procedures and (ii) omit reference to the amount of the Town’s fees and, rather, provide that such fees shall be adopted by resolution of Town Council as set forth in the Town Fee Schedule; and

WHEREAS, based on the recommendations of Town staff, Town Council desires to repeal and readopt Article VI of Chapter 11 of the Code; and

WHEREAS, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Repeal and Readoption of Article VI of Chapter 11. Article VI of Chapter 11 of the Johnstown Municipal Code is hereby be repealed in its entirety and readopted to read as follows in its entirety:

ARTICLE VI - Cemetery

Sec. 11-101. - Definitions

For purposes of this Article, the following definitions apply:

Burial memorial shall mean any type of gravestone, tombstone, headstone, memorial, monument, or marker that commemorates the permanent disposition of the remains of a human body either below or above the surface of the ground.

Burial space shall mean a grave space or a niche, as appropriate.

Cemetery shall mean the Johnstown Cemetery.

Columbarium shall mean a vault with niches for urns containing the ashes of cremated bodies.

Grave space shall mean a single space within a platted lot designed for the interment of one body.

Lot shall mean a platted lot within the cemetery and may consist of more than one grave space.

Niche shall mean a location within the columbarium vault designed to hold an urn containing the ashes of a cremated body.

Owner shall mean the person with the right to interment in a burial space.

Purchaser shall mean the purchaser of a burial space.

Sec. 11-102. – Administration by Town Manager.

The Town Manager is hereby delegated the authority to administer the provisions of this Article. Among other duties and obligations, the Town Manager shall supervise the care and maintenance of the cemetery, keep a map of the cemetery and maintain the records of the cemetery. Subject to the limitations of this Code, the Town Manager may delegate the administration of this Article, or any part thereof, to duly qualified employees and agents of the Town.

Sec. 11-103. - Rules and regulations.

The Town Manager shall adopt rules and regulations not inconsistent with the provisions of this Article governing the cemetery. Such rules and regulations shall be on file and available for public examination in the office of the Town Clerk. The failure to comply with any rule or regulation promulgated under this Article, as such rules and regulations may be amended from time to time, shall be deemed a violation of the Code.

Sec. 11-104. – Application for burial space.

The Town shall require an application for all burial spaces. The application shall contain a description of the grave space or niche, the purchase price and the method of payment. At the time of application, the Town Clerk shall provide the applicant with, or direct the applicant to the location of, the rules and regulations then in effect. When executed by the applicant and the Town, the application shall become a binding contract of purchase and sale.

Sec. 11-105. – Interment agreement; no title to real property.

- (1) Upon payment of the full purchase price to the Town, the Town shall issue an interment agreement, signed by the Town Manager or the Town Clerk, conveying the right of interment for the designated burial space, subject to this Article and the rules and regulations adopted by the Town Manager.
- (2) The interment agreement shall contain contact information for the owner of the burial space with the right to interment, and if a different person, contact information for the purchaser of the burial space.

- (3) For grave spaces, the interment agreement shall contain the block and lot number. For niches, the interment agreement shall contain the description and location within the columbarium.
- (4) Interment agreements issued prior to January 1, 2021, or other similar instruments issued by the Town for a burial space in the cemetery, shall remain valid and binding obligations of the Town.
- (5) The interment agreement, or any instrument issued by the Town for a burial space in the cemetery, of whatever form, grants interment rights only and does not convey title to real property.

Sec. 11-106. – Price of burial spaces.

The Town Council shall establish the price of burial spaces by resolution and set forth such amount in the Town Fee Schedule. The price may differ for resident and non-resident use of burial spaces.

Sec. 11-107. – Cemetery funds.

- (1) Fifteen percent (15%) of the monies and proceeds derived from the sale of burial spaces shall be deposited and carried in the Cemetery Perpetual Care Fund. All other monies and proceeds derived from the sale of burial spaces, all other revenue derived from the operation of the cemetery from any source and the earnings received from investment of the Cemetery Perpetual Care Funds shall be deposited and carried in the Parks and Open Space Fund.
- (2) The Cemetery Perpetual Care Fund and the entire principal thereof shall be safely and perpetually kept and invested. It shall be invested in such securities as under state law are approved for investment of municipal funds. The interest and income therefrom may be used for cemetery maintenance. The principal shall only be used for major improvements or maintenance projects of the cemetery.
- (3) All disbursements made for or on account of the cemetery shall be paid out of the Parks and Open Space Fund.

Sec. 11-108. – Transfer of burial space; prohibited sale of burial space.

- (1) A burial space, or interest in the cemetery, may not be transferred, assigned or conveyed without the prior written consent of the Town. The Town shall not consent to the transfer, assignment or conveyance of any burial space or interest in the cemetery upon which there is any indebtedness due the Town.
- (2) Burial spaces may not be sold to a funeral director or to any other persons for the purpose of resale or speculation.

Sec. 11-109. – Use of burial space.

- (1) For burial spaces purchased after January 1, 2021, the owner shall be entitled to use of the burial space, unless:
 - (a) The purchaser, prior to use by the owner, provides a written, notarized request to the Town requesting that the burial space be transferred or assigned to a different person. If

such request is granted by the Town, the Town shall void the existing interment agreement and issue a new interment agreement; or

- (b) The purchaser is deceased and the owner provides a written, notarized request to the Town requesting that the burial space be transferred or assigned to a different person.
- (2) For burial spaces purchased prior to January 1, 2021, the Town shall conclusively presume that the purchaser, the purchaser's spouse or the purchaser's children are entitled to use the burial space, unless, upon purchase, the purchaser designated the right of interment to a specific person or the purchaser, if not deceased, otherwise directs the Town by written, notarized notification.
- (3) To the extent necessary to determine the use of a burial space, the Town may rely on the representations of family members or authorized persons, and shall not be liable for decisions made related to the use of the burial space.

Sec. 11-110. – Abandonment of burial space; right to reclaim.

A burial space shall be deemed abandoned, and the Town shall have a right to reclaim the burial space, as provided in § 6-24-112, C.R.S., as amended.

Sec. 11-111. – Indigent and welfare cases.

When a request is made to inter a person with insufficient funds to cover the expenses, the Town shall work within the expense allowance granted by the Colorado Department of Social Services. Burial spaces for such persons shall be restricted to the southeast corner of the cemetery in Block No. 4.

Sec. 11-112. – Burial memorials.

All burial memorials shall be governed by the rules and regulations of the cemetery.

Sec. 11-113. – Perpetual care.

All burial spaces in the Town cemetery shall be perpetually cared for by the Town.

Sec. 11-114. – Cemetery fees.

Cemetery fees shall be adopted by resolution of Town Council and set forth in the Town Fee Schedule.

Sec. 11-115. – Cemetery committee.

The Town may designate a cemetery committee to act in an advisory capacity regarding the operations and maintenance of the cemetery. If a cemetery committee is established or convened, the cemetery committee shall provide recommendations and proposals to the Town, as requested.

Sec. 11-116. – Acts prohibited within cemetery.

No person in the cemetery shall:

- (1) Loiter upon the grounds;

- (2) Be under the age of fifteen (15) unless accompanied by an adult or other proper caretaker;
- (3) Drive an automobile or other vehicle in excess of 10 miles per hour or in excess of such lesser speed as is prudent under the existing conditions and circumstances;
- (4) Except for authorized personnel, drive or ride any automobile, motorcycle, all-terrain vehicle, machine or animal on lots, grass or walks;
- (5) Except for authorized personnel, drive any commercial truck or other commercial vehicle;
- (6) Discard trash, debris or other unsightly items, except in receptacles designated for such items;
- (7) Direct or cause Town employees to perform work without an order from the Town Manager or the Town Manager's designee;
- (8) Perform work on the grounds, except by permission of the Town Manager or the Town Manager's designee;
- (9) Take any animal or permit any animal to be taken into the cemetery except service animals;
- (10) Deface, damage, destroy or injure any burial memorials or property in the cemetery;
- (11) Peddle flowers or plants or any other commodity; or
- (12) Except for authorized persons, make a change to the inscription on a burial memorial.

Sec. 11-117. – Violation; penalty.

Any person violating any provision of this Article shall be deemed guilty of an offense and upon conviction thereof shall be penalized as provided in Article IV of Chapter 1 of the Code. All persons doing damage to burial spaces, burial memorials or other property in the cemetery shall be liable to the Town and to the owner of the property damaged for such damage.

Section 2. 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 3. Code revisions. Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

Section 4. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town's Home Rule 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 Home Rule Charter of the Town of Johnstown, Colorado. Copies of the entire Ordinance shall be 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 _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE:	December 21, 2020
SUBJECT:	Second Reading Ordinance No. 2020-189; An Ordinance Repealing And Readopting Chapter 13 Of The Johnstown Municipal Code Concerning Municipal Utilities
ACTION PROPOSED:	Consider Final Approval of Ordinance No. 2020-189
ATTACHMENTS:	1. Ordinance No. 2020-189
PRESENTED BY:	Mitzi McCoy, Finance Director

AGENDA ITEM DESCRIPTION:

Ordinance No. 2020-189 repeals the existing Chapter 13 Municipal Utilities, Articles I – VIII and replaces it with a revised Chapter 13 Municipal Utilities, Articles I – VIII. During a work session in November, staff presented Council with a draft revision of Chapter 13 for consideration, in an effort to remove redundancy, be consistent with other municipal requirements, correct deficiencies and to update and streamline processes. The existing chapter of the municipal code has not been significantly updated for several years.

Many of the changes are non-substantive. These changes include establishing and reserving sections of the code for future expansion, adding definition sections, eliminating actual rates and fees from the code and including a reference to the Town Fee Schedule, and correcting typographical, grammatical and formatting deficiencies.

In addition to the non-substantive changes, the Ordinance under consideration includes several changes that are substantive. The substantive changes include the following:

Article 1 – General. This Article was rewritten to include items of interest that apply to all of the Articles as a whole, thus eliminating the need to repeat information in the Chapter. This article includes information such as general definitions, administrative oversight, as well as billing information, disconnect information, lien processes, right to entry, annexations, etc.

Article II – Sanitary Sewers. Changes primarily center around the creation of the enterprise itself and removal of information that was relocated to Article I – General regarding billing, liens, and discontinuance of service and the revision of the definitions.

Article III – Water. The changes to this Article include the addition of sections to address the creation of the enterprise itself, meter obstructions, bulk potable water for construction, disconnection of service unrelated to delinquency, damage to property and equipment of water system, trespass and interference

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with water system, authority to turn on water, pollution of the water system, control, repair and tests of fire hydrants, operation of fire hydrants, and interruption of service by utility. Other changes include the requirements necessary to receive a water tap, the oversight of water meters and meter testing, clarification of the water tap and raw water development fees, responsibilities related to the maintenance of different parts of the water system, and specifying the multiplier for out of town water and tap rates.

Article IV – Water Rights Dedication. The fundamental change in this section was a volumetric description of how the Town defines a single-family equivalent. Additional changes include the need and requirement for water and sewer demand analysis, water court transfer fees, annexation and dedication requirements, the Town water bank, and the standard yield for water types.

Article V – Infrastructure Reimbursement. The primary change here was the addition of reimbursement abilities for regional stormwater improvements.

Article VI – Water Conservation. The most notable change in this Article is that lawns cannot be watered between the dates of November 1st and April 15th in any year. The level of drought conditions was qualified.

Article VII – Storm Water Utility – The changes to this Article include the addition of the sections to address the creation of the enterprise. The discount for onsite retention of 25% was removed, as it is a general requirement for any development that is not utilizing a regional detention system. Council has the ability to enter into reimbursement agreements if storm water facilities have multiple beneficiaries.

LEGAL ADVICE:

Ordinance was prepared by the Town Attorney

FINANCIAL ADVICE:

None.

RECOMMENDED ACTION:

Approve Ordinance 2020-189 as presented on second reading.

Reviewed and Approved for Presentation,

Town Manager

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2020-189

AN ORDINANCE REPEALING AND READOPTING CHAPTER 13 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING MUNICIPAL UTILITIES

WHEREAS, the Town of Johnstown, Colorado is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

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

WHEREAS, Chapter 13 of the Johnstown Municipal Code regulates municipal utilities in the Town; and

WHEREAS, the Town Manager and Town Finance Director recommend that Chapter 13 be revised and amended to: (i) reflect new policies and procedures and (ii) omit references to the amount of the Town's fees, rates and charges and, rather, provide that such fees, rates and charges be adopted by resolution of the Town Council and set forth in a consolidated schedule to be known as the Town Fee Schedule; and

WHEREAS, based on the recommendations of the Town Manager and Town Finance Director, Town Council desires to repeal and readopt Chapter 13 of the Johnstown Municipal Code in its entirety; and

WHEREAS, the Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Repeal and Readoption of Chapter 13. Chapter 13 of the Johnstown Municipal Code is hereby be repealed in its entirety and readopted to read as follows in its entirety:

CHAPTER 13 Municipal Utilities

ARTICLE I - General

ARTICLE II – Sanitary Sewers

ARTICLE III - Water

ARTICLE IV - Water Rights Dedication

ARTICLE V - Infrastructure Reimbursement

ARTICLE VI - Water Conservation

ARTICLE VII - Storm Water Utility

ARTICLE VIII – Cross Connection Control Program

ARTICLE I General

Sec. 13-1. Definitions.

Sec. 13-2. Administration by Town Manager.

Sec. 13-3. Property owner's consent; maintenance obligation; liability for utility service.

Sec. 13-4. Required information for utility service.

Sec. 13-5. Use of false information in connection with utility services.

Sec. 13-6. Confidentiality of utility account information.

Sec. 13-7. Billing procedure.

Sec. 13-8. Remedies for nonpayment.

Sec. 13-9. Common meter for multiple dwelling units.

Sec. 13-10. Right to entry

Sec. 13-11. Annexation required for water and sewer service.

Sec. 13-12. Exceptions; waiver.

Secs. 13-13. - 13-39. Reserved.

Sec. 13-1. Definitions.

As used in this Chapter, unless the context otherwise indicates,

Customer means a person who purchases or obtains utility services from the Town, and may include the owner of real property, a person with a leasehold interest in the real property or any other person entitled to possession of such real property.

Dwelling, multifamily means a structure or portion thereof designed to house two (2) or more families, with each dwelling unit having a separate entrance.

Dwelling, single-family attached means a residential structure designed to house a single-family unit from lowest level to roof, with private outside entrance but not necessarily occupying a private lot, and sharing a common wall between adjoining dwelling units.

Dwelling, single-family detached means a residential structure designed to house a single-family unit with private outside entrance but without common walls between the dwelling units.

Dwelling unit means a housing unit designed and used for occupancy by a single individual or a family containing cooking, living, sleeping and sanitary facilities and having a separate entrance as required by the building code adopted by the Town.

May is permissive (see shall).

Multifamily means a development of buildings or portions thereof which contain three (3) or more dwelling units.

Owner means any person having title to or right of ownership in property, excluding mineral owners, and shall include any part owner, joint owner, tenant in common or joint tenant.

Person means an individual, a partnership, an association, a corporation, a municipality or any other legal entity, public or private.

Property means the property, including but not necessarily limited to the building, lot, parcel, house or dwelling, to which the Town provides or is requested to provide utility services.

Shall is mandatory (see may).

Subdivision or subdividing means any division of any parcel of land where additional water taps are requested or additional water is necessary to provide adequate water service to property.

Town means the Town of Johnstown.

Town Manager means the Town Manager of the Town of Johnstown, Colorado.

Town water service or water service means treated water service or raw water service furnished by the Town for any purpose, including but not limited to domestic, commercial and industrial uses.

Utility service means water and sewer services.

Water system means the water system owned and operated by the Town. The system includes, without limitation, the Town's water, water rights, water treatment facilities, water storage facilities, pipe network, pumps and other facilities and equipment used to produce and supply water.

Sec. 13-2. Administration by Town Manager.

The Town Manager is hereby delegated the authority to administer the provisions of this Chapter. Among other duties and obligations, the Town Manager may prescribe forms and rules and regulations in conformity with this Chapter and implement procedures for the ascertainment, computation and collection of the fees imposed hereunder. Subject to the limitations of the Code, the Town Manager may delegate

the administration of this Chapter, or any part thereof, to duly qualified employees and agents of the Town.

Sec. 13-3. Property owner's consent; maintenance obligation; liability for utility service.

- (1) Utility service provided to property pursuant to the terms of this Chapter shall be deemed to be provided at the request and with the consent of the owner of said property, unless and until the Town receives written notice of said owner's withdrawal of such consent.
- (2) The owner, regardless of whether the owner is the customer, shall be liable for all utility services charges provided to the owner's property. No change of ownership shall affect the application of this Chapter. The failure of any owner to learn that such owner purchased property against which a lien for utility services exists does not affect the owner's liability for such payment in full and is not a basis for any claim of any kind whatsoever against the Town.
- (3) The customer shall be responsible for maintenance of facilities required to provide utility services located on the customer's side of the point of delivery.
- (4) The customer shall hold the Town harmless and indemnify the Town against any and all claims and liability for injury to persons or damage to property when such injury or damage results from or is occasioned by the facilities located on the customer's side of the point of delivery unless caused by the negligence of the Town's employees or agents. The customer shall pay all costs that may be incurred by the Town in enforcing this indemnity.

Sec. 13-4. Required information for utility service.

- (1) Each customer or applicant for utility service shall provide the Town with all requested information to initiate, modify or terminate utility services, including but not limited to information regarding the customer, the owner and the property. The Town may require any person requesting the initiation, modification or termination of utility service to produce a government issued photo identification.
- (2) If, after utility service is activated, there is any change in the information provided to the Town, the customer shall notify the Town within thirty (30) days of such change.

Sec. 13-5. Use of false information in connection with utility services.

It shall be unlawful for any person to knowingly provide any untrue, deceptive or misleading information to the Town in connection with the provision of utility services. A violation of this Section shall be punishable as provided in Article IV of Chapter 1 of the Code and may constitute grounds for disconnection of utility services.

Sec. 13-6. Confidentiality of utility account information.

Unless otherwise required by law, the Town shall not disclose utility account information, except to:

- (1) A peace officer, employee or officer responsible for enforcement of the Code, upon the provision of satisfactory evidence that the inspection is reasonably related to the authority and duties of such peace officer, employee or responsible officer;
- (2) The owner of real property to which a utility account applies;
- (3) The public in an aggregated or statistical form so classified as to prevent identification, location or habits of individual customers; or

- (4) Persons within the Town's organization or to Town contractors, so long as the release of the information is conditioned upon reasonable precautions and requirements to prevent disclosure of said information to the public.

Sec. 13-7. Billing procedure.

Unless the Town Manager determines that a different process is warranted for a particular property, the following billing procedures shall apply:

- (1) Utility bills shall be sent to the customer once per month, via U.S. Mail or electronic delivery, as applicable. The Town's failure to forward a utility bill shall not constitute a waiver of any fee or charge imposed by this Chapter.
- (2) All charges for Town utilities shall be due and payable within fifteen (15) days after the date of the utility bill.
- (3) Payment of any utility charge shall be considered delinquent if not received in the Town offices before the close of business on the last day specified for payment.
- (4) Late fees shall be assessed twenty (20) days after the date of the utility bill on all accounts with an outstanding balance.
- (5) Monthly service charges shall be billed to each meter in use regardless of whether any quantity charge is made. A meter is considered to be in use as long as it is in place.
- (6) Payments toward amounts owed for utility services shall be applied first to delinquent amounts, then to late fees, then to restoration fees and then to current service fees.
- (7) If payment of any utility charge imposed pursuant to this Chapter is made by a dishonored check, a non-sufficient funds fee shall be assessed.
- (8) If utility service is terminated due to a transfer of ownership on dates other than established billing dates, the Town shall only prorate the charge for water services, but not for sewer services.
- (9) All utility service charges, late charges, service fees, non-sufficient funds fees, reconnect fees and other associated fees shall be assessed in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 13-8. Remedies for nonpayment.

- (1) If utility services are not paid as provided in this Article, in addition to the imposition of late fees and other charges provided in this Article, the Town may avail itself of any or any combination of the following remedies:
 - (a) The Town may consider any utility service fee a lien upon the owner's property from the time when due and a perpetual charge against such property until paid. The lien shall be considered prior and superior to all other liens, claims, titles and encumbrances, whether prior in time or not, except liens for general taxes. The Town may foreclose any lien imposed by this Chapter in accordance with the law.
 - (b) The Town may maintain an action in any court of competent jurisdiction for the amount of the charge due and collect interest, costs and attorney's fees.
 - (c) The Town may certify the amount of the charge due to the county clerk and treasurer, together with an assessment fee, which shall thereafter become an assessment upon the property served and be collected and paid over to the Town in the same manner as taxes.
 - (d) The Town may discontinue utility services pursuant to the following procedure:
 - (i) The Town shall send written notice to the customer and, if the customer is not also the owner, to the owner, at the last known address available to the Town,

providing that, absent timely full payment of all amounts due, services will be discontinued as of the date specified in the notice;

- (ii) Within the time allotted in the notice, the customer or owner, as appropriate, may pay the outstanding amounts due or may file a written protest with the Town Manager;
- (iii) If a written protest is filed, the Town Manager shall determine whether to discontinue the utility service and provide written notice to the customer and owner, if appropriate, of his or her decision, along with an additional opportunity to pay the outstanding amounts; and
- (iv) If outstanding amounts are not paid and utility services are discontinued as provided herein, such services shall not be reinstated until all amounts due are paid to the Town, unless the Town Manager agrees to a payment plan. If the Town Manager agrees to a payment plan, utility services may be discontinued if the customer does not comply with the payment plan without providing the notices set forth above.

Sec. 13-9. Common meter for multiple dwelling units.

- (1) If more than one dwelling unit, including but not limited to multi-family dwelling units, commercial buildings or other such properties, is served by a common meter, thus by means other than by metering the consumption of each individual unit, any act or omission by any person served by a common meter constitutes a joint act of all persons served through such common meter.
- (2) The Town shall issue only one utility bill for utility services to dwelling units with a common meter. While the customers may proportion the payment of the utility bill among themselves, as to the Town, each customer shall be liable for payment of the utility bill in full. If the utility bill is not paid in full when due, the Town may impose fees or undertake any remedies provided in this Article.
- (3) If the Town desires to discontinue utility services to dwelling units with a common meter, the Town shall send written notice to each customer and, if the customers are not also the owners, to the owners, at the last known address available to the Town, providing that, absent full payment of all amounts due, services will be discontinued as of the date specified in the notice. The Town shall thereafter comply with the disconnection procedures set forth in this Article.
- (4) For dwelling units with a common meter, the lien for unpaid utility fees attaches upon each separate unit in an amount computed by dividing the total amount of the lien by the number of units served by the common meter.
- (5) No person who has complied with the rules and regulations relating to utility services who has paid a proportionate or other share of the charges outstanding or remaining unpaid may file a claim for damages against the Town because utility services have been discontinued as provided in this Article.

Sec. 13-10. Right to entry

- (1) In connection with the necessary discharge of their duties and the enforcement of the provisions of this Chapter, authorized Town personnel shall, at all reasonable times, have safe access to

property within or without the Town served by water or sewer utilities for any purpose incidental to supplying or disconnecting such utility service.

- (2) Customers shall provide access to meters and utility service equipment located on the customer's property for proper administration and billing of utility services. Such access includes non-intrusive, automatic drop out access to the customer's service for remote reading of meters by the utilities when such service is available. If any meter cannot be read or access to utility service equipment is not provided for three (3) consecutive months, the Town shall provide written notice to the customer and, if the owner is not the customer, to the owner providing that the condition must be corrected by a date certain or the Town may discontinue service until access is accomplished.
- (3) Whenever the Town has reasonable cause to believe that there exists in or upon any property a condition or violation which makes such property unsafe, dangerous or hazardous or presents a significant, immediate danger to human health or the environment, authorized Town personnel may enter such property to inspect it and, if required, perform any authorized act to bring the property to a safe condition.
- (4) If property is occupied at the time entry is required, authorized Town personnel shall first present proper credentials and request entry. If such property is unoccupied, except in the case of an emergency as described above, authorized Town personnel shall first make a reasonable effort to locate the owner, customer or other person having charge or control of the property. If such entry is refused, the Town shall have recourse to pursue remedies provided by law to secure entry.
- (5) When the Town has obtained an inspection warrant or other remedy provided by law to secure entry, no owner, customer, occupant or other person having charge or control of the property shall fail or neglect, after proper request, to promptly permit entry therein by authorized Town personnel for the purpose of inspection and examination pursuant to this Chapter.
- (6) Owners or such other persons having charge or control of property shall permit the Town or other utility providers, as appropriate, to trim the limbs and branches of trees, bushes and shrubs to the extent that such trimming is reasonably necessary to avoid interference with utility lines, streetlights, or other equipment or to allow access to meters or other equipment on said property or in the public right-of-way.

Sec. 13-11. Annexation required for water and sewer service.

Any person requesting either water or sewer service for a property that is outside the Town boundaries must first annex such property to the Town to be included within the Town boundaries prior to the Town extending either water or sewer service.

Sec. 13-12. Exceptions; waiver.

For good cause, consistent with the purposes of the provisions contained herein, Town Council may substitute, modify or waive any condition or requirement contained in this Chapter.

Sec. 13-13. – 13.39. Reserved.

ARTICLE II Sanitary Sewers

Sec. 13-40. Sanitary Sewer Utility Enterprise.

Sec. 13-41. Definitions.

Sec. 13-42. Adoption of rules and regulations governing sanitary sewers.

Sec. 13-43. Use of public sewers required.

Sec. 13-44. Private waste water disposal.

Sec. 13-45. Sanitary sewers, building sewers and connections.

Sec. 13-46. Use of the public sewers.

Sec. 13-47. Powers and authority of inspectors.

Sec. 13-48. Abandonment of connection.

Sec. 13-49. Interference with Town employees prohibited; digging up streets for purposes of sewer connections; destroying facilities.

Sec. 13-50. Administrative enforcement.

Sec. 13-51. Administrative review; appeals process.

Sec. 13-52. Judicial enforcement.

Sec. 13-53. - Sewer service charges.

Sec. 13-54. - Sewer tap fees.

Secs. 13-55.—13-69. Reserved.

Sec. 13-40. Sanitary Sewer Utility Enterprise.

- (1) The Town Council hereby recognizes the establishment of the Town's Sanitary Sewer Utility Enterprise and confirms the operation of the Sanitary Sewer Utility Enterprise, inclusive of the Town's municipal sanitary sewer system, as an "Enterprise" within the meaning of Section 20 of Article X of the State Constitution.
- (2) The Town Council recognizes that the creation and establishment of the Town's Sanitary Sewer Utility Enterprise serves the purpose of managing, maintaining and operating the Town's wastewater system and the sewer facilities for the conveyance, treatment and disposal of waste water from within the Town.
- (3) The Town Council designates itself as the governing body of the Sanitary Sewer Utility Enterprise and shall exercise the Town's legal authority relating to the Sanitary Sewer Utility Enterprise, but shall not levy a tax.
- (4) The Town Council directs that funds of the Sanitary Sewer Utility Enterprise and funds of the Town may be commingled for purposes of investment so long as accurate records are kept of the amount of such funds allocable to the Enterprise and to the Town.

- (5) The Town Council ratifies, approves and confirms all action not inconsistent with the provisions of this Section heretofore taken by Town Council or by the officers and employees of the Town directed toward the operation of the Wastewater Utility Enterprise as an “Enterprise” under Section 20 of Article X of the State Constitution.

Sec. 13-41. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

Act means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

Article means this Article II of Chapter 13 of the Town of Johnstown Municipal Code.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

Building sewer means the extension from the building drain to the public sewer or other place of disposal, also called house connection.

Combined sewer means a sewer intended to receive both wastewater and storm water or surface water.

Easement means an acquired legal right for the specific use of land owned by others.

Floatable oil is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. Wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater does not interfere with the POTW.

Garbage means the solid wastes from domestic and commercial preparation, cooking, and dispensing of food, and from handling, storage and sale of produce.

Indirect Discharge or Discharge means the introduction of any pollutant into the Publicly Owned Treatment Works (POTW) from any non-domestic source under Section 307(b), (c) or (d) of the Act.

Industrial Wastes mean the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewerage.

Industrial Users or IU means a source of indirect discharge.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and,
- (2) Therefore, is a cause of a violation of the Town's NPDES permit(s) (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory and regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act; any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Industrial waste means the wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

Medical Waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

National Pollutant Discharge Elimination System Permit or "NPDES Permit" means the permit(s) issued by the State of Colorado authorizing the Town to discharge to waters of the United States under the Act, and includes, as may be amended from time to time, CO-0021156 and CO-0047058.

Natural outlet means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Town's NPDES permit, including an increase in the magnitude or duration of a violation.

pH means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, flow, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants in wastewater prior to, or in lieu of, a discharge of such pollutants into the POTW. This reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes or by other means, except by diluting the concentration of the pollutants, unless otherwise allowed by law or by the Town.

Publicly Owned Treatment Works or POTW means the treatment works, as defined by Section 212 of the Act (33 U.S.C. section 1292), that are owned by the Town. This definition includes any

devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances that convey wastewater to the POTW Treatment Plant.

POTW Treatment Plant means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste and includes, as may be amended from time to time, the Johnstown Central Wastewater Treatment Facility and the Low Point Wastewater Treatment Plant.

Public sewer means a common sewer controlled by a governmental agency or public utility.

Sanitary sewer means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm and surface waters that are not admitted intentionally.

Sewage is the spent water of a community, and typically refers to water containing human excrement and gray water (as from showers, baths, dishwashing operations, sinks, washing machines). The preferred term is wastewater.

Sewage Works means all facilities for collecting, pumping, treating and disposing of sewerage.

Sewer means a pipe or conduit that carries wastewater.

Slug discharge means any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration or flows during normal operation that adversely affect the collection system and/or performance of the wastewater treatment works. Slug discharge includes any discharge of a non-routine, episodic nature, such as an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the Town's NPDES Permit, the POTW's regulations, local limits or pretreatment requirements.

Storm drain (sometimes termed storm sewer) means a drain or sewer for conveying water, ground water, subsurface water or unpolluted water in any source.

Total Suspended Solids (TSS) or Suspended Solids (SS) means suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater.

Unpolluted water is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards

Wastewater means the liquid and water-carried pollutants from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW. It may be a combination of the liquid and water-carried waste together with any ground water, surface water and storm water that may be present.

Wastewater treatment works means an arrangement of devices and structures for treating wastewater, industrial wastes and sludge. Sometimes used as synonymous with waste treatment plant or wastewater treatment plant or water pollution control plant or POTW.

Watercourse means a natural or artificial channel for the passage of water either continuously or intermittently.

Sec. 13-42. Adoption of rules and regulations governing sanitary sewers.

The Town Manager may adopt forms and make and enforce rules and regulations in conformity with this Article that are necessary for the safe, efficient and economical management of the Town's sanitary sewer system. Subject to the limitations of this Code, the Town Manager may delegate the administration of this Article, or any part thereof, to duly qualified employees and agents of the Town.

Sec. 13-43. Use of public sewers required.

- (1) It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Town, or in any area under the jurisdiction of the Town, any human or animal excrement.
- (2) It shall be unlawful to discharge to any natural outlet within the Town, or in any area under the jurisdiction of the Town, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.
- (3) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater.
- (4) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer, are hereby required, at the owners' expense, to install suitable toilet facilities therein, and to promptly connect such facilities directly with the proper public sewer in accordance with the provisions of this Article, within one hundred-twenty (120) days provided that the public sewer is within four hundred (400) feet of the property line.

Sec. 13-44. Private wastewater disposal.

- (1) Where a public sanitary or combined sewer is not available as provided in this Article, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Section.
- (2) Before commencement of construction of a private wastewater disposal system, the owner shall first obtain a written permit signed by the Town. The application for such permit shall be made on a form furnished by the Town, which shall be supplemented by any plans, specifications and other information deemed necessary by the Town. The applicant shall also pay a permit and inspection fee to the Town at the time the application is filed in the amount set forth by resolution of the Town Council in the Town Fee Schedule.
- (3) A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Town. The Town shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Town when the work is ready for final inspection and before any underground portions are covered. The Town shall promptly inspect the work upon receipt of notice.

- (4) The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and requirements of the Colorado Department of Public Health and Environment and of the Larimer or Weld County Department of Public Health and Environment, as appropriate. No permit shall be issued for any private wastewater disposal system employing subsurface soil absorption facilities where the area of the lot is less than the lot size required by the Larimer or Weld County Department of Public Health and Environment, as appropriate. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- (5) At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in this Article, a direct connection shall be made to the public sewer within one hundred twenty (120) days in compliance with this Article, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
- (6) The owners shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town.
- (7) No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the Town, the Colorado Department of Public Health and Environment, and Larimer or Weld County Department of Public Health and Environment, as appropriate.

Sec. 13-45. Sanitary sewers, building sewers and connections.

- (1) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.
- (2) There shall be two (2) classes of building sewer permits: (i) building sewer permits for residential and commercial uses and (ii) building permits for establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a form furnished by the Town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Town and, for industrial users, shall include the information and shall meet the obligations required by this Article and any additional information required by the Town. The applicant shall also pay a permit, inspection tapping, and/or impact fee to the Town at the time the application is filed in the amount set forth by resolution of the Town Council in the Town Fee Schedule.
- (3) All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- (4) A separate and independent building sewer shall be provided for every building; except, where a building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as a single building sewer. The Town does not and will not assume any obligation or responsibility for damage caused by or resulting from any single connection.
- (5) Old building sewers may be used in connection with new buildings only when they are found, on examination, video and/or test submitted by the property owner or a Town contractor, to meet all requirements of this Article.
- (6) The size, slope, alignment and materials of construction of all sanitary sewers including building sewers, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes

or other applicable rules and regulations of the Town. In the absence of suitable code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (“ASTM”) International Standards and Water Pollution Control Facility (“WPCF”) Manual of Practice No. 9 shall apply.

- (7) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (8) No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or ground water to a building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (9) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes, other applicable rules and regulations adopted by the Town or the procedures set forth in appropriate specifications of the ASTM International Standards and the WPCF Manual of Practice No. 9, as determined by the Town. All such connections shall be made gas-tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Town before installation.
- (10) The applicant for the building sewer permit shall notify the Town when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Town or a representative of the Town.
- (11) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be promptly restored in a manner satisfactory to the Town and to the Town’s specifications.
- (12) The Town maintains the sewer main only and the property owner is responsible for the service line in total to the main including the tap.

Sec. 13-46. Use of the public sewers.

- (1) No person shall discharge or cause to be discharged storm water, surface water, ground water, roof runoff or subsurface drainage water to any sanitary sewer. Upon approval of the Town, unpolluted industrial cooling water or unpolluted industrial process water may be discharged to a storm sewer, combined sewer or natural outlet. Polluted industrial cooling water and polluted industrial process water shall require a pretreatment process approved by the Town in compliance with this Article.
- (2) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Town and other regulatory agencies. Unpolluted industrial cooling water or unpolluted process waters may be discharged, on approval of the Town, to a storm sewer, combined sewer or natural outlet.
- (3) No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
 - (a) Petroleum oil, benzene, naphtha, fuel oil, nonbiodegradable cutting oil, products of mineral oil origin, or other flammable or explosive liquid, solid or gas;
 - (b) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

- (c) Wastewater having a pH less than five and one-half (5.5) or having any other corrosive property capable of causing damage or hazard to structures, to the POTW, its collection system, equipment or personnel of the sewerage works;
 - (d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (e) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40 °C (104 °F) unless the Town approves alternate temperature limits;
 - (f) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (g) Trucked or hauled pollutants except in manner consistent with Subsection (14) below;
 - (h) Any waters or wastes containing toxic or poisonous soils, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer; and
 - (i) Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the POTW such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair, fleshings, entrails, paper dishes, cups, disposable wipes, milk containers, etc., either whole or ground by garbage grinders.
- (4) The following described substances, materials, water or waste shall be limited in discharges to concentrations or quantities which will not harm the POTW, the sewers, the wastewater treatment process or equipment, will not have an adverse effect on the receiving stream and will not otherwise endanger lives, limb, public property or constitute a nuisance. The Town may set limitations lower than the limitations established in the regulations below if, in its discretion, such more severe limitations are necessary to meet the above objectives. In making such determination, the Town may consider such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other permanent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the POTW which shall not be violated without approval of the Town are as follows:
- (a) Fats, wax, oils or greases of animal or vegetable origin, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32° F) and one hundred fifty (150° F);
 - (b) Any garbage that has not been properly shredded. For purposes of this Subsection, properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch (1.27 centimeters) in any dimension. Garbage grinders equipped with a motor of three-fourths (¾) shall be connected to sanitary

sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places and subject to inspection, reviews and approval of the Town where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers. However, garbage grinders shall only be used to grind small amounts of garbage incidental to cleaning of plates, cookware, etc. and not to dispose of large quantities of waste. Waste must be scraped into a garbage can prior to cleaning;

- (c) Any waters or wastes containing strong acid iron pickling wastes, concentrated plating solutions whether neutralized or not, chromium, copper, zinc and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the POTW Treatment Plant exceeds the limits established by the Town for such materials;
- (d) Any waters or wastes containing phenols odor-producing substances exceeding limits which may be established by the Town as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving streams;
- (e) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town in compliance with applicable state or federal regulations;
- (f) Quantities of flow, concentrations of which constitute a slug discharge;
- (g) Waters or wastes containing substances which are not amenable to transport, treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters;
- (h) Any water or wastes which, by interaction with other water or wastes in the public sewer system or POTW, release obnoxious gases, form suspended solids which cause interference with the collection system or create a condition deleterious to structures and treatment processes;
- (i) Wastewater which imparts color that cannot be removed by the POTW Treatment Plant, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the POTW Treatment Plant's effluent, thereby causing a violation of the Town's NPDES Permit;
- (j) Sludges, screenings or other residue from the pretreatment of industrial wastes, unless specifically approved by the Town and otherwise in compliance with the Town's NPDES Permit;
- (k) Wastewater causing, alone or in conjunction with other sources, the POTW Treatment Plant's effluent to fail toxicity tests;
- (l) Detergents, surface-active agents (surfactants) or other pollutants that might cause excessive foaming in the POTW or receiving waters; and
- (m) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW or at any point in the POTW.
- (n) Any waters or wastes having a pH in excess of 9.5
- (o) Materials which exert or cause:
 - (i) Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - (ii) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

- (iii) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - (iv) Unusual volume of flow or concentration of wastes constituting slugs as defined herein.
- (5) The pollutants, substances or wastewater prohibited by this Subsection 13-46(4) shall not be processed or stored in such a manner that they could or will be discharged to the POTW.
- (6) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Subsection (4) of this Section, and which, in the judgment of the Town, may have a delirious effect upon the POTW, processes, equipment or receiving waters or which otherwise create hazard to life or constitute a public nuisance, the Town may:
 - (a) Reject the wastes;
 - (b) Require pretreatment to an acceptable condition for discharge to the public sewers;
 - (c) Require control over the quantities and rates of discharge; and/or
 - (d) Require payment of the added cost of handling and treating the wastes not otherwise covered by existing taxes or sewer charges under the provisions of this Article.
- (7) When considering the above alternatives, the Town shall give consideration to the economic impact of each alternative on the discharger, but, in any event, shall not allow a discharge that has the potential to cause a violation of the Town's NPDES Permit or the law. If the Town permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Town.
- (8) No user shall increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment, including pretreatment, to achieve compliance with a discharge limitation unless expressly authorized by law or by the Town. The Town may impose mass limitations on users who are using dilution to meet applicable requirements.
- (9) Grease, oil and sand interceptors shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing floatable fats, oils or greases in excessive amounts as specified in Subsection (4)(a), or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Town, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means at least annually or determined appropriate and necessary by the Town of the captivated material and shall maintain records of the dates and means of disposal which are subject to review by the Town. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.
- (10) Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner or the operator at his or her expense.
- (11) When required by the Town, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such structures, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Town. The structure shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

- (12) The Town may require the user of sewer services to provide information needed to determine compliance with this Article. The requirements may include, but are not limited to:
- (a) Wastewater discharge peak rate and volume over a specified time period;
 - (b) Chemical analyses of wastewaters;
 - (c) Information on raw materials, processes and products affecting wastewater volume and quality;
 - (d) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control;
 - (e) A plot plan of sewers of the user's property showing sewer and pretreatment facility location;
 - (f) Details of systems to prevent and control the losses of materials through spills to the municipal sewer; and/or
 - (g) A wastewater discharge permit application, questionnaire or other reports and notifications in a format and timeframe specified by the Town.
- (13) Industrial users.
- (a) Mandatory pretreatment requirements. In addition to all other requirements contained in this Article, industrial users shall provide wastewater treatment, as necessary, to comply with the pretreatment standards required by the Town's NPDES Permit and otherwise required by law. The industrial user shall achieve compliance prior to discharge. Any facilities necessary for compliance shall be provided, operated and maintained at the industrial user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Town for review, and shall be acceptable to the Town before such facilities are constructed. Acceptance by the Town of any such facilities shall not be construed as a guarantee or agreement by the Town that such facilities will achieve compliance with this Article. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying such facilities, as necessary, to produce a discharge acceptable to the Town under the provisions of this Article.
 - (b) Additional pretreatment and monitoring requirements. The Town may, in its discretion, require:
 - (i) An industrial user to restrict its discharge, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic waste streams from non-domestic waste streams or impose such other conditions as may be necessary to protect the POTW and ensure the industrial user's compliance with the requirements of this Article;
 - (ii) An industrial user discharging into the POTW to install and maintain, on the user's property and at the owner's or operator's expense, a suitable storage and flow-control facility to ensure equalization of flow;
 - (iii) An industrial user discharging into the POTW to install, at the owner's or operator's expense, suitable monitoring facilities or equipment that isolates appropriate wastewater discharges into the wastewater system and facilitates accurate observation, sampling and measurement of discharges. The equipment shall be maintained in proper working order and kept safe and accessible without restriction to POTW personnel at all times. Where practical, the monitoring equipment shall be located and maintained on the industrial user's premises outside of the building; and/or

- (iv) An industrial user with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter.
- (c) Slug discharge control. Facilities to prevent slug discharges shall be provided and maintained at the industrial user's expense. The Town may require industrial users to implement prevention plans to control slug discharges.
- (d) Notification. After initial approval, industrial users shall provide the following notifications:
 - (i) In the case of any discharge, including, but not limited to, spills, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or a discharge that may cause potential problems for the POTW, the industrial user shall immediately telephone and notify the POTW of the incident. The notification shall include:
 - (1) Name of the facility;
 - (2) Location of the facility;
 - (3) Name of the caller;
 - (4) Date and time of the discharge;
 - (5) Date and time discharge was halted;
 - (6) Location of the discharge;
 - (7) Type of waste;
 - (8) Estimated volume of the discharge;
 - (9) Estimated concentration of pollutants in the discharge;
 - (10) Corrective actions taken to halt the discharge; and
 - (11) Method of disposal, if applicable.
 - (ii) Within five (5) working days following such discharge under Part (d)(i) of this Subsection, the industrial user shall, unless waived by the Town in writing, submit a detailed written summary describing the cause(s) of the discharge and measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to persons or property; nor shall such notification relieve the industrial user of any fines, penalties or other liability which may be imposed pursuant to this Article and applicable regulations.
 - (iii) The industrial user shall notify the Town in advance of any substantial change in the volume or character of pollutants in their discharge and/or of any changes to their facilities affecting the potential for slug discharges and/or accidental release of prohibited discharges.
 - (iv) The industrial user shall notify the Town, the Colorado Department of Public Health and Environment and Region 8 of the Environmental Protection Agency in writing of any discharge into the POTW of any substance which, if otherwise disposed of, would be considered a hazardous waste under 40 CFR Section 261. Each industrial user shall notify the POTW in advance of any substantial change to such discharge. The specific information required to be reported and the time frames in which it is to be reported are found at 40 CFR Section 403.12(p).
- (e) Recordkeeping. Industrial users shall retain all records related to discharges for a minimum period of three (3) years. The records shall be made immediately available

upon request of the Town at any time during the three (3) year period or so long as actually retained.

- (f) Time for Compliance. All existing industrial users shall come into compliance with the terms of this Article upon the effective date.
- (14) Trucked or hauled waste. The Town may regulate trucked and hauled waste to ensure that persons are complying with the terms of this Article and that the Town is acting in compliance with its NPDES Permit.
- (15) RV disposal stations. The Town may allow recreational vehicle (“RV”) disposal sites in the service area if the quality or quantity of the RV waste does not adversely impact the POTW. The Town may require RV disposal sites in the service area to ensure adequate controlled access to its disposal site including locked access, sign-in records for persons discharging from the RV, record keeping by the RV disposal site and other information deemed appropriate.
- (16) All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and/or per EPA approved methods, as referenced in 40 CFR Part 136. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the Town.
- (17) No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the Town and any person relating to an industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, except that no such agreement shall be permitted which violates Subsection (3) of this Section or causes or may cause the Town to violate its NPDES Permit or the law.

Sec. 13-47. Powers and authority of inspectors.

- (1) The Town, by and through duly authorized personnel bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing pertinent to discharge to the POTW system in accordance with the provisions of this Article.
- (2) Duly authorized Town personnel shall be permitted to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the POTW. All records, reports, data or other information supplied by any person as a result of any disclosure required by this Article or information and data from inspections shall be available for public inspection except as otherwise provided in this Section, 40 CFR Section 403.14 or Colorado law. These provisions shall not be applicable to any information designated as a trade secret by the person supplying such information. Materials designated as a trade secret may include, but shall not be limited to: processes, operations, style of work or apparatus or confidential commercial or statistical data. Any information and data submitted which is desired to be considered a trade secret shall have the words, “Confidential Business Information,” stamped on each page containing such information. The person must demonstrate to the satisfaction of the Town that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets.
- (3) Information designated as a trade secret shall remain confidential and shall not be subject to public inspection, except as otherwise required by law. Such information shall be available only to officers, employees or authorized representatives of the Town charged with implementing and enforcing the provisions of this Article and properly identified representatives of the Environmental Protection Agency and or the Colorado Department of Public Health and

Environment. Effluent data obtained by self-monitoring, monitoring by the POTW or monitoring by any state or federal agency shall not be considered a trade secret or otherwise confidential. All such effluent data shall be available for public inspection.

- (4) While performing the necessary work on private properties referred to in Subsection (1) above, duly authorized Town personnel shall observe all safety rules applicable to the premises established by the company and otherwise required by law.
- (5) The Town, by and through duly authorized personnel bearing proper credentials and identification, shall be permitted to enter all private properties through which the Town holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Sec. 13-48. Abandonment of connection.

No person shall abandon any building connection without first obtaining a written permit from the Town. Such building connection shall be abandoned and effectively sealed as appropriate to the material of the building lead, subject to approval and the rules and regulations required by the Town.

Sec. 13-49. Interference with Town employees prohibited; digging up streets for purposes of sewer connections; destroying facilities.

- (1) No person shall in any way interfere with Town employees in any discharge of their duties with respect to the POTW.
- (2) No person shall dig up or cause to be dug up any street or alley in the Town for the purpose of connecting with the sewer system, without first obtaining a permit, and no person having a permit shall dig up any portion of any street or alley for the purpose of connecting with the sewer system of the Town and then fail or neglect to replace the street or alley to its original condition.
- (3) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the POTW.
- (4) Any person violating these provisions may be subject to immediate arrest and to any other recourse permitted under this Article, the Code or the law.

Sec. 13-50. Administrative enforcement.

- (1) Notice of violation. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town may serve upon such person a written notice of violation. Within five (5) business days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to Town. Submission of such a plan in no way relieves the person of liability for any violations occurring before or after receipt of the notice of violation. If the plan for correction submitted by the person is not satisfactory to the Town, the Town may take further action. Nothing herein shall limit the authority of the Town to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
- (2) Suspension of service.
 - (a) Suspension of service with notice. The Town may suspend wastewater treatment service by disconnecting water service, in order to stop an actual or threatened discharge which

presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, which causes or may imminently cause pass through, interference or the violation of the Town's NPDES Permit or which results or may imminently result in a violation of any other provision of this Article. Any person notified of a suspension of wastewater treatment service shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Town may take such steps as deemed necessary including immediate physical severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to individuals or the environment

- (b) Emergency suspension. The Town may, without prior notice, order wastewater treatment services suspended or physically sever a sewer connection if an actual or proposed discharge immediately and substantially endangers public health, safety or welfare, or the environment, or may likely cause the Town to violate any condition of its NPDES Permit or the law. Any such emergency suspension order shall become effective immediately, and any person notified of such suspension shall immediately stop or eliminate all discharge of industrial waste. In such emergency situations, the Town is authorized to prevent or minimize danger or property damage.
- (3) Administrative orders and penalties.
- (a) Administrative orders. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town may issue an order to the person responsible for the discharge directing that such person immediately, or within a time specified by the Town, come into compliance. If the person does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance otherwise required by the provisions of this Article or required to ensure that the Town remains in compliance with the NPDES Permit, nor does a compliance order relieve the person of liability for any violation, including any continuing violation during the time it takes the person to come into compliance. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the person.
 - (b) Administrative penalties. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town may fine such person in an amount not to exceed the amount set forth in Article IV of Chapter 1 of the Code. Such fines shall be assessed on a per-violation, per day basis. The Town may, in addition to fines, collect charges to pay for damage to the POTW, fines issued to the POTW as a result of such person's noncompliance and any other costs incurred by the Town or the POTW as a result of such person's noncompliance. A lien against the person's property may be sought for unpaid charges, fines, and penalties. The issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the person.
- (4) Appeal of administrative orders or penalties.
- (a) A person who disputes an administrative order or administrative penalty made by or on behalf of the Town pursuant to and by the authority of this Article may petition for a hearing in accordance with this Article.

- (b) Limitation. Notwithstanding the right to appeal, the Town may take any action deemed necessary during the pendency of the appeal to allow the Town to remain in compliance with the Town's NPDES Permit, to prevent or mitigate damage to the POTW and to protect the health, safety, or welfare of the public, including, but not limited to, discontinuing wastewater treatment services or physically severing of the sewer connection.

Sec. 13-51. Administrative review; appeals process.

- (1) Petition. A person who disputes an administrative order or an administrative penalty may petition for a hearing. The petition shall be in writing, filed with the Town Clerk and contain facts in support of the position alleged therein. The petition shall be submitted under oath in writing or orally at the duly scheduled hearing. A person may only file one petition in connection with a particular dispute, except upon a showing of changed circumstances sufficient to justify the filing of an additional petition.
- (2) Hearing. The Town Manager shall hold a hearing on the petition or designate another person as a hearing officer with authority to hold such hearing. The hearing shall be held within a reasonable time after the filing of a petition at the Town Hall or other place as designated by the hearing officer, and notice thereof and the proceedings shall otherwise be in accordance with the rules and regulations issued by the Town. The petitioner shall have the burden of proof.
- (3) Final order. Within fourteen (14) days of a hearing, the hearing officer shall make written findings of fact and conclusions based upon all relevant information contained in the petition and presented at the hearing. The hearing officer's determination shall be considered a final order, which may, within ten (10) days of its issuance, be appealed to the Town Council.
- (4) Appeal of the final order. An appeal to the Town Council shall be in writing and filed with the Town Clerk, setting forth the specific errors and omissions of the hearing officer in such hearing officer's final order. At the time of filing, the appellant must pay the docket fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule. Written notice of the hearing shall be given to all parties concerned at least (5) days prior to the hearing. The appellant shall have burden of proof on an appeal. The Town Council shall make its final determination and affirm, modify or reverse the final order.
- (5) Service. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this Article. Service may also be accomplished by electronic mail on the condition that the recipient acknowledges receipt of the electronic mail.
- (6) Limitation. Notwithstanding the right to appeal, the Town may take any action deemed necessary during the pendency of the appeal to allow the Town to remain in compliance with the Town's NPDES Permit, to prevent or mitigate damage to the POTW and to protect the health, safety, or welfare of the public, including, but not limited to, discontinuing wastewater treatment services or physically severing of the sewer connection.

Sec. 13-52. Judicial enforcement.

- (1) Injunctive relief. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town Manager may petition the court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of an administrative order issued hereunder or any other requirement imposed by this Article, by the Town's NPDES Permit or by law. The Town Manager may also seek such other action as is appropriate, including

pursuing legal recourse to require the person in violation to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against such person.

- (2) Action at law. When the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town Manager may commence an action at law in a court of competent jurisdiction. An action at law shall not be a bar against, or a prerequisite for, taking any other action against such person.
- (3) Municipal court. Without limitation to other potential remedies, when the Town finds that a person has violated, or continues to violate, any provision of this Article, the Town's NPDES Permit or any other order under this Article, the Town Manager may direct that the person be served a summons and issued a citation into the Johnstown Municipal Court and be subject to the penalties set forth in Article IV of Chapter 1 of the Code.

Sec. 13-53. Sewer service charges.

- (1) Monthly sewer service charges for residential and nonresidential customers are hereby levied and assessed at the rates set forth by resolution of the Town Council in the Town Fee Schedule.
- (2) In addition to monthly sewer service charges, customers that discharge wastes with BOD and suspended solids concentrations above normal domestic wastes shall be assessed a surcharge in the amount set forth by resolution of the Town Council in the Town Fee Schedule.
- (3) Sewer service charges for industrial users who desire treatment of domestic wastewater only are hereby levied and shall be assessed by the Town in an amount that is based upon the number of persons employed by the industrial user. The Town Manager shall implement a uniform methodology to calculate such charges, which methodology shall be available to the user.

Sec. 13-54. Sewer tap fees.

- (1) Applicants for sewer service shall pay a sewer tap fee at the time that a building permit is issued.
- (2) Except as provided below, sewer tap fees shall be determined in accordance with the meter capacity recommended for the related water meter and shall be set forth by resolution of the Town Council in the Town Fee Schedule.
- (3) Because water use and wastewater flows for larger meters varies widely depending on the type of customer, sewer tap fees for meters ranging from four (4) inches to eight (8) inches shall be determined by the Town on a case-by-case basis.

Secs. 13-55—13-69. - Reserved.

ARTICLE III - Water

Sec. 13-70. Water Utility Enterprise.

Sec. 13-71. Requirements for receiving water tap.

Sec. 13-72. Water meters.

Sec. 13-73. Water tap and raw water development fee.

Sec. 13-74. Maintenance.

Sec. 13-75. Meter obstruction.

Sec. 13-76. Disconnection of service unrelated to delinquency.

Sec. 13-77. Water service charges.

Sec. 13-78. Bulk potable water for construction.

Sec. 13-79. Damage to property and equipment of water system.

Sec. 13-80. Trespass, interference with water system prohibited.

Sec. 13-81. Authority to turn on water.

Sec. 13-82. Pollution of the water system prohibited.

Sec. 13-83. Control, repair, and tests of fire hydrants.

Sec. 13-84. Operation of fire hydrants.

Sec. 13-85. Interruption of service by utility.

Sec. 13-86. - 13-110. Reserved.

Sec. 13-70. Water Utility Enterprise.

- (1) The Town Council recognizes the establishment of the Town's Water Utility Enterprise and confirms the operation of the Water Utility Enterprise as an "Enterprise" within the meaning of Section 20 of Article X of the State Constitution.
- (2) The Town Council recognizes that the creation and establishment of the Town's Water Utility serves the purpose of managing, maintaining and operating the Town's water system.
- (3) The Town Council designates itself as the governing body of the Water Utility and shall exercise the Town's legal authority relating to the Water Utility Enterprise, but shall not levy a tax.
- (4) The Town Council directs that funds of the Water Utility Enterprise and funds of the Town may be commingled for purposes of investment so long as accurate records are kept of the amount of such funds allocable to the Enterprise and to the Town.
- (5) The Town Council ratifies, approves and confirms all action not inconsistent with the provisions of this Section heretofore taken by Town Council or by the officers and employees of the Town directed toward the operation of the Water Utility Enterprise as an "Enterprise" under Section 20 of Article X of the State Constitution.

Sec. 13-71. Requirements for receiving water tap.

- (1) Any person who seeks an extension of water service, annexation of land to the Town or a change in land use, if such change in use will increase the demand for water service, shall dedicate a sufficient amount of acceptable water to the Town as provided in Article IV of this Chapter.

- (2) Any person desiring to make a connection to the water system or use water therefrom shall make written application to the Town. No person shall connect to the water system or use water therefrom until such application has been approved and such person has otherwise complied with all relevant provisions of the Code.
- (3) Any person desiring to make a connection to the water system or use water therefrom shall pay all applicable fees.

Sec. 13-72. Water meters.

- (1) All water services supplied by the Town shall be metered. Use of any water without proper metering shall be prohibited.
- (2) Property owners shall install a curb stop with a cast iron box and lid within the Town right-of-way at a location near the property line. Materials shall be of a standard type approved by the Town and in accordance with Town requirements. Property owners shall maintain curb boxes and lids therefor in good and unbroken condition and in readiness for emergency connect and/or disconnect, and shall keep curb box lids unobstructed and visible at all times.
- (3) Water meters shall be of a size, type and design approved by the Town, shall be installed in the Town right-of-way and shall be in a readily accessible location for the meter reader. Indoor water meters must be approved by the Town. Water meters shall be installed either in a frost-proof meter pit or inside the structure with a remote reading device connected to allow reading from the outside of the structure. Water meters shall be installed with a stopcock on each side of the meter.
- (4) At the time of construction of new commercial or industrial buildings, the Town may, in its discretion, permit the installation of dual water meters where usage of water partially for irrigation purposes would otherwise create inequitable billing. In such instances, one of the meters shall record water used exclusively for irrigation purposes, and the use of such water shall be reflected in water billings, but not the sewer billing.
- (5) Each water meter shall be inspected by the Town and shall be properly adjusted before installation.
- (6) A record shall be made and preserved of each meter installed, containing the location, serial number and size of the meter.
- (7) All water meters shall be provided by the Town at the expense of the property owner. Payment for the water meter shall be in the amount set forth by resolution of the Town Council in the Town Fee Schedule and made at the time a building permit is issued. All other expenses for providing water facilities to a property shall be the responsibility of the property owner.
- (8) Water meters sized $\frac{3}{4}$ " or 1" shall be installed by the Town or an authorized representative of the Town at the expense of the property owner.
- (9) Water meters shall be maintained by the Town and shall be tested and repaired as necessary.
- (10) Property owners shall be responsible for the cost of the cut and backfill from the water tap to the shut-off valve, the cost and installation of the meter pit and all materials from shut-off to the improvement on the property and all necessary repairs and maintenance from the shut-off valve to the improvement on the property.
- (11) The Town may remove any meter for routine tests, repairs and replacement. Meter tests shall be subject to the following:
 - (a) Each water meter shall be tested either by the Town or the manufacturer and shall be found to be in good working condition and properly adjusted before installation. If the test is made by the manufacturer, a report of such test result shall be furnished to the Town prior to the installation.

- (b) Whenever, upon test by the Town, a water meter is found to have an accuracy within the acceptable American Water Works Association (“AWWA”) standards, such meter shall be considered to be accurate and correct and no adjustment shall be made in any charge or bill for service prior to the date of such test. If, upon test by the Town, a water meter is found to have an average error in excess of the AWWA standards, such meter shall be corrected or replaced, at the option of the Town, and an appropriate correction or charge in keeping with the percentage error found upon testing shall be made to the charges for water service measured through said meter during a period of not more than one hundred eighty (180) days prior to the date of such test.
 - (c) The customer shall have the right to request a special water meter test at any time. If the special test discloses that the water meter is registering correctly within the AWWA standards, the customer shall pay the water meter testing fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.
- (12) It shall be unlawful for any person to tamper or interfere with any water meter or meter seal or to arrange a water service or piping wherein the use of water will not actuate the meter. The Town may discontinue water service immediately to any user who violates the provisions of this Subsection until satisfactory payment has been made for all water used and all repairs to the water meter and piping have been made.

Sec. 13-73. Water tap and raw water development fee

- (1) Water tap fee. Any person desiring to use water from the Town’s water system shall obtain and pay for a water tap fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule. The water tap fee shall be based on the water meter size. Because water use for larger meters varies widely depending on the type of customer, water tap fees for meters ranging from four (4) inches to eight (8) inches shall be determined by the Town on a case-by-case basis.
- (2) Raw water development fee. A raw water development fee is hereby levied and assessed for all new water taps. The raw water development fee shall be used for the purpose of funding raw water development projects in the Town. The raw water development fee shall be in the amount set forth by resolution of the Town Council in the Town Fee Schedule. The raw water development fee shall be based on the water meter size.
- (3) Payment due. Water tap fees and raw water development fees shall be paid at the time of building permit issuance. Said fees shall be in addition to all other charges and to the required dedication of raw water as set forth in this Code.

Sec. 13-74. Maintenance.

- (1) Every person taking water through the water system of the Town shall permit the Town, at all reasonable hours of the day, to enter his or her property for the purpose of inspection, observation, measurement, sampling, testing, maintenance and upgrading of the Town’s water system. Unreasonable delays in allowing the Town access to the property shall be considered a violation of this Article. The Town may terminate water service to any property for the failure to allow access.
- (2) Unless maintenance and repair are necessary due to the acts of the customer, maintenance of the meter shall be the responsibility of the Town. If the maintenance or repair is due to the acts of the customer, the Town shall bill the cost of the maintenance or repair to the customer.
- (3) The Town shall be responsible for maintenance of the water line services as follows:

- a. If a curb stop exists, the Town shall be responsible from the curb stop back to the water main and for the water meter only.
- b. If no curb stop exists and the meter is in the right-of-way, the Town shall be responsible from the property side of the water meter to the water main.
- c. If no curb stop exists and the meter is inside the house, the Town shall be responsible for the water service in the right-of-way back to the water main.

Sec. 13-75. Meter obstruction.

Persons owning or possessing property on which a water meter is located shall provide at least three feet of unobstructed access to the meter pit and at least five feet of vertical clearance above the meter pit. Failure to provide adequate access to the water meter shall result in an obstructed meter charge in the amount set forth by resolution of the Town Council in the Town Fee Schedule until the obstruction is cleared. Water meters shall be deemed to be obstructed for, among other reasons, locked gates preventing entry or animals threatening or intimidating authorized personnel from accessing the meter.

Sec. 13-76. Disconnection of service unrelated to delinquency.

(1) Voluntary disconnection.

- (a) Persons may periodically desire to temporarily turn off water service.
- (b) Voluntary disconnects and reconnects of existing water service shall be made only under the following specific conditions:
 - (i) Water service charges are paid in full and not delinquent;
 - (ii) The monthly service charge shall be paid during the period of disconnection;
 - (iii) Disconnection and reconnection shall be made only by those persons approved and authorized for such work by the Town; and
 - (iv) A disconnect and reconnect fee is paid in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

(2) Involuntary disconnection.

- (a) Where water service is temporarily discontinued for pipeline repairs or similar matters, the Town shall not impose a disconnect or reconnect fee.

(3) Abandonment of water service.

- (a) A water connection to the Town water system shall be considered to be abandoned, upon ten (10) days' written notice to the owner and the failure to cure, under either of the following conditions:
 - (i) Water service has been discontinued for nonpayment of water service charges and said delinquency has not been rectified within three (3) months of the discontinuance of water service; or
 - (ii) Water service was voluntarily disconnected as set forth above and the minimum monthly service charge has not been paid for a continuous twelve (12) month period.
- (b) If service is determined to be abandoned, abandonment shall be made at the water main with a repair clamp and the water meter removed at the cost of the property owner.
- (c) Prior to reconnection of abandoned water, the person seeking water service shall pay, among other potential charges, all delinquent fees and costs to reactivate the water service or a new water tap fee.

Sec. 13-77. Water service charges.

- (1) Water service charges are hereby levied and assessed for water service at the rates set forth by resolution of the Town Council in the Town Fee Schedule. Water service charges for properties located outside the corporate limits of the Town shall be one and one-half times the rates charged for properties within the Town.
- (2) Except as provided below, the fees for water service shall include a charge based on the size of the water meter and a charge based on the amount of water taken through the water meter.
- (3) For structures with a common meter serving multiple dwelling units, the fees for water service shall include a charge based on the number of dwelling units served by the common meter and a charge based on the amount of water taken through the water meter.
- (4) Water users outside the corporate limits of the Town shall be on individual meters.
- (5) Water meters shall be read once per month and water users shall be billed monthly. If any meter shall fail to register in any billing period, the water user shall be charged according to the average quantity of water used during a similar period.
- (6) Water service rates for non-potable only service to green belt areas, parks, and dual systems shall be charged in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 13-78. Bulk potable water for construction.

- (1) For purposes of this section, *construction hydrant meter* means a Town-authorized temporary metering device placed upon a fire hydrant or other Town water supply source by which a construction contractor may obtain water to be used during construction.
- (2) A cash deposit based on the cost of repairing or replacing a construction hydrant meter, in the amount determined by the Town, shall be required for each meter to assure its return in good working order.
- (3) Bulk potable water for construction purposes within the Town may be obtained from a construction hydrant meter authorized by the Town. Bulk water service shall be metered.
- (4) The water delivered through the construction hydrant meter shall be billed to the contractor on a monthly basis in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Sec. 13-79. Damage to property and equipment of water system.

No person shall damage any property, equipment, appliance, appurtenance or any other item constituting part of the water system.

Sec. 13-80. Trespass, interference with water system prohibited.

No person shall trespass upon the property of the water utility, tap any water mains, make any connections therewith, in any manner interfere with the water system or the property, equipment, mains, valves or any other appliances or appurtenances of the water system, change or alter the position of any valve or appliances of the water system or change or alter the position of any valve or appliance regulating the flow of water in any water utility main, unless authorized to do so in writing by the Town Manager.

Sec. 13-81. Authority to turn on water.

No person other than a duly authorized employee of the Town shall open or turn on any Town water valve or curb stop regulating the flow of water from the Town mains to any premises, lot, building or house for any reason.

Sec. 13-82. Pollution of the water system prohibited.

No person shall deposit in any part of the water system any substance or material that will in any manner injure or obstruct the water system or any material or substance that would tend to contaminate or pollute the water or obstruct the flow of water.

Sec 13-83. Control, repair, and tests of fire hydrants.

All fire hydrants connected to a Town owned water main are part of and shall be maintained by the Town. The installation, maintenance, testing and repair of all fire hydrants, stand pipes, and fire sprinklers on private waterlines or watermain are the responsibility of the property owner.

Sec. 13-84. Operation of fire hydrants.

No person, other than authorized Town or fire department personnel, shall open or operate any fire hydrant, standpipe or fire sprinkler system on public property without written authorization from the Town.

Sec. 13-85. Interruption of service by utility.

Town water may at any time be shut off from the street main due to emergencies or for the purpose of making any connections or extensions of the water mains or to perform any other work necessary to repair and maintain the water system. Notice will be given whenever reasonably possible. The Town shall not be liable for any damages that may occur directly or indirectly on account of the Town water being cut off for any purpose.

Secs. 13-86 —13-110. - Reserved.**ARTICLE IV - Water Rights Dedication**

Sec. 13-111. Title.

Sec. 13-112. Intent and purpose.

Sec. 13-113. Definitions.

Sec. 13-114. Water rights dedication requirement.

Sec. 13-115. Cash in lieu of water dedication.

Sec. 13-116. Water dedication rate.

Sec. 13-117. Water and sewer demand analysis.

Sec. 13-118. Dedication of water rights for park, open space or recreation uses.

Sec. 13-119. Little Thompson Water District.

Sec. 13-120. Annexations.

Sec. 13-121. Procedure.

Sec. 13-122. Water court transfer fee.

Sec. 13-123. Yield by water type and decree

Sec. 13-124. Lease back.

Sec. 13-125. Return flows and augmentation, exchange, or reuse plans.

Sec. 13-126. Town water bank.

Sec. 13-127. – 13-129. Reserved.

Sec. 13-111. Title.

The ordinance codified in this Article shall be known and may be cited as the Town Water Rights Dedication Ordinance.

Sec. 13-112. Intent and purpose.

It is the intent and purpose of this Article to require the dedication of water rights to the Town sufficient to satisfy any new or additional demand for Town water service resulting from the extension of water service, annexation of land to the Town or any change in land use, within or outside the limits of the Town, which will require new or additional water supply from the Town, and thereby to assure an adequate and stable supply of water to all Town water users, ensure the financial stability of the Town water utility and promote the general welfare of the public.

Sec. 13-113. Definitions.

As used in this Article, unless the context otherwise requires,

Annexation means the act of attaching, adding, joining or uniting a parcel of land to the legal entity known as the Town of Johnstown.

Applicant means any individual, partnership, association, organization or corporation requesting water service from the municipal water system of the Town.

Appurtenant means belonging to, accessory or incident to, adjunct, appended, annexed to or used in conjunction with.

Change in land use shall include expansion of an existing use.

Consumptive use means the amount of water consumed that does not return to the stream system after use.

Conveyance of water rights means the process by which legal title to water rights is transferred by appropriate deed, stock assignment, allotment contract or other record transfer.

Dedicate or dedication means to appropriate an interest in land or water rights to some public use, made by the owner, and accepted for such use by or on behalf of the public.

Extension of water service means any extension of the Town water service for which a tapping charge is assessed or any increase in Town water service resulting from a change in use of property, an increased use of property or an increase in irrigated area.

Historical use affidavit means a notarized written statement on a form approved by the Town, which sets forth, among any other information that may be requested by the Town, the following information concerning each water right proposed for dedication to the Town:

- (1) The name and address of the owner;
- (2) The amount of each water right or the number of shares of stock;
- (3) If the water right is used for irrigation, the number of acres presently being irrigated and a legal description and/or map of the acreage irrigated;
- (4) A copy of the stock certificate in any ditch or reservoir company which furnishes water and, unless this requirement is waived by the Town, all decrees or judgments determining or adjudicating each water right proposed for dedication to the Town and any other water rights appurtenant to the property;
- (5) A copy of the document by which the present owner of each water right received title to the water right proposed for dedication to the Town and any other water rights appurtenant to the property;
- (6) A copy of all diversion records for each water right proposed for dedication or transfer to the Town, unless this requirement is waived by the Town; and
- (7) A description of the historical use of the water right, including the amount and time of diversions and, if the use was irrigation, the type of irrigation, the number of acres irrigated, the crops grown and a description of any other water rights used on the land irrigated.

Lease means any grant for permissive use which results in the creation of a landlord-tenant relationship.

Owner means the property owner, annexor or developer, as the case may be and the context indicates, and shall include any part owner, joint owner, tenant in common or joint tenant.

Priority means that a water right has a date as of which it is entitled to use water in relation to other water rights deriving their supply from the same source which is sufficiently senior that it may reasonably be expected to provide a dependable water supply for the requirements of this Article. Factors to be considered in making this determination shall include, but not by way of limitation, the appropriation date and adjudication date of the water right, the decreed use, the historical use of the water right, the physical flow available and the administrative practices of the office of the State Engineer.

Raw water credit means the number of SFEs for which dedication credit is provided by the Town for the dedication of a particular acceptable water right to the Town.

Single family equivalent unit or SFE means a number related to the volume of water necessary to meet the demand and consumptive use requirements of an average dwelling unit housing not more than three and one-half (3.5) persons and having not more than three thousand (3,000) square feet of irrigated area. The SFE unit value assigned to such average dwelling unit is one (1.0). The SFE unit value assigned to any particular dwelling unit may be greater than, equal to or less than one (1.0). The SFE unit value assigned to other uses shall be based on the Town's estimated volume of water demanded and consumed by such uses as compared to the volume of water demanded and consumed by such average dwelling unit.

Town water service or water service means treated water service or raw water service furnished by the Town for any purpose, including but not limited to domestic, commercial, and industrial uses.

Transfer, dedicate, or dedication of water rights means the conveyance of legal title to water rights to the Town.

Water court transfer fee means the estimated cost per SFE of court filing fees, publication fees, professional fees and other reasonable and customary costs associated with required proceedings in the water court for the Town to make full and lawful use of water rights dedicated to or acquired by the Town for use in its municipal water system, the amount of which is set forth by resolution of the Town Council in the Town Fee Schedule.

Water credit means the number of acre-feet, or the number of SFEs, for which dedication credit is provided by the Town for the dedication of a particular acceptable water right to the Town.

Water right means a decreed right to use in accordance with its priority a certain portion of the waters of the State by reason of the appropriation of the same. It shall include both direct-flow and storage rights.

Sec. 13-114. Water rights dedication requirement.

- (1) Any person who seeks approval of any of the following:
 - (1) an extension of water service;
 - (2) annexation of land to the Town; or
 - (3) any change in land use, within or outside the limits of the Town, if such change in land use will increase the demand for Town water service,

shall dedicate surface water rights to the Town of an amount and priority to produce, after dedication of such water rights to the Town and completion of any necessary water court transfer proceedings, a sufficiently reliable source of water acceptable to the Town to supply at least the amount of water needed to supply the additional deliverable and fully consumable water per year for each SFE, which water will be available for diversion at such point or points of diversion as the Town may designate for use and consumption by the Town for municipal purposes.

- (2) If wastewater from in-house or in-building uses will not be treated by the Town's municipal wastewater treatment facilities or other wastewater treatment facilities of equal efficiency and which provide similar return flow patterns, the Town shall increase the dedication requirement so that, after dedication of such water rights to the Town, the water rights to be dedicated will produce an amount of deliverable and fully consumable water per year for each SFE that is sufficient to ensure an adequate supply of water to satisfy the proposed use or uses.

- (3) Any person required to dedicate water rights to the Town shall designate, on forms prescribed by the Town, all water rights proposed to be dedicated to the Town with proof of ownership or otherwise show the legal ability to dedicate the water rights, and shall provide a legal description of the land for which the extension of water service is requested or for which approval of annexation or a change in land use is sought; and, in addition, shall specify the proposed use or uses for which Town water service is requested and the number of SFE units required for such use or uses. The form shall be accompanied by a historical use affidavit, except that, if the total number of SFE units is greater than thirty (30) SFE units, the Town may, in its discretion, require, in addition to the historical use affidavit, an engineering report prepared at said person's expense by an engineer experienced in water rights matters to analyze the historical use of the water rights proposed for dedication to the Town.
- (4) Upon receipt of the foregoing, the Town, in its sole discretion, shall determine whether the water rights are acceptable to the Town and whether the water rights are sufficient to satisfy the requirements of Article. In making such determination, the Town shall consult with persons knowledgeable in water rights matters.
- (5) The water dedication requirement shall be satisfied by the person seeking approval of the extension of water service, annexation or a change in land use, regardless of whether that person will be the ultimate user of the Town water service.
- (6) All costs and expenses to dedicate water rights to the Town to satisfy the water dedication requirements contained in this Article shall be paid by the person required to dedicate such water rights. Costs and expenses necessary to change dedicated water rights so they can be diverted and used by the Town for municipal use shall be paid by the person required to dedicate water rights to the Town in the form of payment of a water court transfer fee or as otherwise required by the Town. Payment of the water court transfer shall not create an ownership interest in the dedicated water.
- (7) Prior to commencing a project that requires water or sewer service, the owner shall be required to enter into a water and sewer service agreement with the Town.

Sec. 13-115. Cash in lieu of water dedication.

Town Council may, in its discretion, accept cash-in-lieu of the required water dedication. If cash-in-lieu is approved, the rate shall be based on a per SFE standard and shall at a minimum be equal to the fair market value of water rights required to satisfy the water dedication requirement provided in this Article, determined as of the date of actual cash-in-lieu payment.

Sec. 13-116. Water dedication rate.

- (1) A single-family equivalent without a separate non-potable irrigation system shall require the dedication of 0.50 acre-feet of water per residence for a landscaped lot consisting of less than or equal to 3,000 square feet. The 0.50 acre-feet per residence consists of 0.33 acre-feet of water for in-home consumptive use and 0.17 acre-feet of water for irrigation. This shall be the basis for a single-family equivalent (SFE).
- (2) Unless otherwise approved or required by the Town, in its discretion, the required water dedication for the uses set forth below, which are based on the anticipated annual water usage and account for treatment system losses, distribution system losses, contractual assessments and drought protection, shall be as follows:
 - (a) A single-family detached dwelling unit shall require the dedication of 0.33 acre-feet of water for indoor use.

- (b) A single-family attached, townhome, or multifamily dwelling unit shall require the dedication of 0.29 acre-feet of water for indoor use.
- (c) The dedication requirements for zoning districts and land use types other than those listed above shall be determined by the Town on a case-by-case basis based on proposed uses.
- (d) Irrigation of dwelling unit lots consisting of less than or equal to 3,000 square feet that do not contain a non-potable system shall require the dedication of 0.17 acre-feet of water for outdoor use.
- (e) Spray irrigation for seed and sod shall require the dedication of 2.5 acre-feet of water per irrigated acre.
- (f) Drip irrigation shall require the dedication of 1.5 acre-feet of water per irrigated acre.
- (g) Xeriscape irrigation shall require the dedication of 1.0 acre-feet of water per irrigated acre.

Sec. 13-117. Water and sewer demand analysis.

- (1) The applicant shall include with any annexation petition, subdivision or development plan submittal or other land use request that involves an extension of water service, a written analysis sufficient to allow the Town to fully evaluate the probable water demand and consumption and the sewer service requirements for the subject property. The analysis shall include the entire property and shall specify the use of all land in the property. Water demands and consumption shall be estimated separately for each use category (e.g. single-family residential, multifamily residential, commercial, office, industrial, parks or others), and irrigation demands and consumptive use shall be set forth separately for each use category which is applicable to the property.
- (2) Subject to Town approval, the applicant may use historical water service(s) from similar projects based on their use and size for both consumptive and irrigation use in preparing the water and sewer demand analysis.
- (3) In lieu of the analysis described above, the Town may elect to provide its own water and sewer demand analysis if the Town has sufficient information and experience with other similar developments to adequately evaluate the probable water demands and consumption and the sewer service requirements for the property.

Sec. 13-118. Dedication of water rights for park, open space or recreation uses.

- (1) If land is dedicated to the Town for park, open space or recreation uses, the owner shall also dedicate water rights sufficient to irrigate said land, as provided in this Article.
- (2) Where the Town enters into an agreement to accept cash-in-lieu of in-kind land dedication for parks, open space or recreation uses, and the Town is unable to specifically determine the irrigation demand for the public project for which the cash is contributed, the amount of water rights dedication, or cash-in-lieu of water rights dedication, in the Town Council's discretion, required to meet the water dedication requirements shall be equal to the amount required to irrigate eighty percent (80%) of the land area which otherwise would have been required for in-kind land dedication by the Code or the Town.

Sec. 13-119. Little Thompson Water District.

If a property is served by the Little Thompson Water District or the Town determines that all or part of a property would be better served by the Little Thompson Water District, either temporarily or

permanently, and the Little Thompson Water District agrees to provide water service, Town Council may, in its discretion, permit such property to receive water service from the Little Thompson Water District upon such terms and conditions set forth in an agreement between the Town and the property owner.

Sec. 13-120. Annexations.

- (1) At the time of annexation, the annexor shall identify all water rights appurtenant to the property to be annexed and shall not, after the filing of the petition for annexation, transfer, assign or sell any such appurtenant water rights without the written consent of the Town.
- (2) Unless otherwise agreed by the Town, at the time of annexation, the annexor shall dedicate to the Town all water rights appurtenant to the property to be annexed. The Town may, in its discretion, permit the annexor to defer dedication of the water rights until a subsequent date, consistent with the provisions of this Article. The Town may also, in its discretion, permit the annexor to dedicate water rights that are not appurtenant to the property, in addition to or in lieu of, water rights that are appurtenant to the property.

Sec. 13-121. Procedure.

- (1) Unless otherwise agreed by the Town, no extension of water or sewer service, including any new or additional service, shall be furnished by the Town until adequate water in a sufficient amount to provide the services is dedicated to the Town and there has been full compliance with the provisions of this Article.
- (2) The Town shall evaluate any water rights offered to the Town for dedication. The Town shall determine whether said water rights are to be accepted based upon the following criteria: priority date, historical point of diversion, location of historical use, historical yield, historical consumptive use, the contribution to historical consumptive use of other water rights or sources of water supply, future use of the land historically irrigated, including future irrigation, considerations with respect to title, anticipated difficulties with transferring the water rights to appropriate points of diversion, places of storage and municipal uses, the Town's contractual obligations and arrangements, expected needs of the Town and of the Town's municipal water supply system, composition of the Town's water rights portfolio at the time of the proposed annexation and any other appropriate factors.
- (3) The Town reserves the right, in its discretion, to accept, reject or accept in part any water rights proposed for dedication to the Town. If the Town determines that the water rights proposed for dedication to the Town are unacceptable to the Town, or insufficient to comply with the dedication requirements, the Town may, in its discretion, determine whether the Town will accept cash-in-lieu of dedication to satisfy all or part of the dedication requirement.
- (4) Unless otherwise permitted by the Town based on extraordinary circumstances, no final plat or development plan for residential uses shall be approved by the Town unless sufficient water rights dedications and/or cash-in-lieu payments have been accepted by the Town to provide sufficient water supply for the demands projected for all proposed uses within the platted area. Non-residential subdivisions may be approved prior to full water rights dedication, however no building permits shall be issued prior to completing all necessary analysis, acceptance, and dedication of water rights as set forth in this Article to meet the water demands of said use.
- (5) A change in land use or expansion of an existing use may, in the Town's determination, require updated water demand information and the dedication of additional water, in accordance with this Article.

- (6) The Town reserves the right to review actual water usage at a point in time after water usage has been established to confirm the adequacy of the water demand projections and executed water and sewer service agreement, and to require additional water rights dedication and/or cash-in-lieu payments based on actual water usage. If additional water rights are not dedicated in a timely manner, as required by the Town, the Town may, in its discretion, disconnect water service to the subject property. (Prior contractual water and sewer service agreement references to “Section 13-68(h)” of the Ordinance or the Code shall be deemed to mean and include this Subsection.)
- (7) All costs and expenses related to the dedication of water rights to the Town shall be borne by the person required to dedicate the water rights to the Town pursuant to this Article.
- (8) Any decision or recommendation made by the Town Manager or other Town agent or designee under any delegation of authority or responsibility contained in this Article or otherwise relating to water rights dedication shall be submitted to the Town Council for determination or ratification, as the case may be. No such decision or recommendation shall be of any force or effect until finally determined or ratified by the Town Council.
- (9) In the event the water rights offered to the Town for dedication provide raw water credits in excess of those required by this Article, the Town may, in its discretion, purchase the surplus water upon terms that are agreeable to the owner.
- (10) The Town shall not require that groundwater wells or their appurtenant water rights be offered to the Town for dedication or purchase, nor shall the Town provide any raw water credits for such structures or water rights.
- (11) All determinations provided for herein shall be made by the Town in the exercise of its reasonable judgment.
- (12) All dedications of water rights to the Town hereunder shall be effected by delivering to the Town sufficient warranty deeds, stock certificates with appropriate stock assignments, written approval of the transfer of allotment contracts or by other acceptable means, as is appropriate to the particular transaction. All title documents shall be subject to approval by the Town. No water rights dedication shall be considered completed until the Town has accepted sufficient documents transferring title to the Town.
- (13) The provisions contained in this Article shall apply retroactively to existing water dedications, water and sewer uses and water and sewer agreements. No person shall be entitled to assert that he or she is not required to comply with the provisions contained in this Article by the mere fact of recodified numbering.

Sec. 13-122. Water court transfer fee.

Water court transfer fees, calculated on a per SFE basis and based upon whether water has been decreed for municipal use, are hereby levied and assessed. Water court transfer fees shall be paid in the amount set forth by resolution of the Town Council in the Town Fee Schedule and, unless otherwise agreed by the Town, at the earlier of the time of approval of a final plat, execution of a water and sewer service agreement or the extension of water service.

Sec. 13-123. Yield by water type and decree

- (1) Based on the provisions of this Article, the Town shall evaluate any water rights offered to the Town for dedication. If the following water rights are accepted by the Town and are decreed for municipal use in the Town, the following raw water credits shall be provided:

Water Rights	Raw Water Credits (Acre Feet Yield)
Consolidated Home Supply Ditch & Reservoir Company	16 SFEs per share (8 Acre Feet Yield)
Colorado Big Thompson Project Units (CBT)	0.7 SFE per unit (0.35 Acre Feet Yield)

If the following water rights are accepted by the Town and are not decreed for municipal use in the Town, the following raw water credits shall be provided:

Water Rights	Raw Water Credits (Acre Feet Yield)
Consolidated Home Supply Ditch & Reservoir Company	12.8 SFEs per share (6.4 Acre Feet Yield)
Colorado Big Thompson Project Units (CBT)	0.7 SFE per unit (0.35 Acre Feet Yield)

- (2) For water rights acceptable to the Town for dedication that are not set forth in the table above, the Town, in its discretion, shall determine the raw water credit.

Sec. 13-124. Lease back.

If the owner of property to be annexed, subdivided or otherwise subsequently developed desires to retain land, or any portion thereof, in agricultural production or as open space prior to development, the owner may, pursuant to written agreement with the Town, lease back, on an annual basis and for irrigation, aesthetic and recreational purposes only, all or part of the water rights dedicated to the Town pursuant to this Article. Unless otherwise agreed by the Town, the terms of any such leases shall be at fair market value, as determined by the Town, and on such other terms and conditions as required by the Town. The owner shall pay, at a minimum, all assessments due and owing on the water. Said leases shall provide that, in the event any portion of the land for which the water is leased is platted during the term of the lease, the Town may cancel the lease, in whole or in part, to the extent a portion of the leased water is determined by the Town to be necessary for water service to the property so platted.

Sec. 13-125. Return flows and augmentation, exchange, or reuse plans.

The Town shall have dominion and control of all water supplied through its water system, subject to reasonable use thereof by its water users in compliance with applicable agreements, leases, licenses and the Code. Such dominion and control shall continue without interruption as to all wastewater, return flows, runoff, sewage, or tail water attributable to or originating in water supplied through Town-owned or controlled water rights or facilities. Except as otherwise agreed by the Town in writing, the Town shall have the exclusive right to recapture such return flows or claim credit therefrom for reuse, successive use, exchange, replacement, augmentation, substitute supply or any other lawful purposes, and the Town's dominion and control over water shall continue to attach to all such return flows, regardless of form, even after they return to the groundwater aquifers or the surface stream systems. All return flows from water supplied through Town-owned or controlled water rights or facilities remain the property of the Town.

Sec. 13-126 – Town water bank.

The Town Council may by resolution assign unallocated raw water from the Town's water stock to a Town water bank to be used, in the Town Council's discretion, for any reasonable and acceptable purpose within the Town and upon such terms and conditions as Town Council imposes.

Secs. 13-127 – 13-129. - Reserved.

ARTICLE V - Infrastructure Reimbursement

Sec. 13-130. Water and sewer line reimbursements and regional storm water infrastructure; purpose.

Sec. 13-131. Conditions invoking eligibility for reimbursement.

Sec. 13-132. Time period for reimbursement.

Sec. 13-133. Computation of recoverable reimbursement; reimbursement agreement; interest.

Sec. 13-134. Payment by benefited properties.

Sec. 13-135. Upsizing or capacity upgrades by the Town.

Secs. 13-136.—13-150. - Reserved.

Sec. 13-130. Water and sewer line reimbursements and regional storm water infrastructure; purpose.

It is the intention of the Town Council in providing a reimbursement procedure under this Article to provide an appropriate incentive for developers of private property to pay for the construction of water and sewer mains and regional stormwater facility infrastructure to connect such developer's property with existing utilities by providing a process whereby a developer may recoup a portion of the initial construction cost of such infrastructure from benefitted offsite properties. The Town Council also recognizes that it is necessary for a developer to timely apply to the Town for reimbursement and further that there shall be a limitation on the period of time, expressed in years, whereby a developer may recoup the cost.

Sec. 13-131. Conditions invoking eligibility for reimbursement.

Developers who construct off-premises water or sewer mains or regional storm water improvements that benefit other properties may, in the Town's discretion, be entitled to reimbursement from persons desiring to connect to the off-premises mains or are in the drainage area of the storm water improvements if all of the following circumstances exist:

- (1) The developer constructs the off-premises water or sewer main or regional storm water improvements in accordance with Town specifications and requirements with prior approval by the Town;

- (2) The developer provides the Town with the final certified costs of the improvements and satisfactory evidence that all such costs, including engineering, construction and other costs in connection with the project, were paid in full;
- (3) The developer provides the Town with completed bid forms containing the description, estimated quantity and unit price for each item included in the project from at least three (3) qualified contractors, unless the Town otherwise agrees, with an indication of which contractor was awarded the project;
- (4) The developer provides the Town with a map of the improvements for which the developer is seeking reimbursement, including the following:
 - (a) The location of the improvements;
 - (b) The name of the owner of each property specially benefitted by the improvement; and
 - (c) The legal description of each property benefitted by the improvement;
- (5) The Town is notified of the completion of the construction within three months of the completion and is provided documentation evidencing the date of such completion.
- (6) Prior to completion of the construction, the developer provided notice of the opportunity to participate in the cost of the construction to all owners of benefitted offsite properties, or their predecessors in interest, against whom reimbursement may be assessed and provides proof of such notice to the Town;
- (7) The benefitted offsite property to be served by the improvements was owned at the time of construction by a person who did not participate in the cost of construction; and
- (8) The person against whom the reimbursement is to be assessed requests approval for water or sewer line extensions or services which connect to the off-premises water or sewer main either directly or indirectly or are in the drainage area of the regional storm water improvements during the time period in which the developer is eligible for reimbursement.

Sec. 13-132. Time period for reimbursement.

If the developer is eligible for reimbursement, the developer must obtain approval for such reimbursement from the Town Council. If approved, the developer shall be entitled to reimbursement for a ten-year period following completion of the construction. The ten-year period may be renewed, in Town Council's discretion, for a maximum of two additional five-year periods by action of the Town Council upon written request of the person who paid for such initial construction, or their successor in interest, if the request is made prior to the lapse of the initial ten-year or first five-year renewal period.

Sec. 13-133. Computation of recoverable reimbursement; reimbursement agreement; interest.

- (1) If all conditions are met, the Town shall proportionally allocate the eligible costs of the construction to the land area on a frontage, flow capacity, drainage area, acreage or other equitable basis. The developer seeking reimbursement shall submit a proposed formula for allocation of the costs to the Town. The allocation shall be calculated on a gross acreage if allocated on a drainage area basis, and shall include all rights-of-way, stormwater facilities, parks and other private land which may be dedicated to public purposes within each tract. For sewer, the allocations and reimbursement shall be limited to a total depth over diameter capacity of the sewer main at fifty 50%. In each case, the reimbursement will be computed by prorating the construction cost, without any additional charges other than interest, against the property served by the off-premises main.
- (2) The Town may, in its discretion, at the expense of the developer, retain a third party to confirm the reasonableness of the developer's costs of construction.

- (3) After analysis of the foregoing, the Town may set forth the reimbursement recoverable from each benefitted offsite property in the reimbursement agreement.
- (4) An interest component may be added to the amount that is subject to reimbursement, but shall apply to the first ten-year period only, and not to renewal periods. The interest shall be equal to that of ten-year U.S. treasury bills on the date of the completion of construction.

Sec. 13-134. Payment by benefitted offsite properties.

- (1) The reimbursement contemplated herein shall be paid by the owner or developer of benefitted offsite properties prior to the approval of plans for construction of additional extensions or when service taps are requested, whichever comes first.
- (2) The Town shall not be obligated or liable financially or otherwise for any portion of the reimbursement or for the failure of an owner or developer to pay the reimbursement.
- (3) If the Town collects the reimbursement on behalf of the developer, the Town shall retain an administrative service charge.

Sec. 13-135. Upsizing or capacity upgrades by the Town.

The Town may require a developer to construct utility infrastructure as part of the developer's planned improvements for which a reimbursement agreement may apply pursuant to this Article. The Town, in its discretion, may elect to participate in utility upsizing or capacity upgrades. If the Town participates, the Town shall be responsible for the difference in material costs only to upsize the applicable utility and the reimbursements available to the developer shall be limited to the original construction planned, not to the upsizing or capacity upgrade paid for by the Town.

Secs. 13-136.—13-149. - Reserved.

ARTICLE VI - Water Conservation

Sec. 13-150. General.

Sec. 13-151. Levels of drought condition.

Sec. 13-152. Water waste.

Sec. 13-153. Drought surcharge.

Sec. 13-154. Penalty for violation.

Sec. 13-155 – 13-169. Reserved.

Sec. 13-150. General.

The Town is considered a semi-arid climate receiving just over 13" of rain annually. It is with this focus that the Town encourages water wise applications to conserve valuable water resources.

Sec. 13-151. Levels of drought condition.

- (1) There shall be three (3) separate levels of drought conditions as detailed below. The Town Council's decision to determine a restriction level shall be based upon the following criteria:
 - (a) Water delivery limitations placed on the Town by its raw water providers;
 - (b) Snow pack and reservoir levels;
 - (c) Generally available water supplies;
 - (d) Peak water demand usage that may impact the Town's ability to provide adequate water supply and fire flows to the water distribution system; and
 - (e) Any other relevant factor that affects the Town's available water supply.
- (2) Level 1 shall be a normal year, with standard conservation practices in effect, and shall be in effect without further action by the Town Council. Under Level 1 conditions, the following provisions shall apply:
 - (a) It shall be unlawful for any consumer or other person, or for the owner of any property to cause, permit, suffer, or allow any person to irrigate, sprinkle, or otherwise apply water from the Town's water system to any outdoor vegetation, including, but not limited to, lawns and gardens, between the hours of 10:00 a.m. and 6:00 p.m. Watering may occur from midnight to 10:00 a.m. and then from 6:00 p.m. to midnight;
 - (b) There shall be no lawn watering from November 1 through April 15. Trees and shrubs during this time may be watered by hand on either a Saturday or Sunday; and
 - (c) The foregoing restrictions shall not apply to:
 - (i) Irrigation of land used for commercial agriculture;
 - (ii) Watering by hand of any outdoor vegetation using a manually operated hose equipped with an automatic shut-off valve;
 - (iii) Watering by hand of any community gardens using a manually operated hose equipped with an automatic shut-off valve;
 - (iv) Irrigation of short grass on Town-owned athletic fields or golf courses; or
 - (v) Irrigation of land using non-potable water sources that do not directly apply water from the treated municipal water utility system.
- (3) Level 2 shall be a moderate drought year limiting outdoor irrigation as hereinafter provided and shall become effective as provided by resolution adopted by the Town Council. Under Level 2 conditions, no person or property owner shall utilize water from Town's water system for the purpose of spray irrigation or hand-watering of lawns, gardens or other landscapes unless such usage complies with all of the following restrictions:
 - (a) Spray irrigation and hand-watering shall occur only on the homeowner's appropriate watering day and only between the hours of 6:00 p.m. and 10:00 a.m. On the homeowner's appropriate watering day, watering may thus occur from midnight to 10:00 a.m. and then from 6:00 p.m. to midnight;
 - (b) Spray irrigation and hand-watering shall occur only on the designated property watering days to be indicated as either an even- or odd-numbered address. The last digit of the address of the property owner shall determine the designated watering day. Even addresses may water on Sunday and Thursday. Odd addresses may water on Saturday and Wednesday;
 - (c) No person or property owner shall utilize water from the Town's water system for the purpose of washing sidewalks, driveways, patios or similar hardscapes;
 - (d) Vehicles may be washed only on a property owner's assigned watering days, but shall be washed with a bucket or a hose running with an automatic shut-off nozzle. If possible, persons are encouraged to park vehicles on their lawns while washing occurs, but such vehicles may be on the lawn only while they are being washed and shall be immediately

removed from the lawn upon completion. Commercial vehicle washing facilities are exempt from this regulation;

- (e) There shall be no lawn watering from October 15 through April 15. Trees and shrubs may be watered on either a Saturday or Sunday in accordance with the Level 2 irrigation schedule;
 - (f) Watering of newly planted grass shall only occur subject to a permit issued by the Town. The cost of the permit shall be the amount set forth by resolution of the Town Council in the Town Fee Schedule;
 - (g) Irrigation with well water may occur subject to the premises being clearly posted with a notice visible from the street indicating that irrigation is with well water;
 - (h) Only non-potable water may be used for construction purposes;
 - (i) The Town Manager, when warranted, may provide appropriate measures for watering large areas, such as open space and parks by schools and homeowners associations;
 - (j) In addition to the restrictions set forth herein, Town Council may by resolution impose time restrictions on the use of municipal water for irrigation purposes; and
 - (k) The foregoing restrictions shall not apply to:
 - i. Irrigation of land used for commercial agriculture; or
 - ii. Irrigation of land using non-potable water sources that do not directly apply water from the treated municipal water utility system.
- (4) Level 3 shall be severe drought conditions prohibiting lawn irrigation and shall become effective as provided by resolution adopted by the Town Council.

Sec. 13-152. Water waste.

- (1) No person or property owner shall cause, allow or permit any water waste.
- (2) Water waste is the intentional or negligent use of water which results in water being utilized in a wasteful or inefficient manner. Water waste includes, without limitation, the following:
 - (a) Water applied in any manner, rate or quantity such that runoff results from the landscaped area being watered and water runs onto public or private streets or into drainage or storm drainage facilities;
 - (b) Failure to repair or shut off any irrigation system that is malfunctioning within one hour; or
 - (c) Excessive use of water for any exempt activities set forth in this Article including, without limitation, vehicle washing.
- (3) For purposes of this Article, excessive means more than the minimum reasonably necessary to accomplish the task.

Sec. 13-153. Drought surcharge.

The Town Council may establish by resolution a temporary drought surcharge for excessive water usage. Funds received from the surcharge shall be used solely for leasing or acquisition of water rights, the cost of enforcement of water restrictions and water department operation and maintenance. This shall be a temporary surcharge and may last no longer than a single irrigation season. These charges shall be in addition to the charges imposed for water usage as otherwise provided in this Chapter.

Sec. 13-154. Penalty for violation.

Prior to the issuance of a summons and complaint, any person alleged to have violated any provision of this Article shall first have received one written warning from the Town. Thereafter, any person alleged to have violated any of the provisions of this Article may be served a summons and complaint and be subject to the penalties set forth in Article IV of Chapter 1 of the Code.

Secs. 13-155 to 13-169 Reserved.

ARTICLE VII - Storm Water Utility

Sec. 13-170. Storm Water Utility Enterprise.

Sec. 13-171. Definitions.

Sec. 13-172. Storm water management plan.

Sec. 13-173. Storm water fees.

Sec. 13-174. Certain properties exempt from fees.

Sec. 13-175. - Administrative review; appeals process.

Sec. 13-176. Storm water facilities required for subdivisions.

Sec. 13-177. Title granted to Town and responsibility for accepted facilities.

Sec. 13-178. Town to maintain storm water facilities; exception.

Sec. 13-179. Disclaimer.

Secs. 13-180. - 13-199. - Reserved.

Sec. 13-170. Storm Water Utility Enterprise.

- (1) The Town Council recognizes the establishment of the Town's Storm Water Utility Enterprise and confirms the operation of the Storm Water Utility Enterprise as an "Enterprise" within the meaning of Section 20 of Article X of the State Constitution.
- (2) The Town Council recognizes that the creation and establishment of the Town's Storm Water Utility serves the purpose of providing storm water facilities for drainage and control of flood and surface waters within the Town, including areas to be subdivided and developed, and is necessary in order that storm and surface waters may be properly drained, treated and controlled to protect the health, safety and welfare of the Town and its inhabitants.
- (3) The Town Council designates itself as the governing body of the Storm Water Utility and shall exercise the Town's legal authority relating to the Storm Water Utility Enterprise, but shall not levy a tax.
- (4) The Town Council directs that funds of the Storm Water Utility Enterprise and funds of the Town may be commingled for purposes of investment so long as accurate records are kept of the amount of such funds allocable to the Enterprise and to the Town.

- (5) The Town Council ratifies, approves and confirms all action not inconsistent with the provisions of this Section heretofore taken by Town Council or by the officers and employees of the Town directed toward the operation of the Storm Water Utility Enterprise as an “Enterprise” under Section 20 of Article X of the State Constitution.

Sec. 13-171. Definitions.

Best Management Practices (BMPs) means methods that have been determined to be the most effective, practical means of preventing or reducing pollution from storm water runoff. These include schedules of activities, prohibitions of practices, maintenance procedures and other management practices. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or water disposal or drainage from raw material storage.

Detention means the collection and temporary storage of storm water in such a manner as to provide treatment through physical, chemical or biological processes, with subsequent gradual release of the storm water.

Developed land means land on which any part of its surface has been modified by the works of humans in such a way that the land’s natural ability to absorb and hold precipitation has been reduced.

Drainage basin means the watershed area contributing storm water to the storm water system.

Equivalent residential unit (ERU) means the average impervious area of a residential lot.

Impervious surface means a surface that has been compacted or covered so that it is highly resistant to infiltration by water.

Retention means the prevention of, or to prevent the discharge of, a given volume of storm water runoff into surface waters by permanent storage.

Storm water means the flow of surface water that results from and occurs following a precipitation event or irrigation return flow.

Storm water management means all activities related to the administration, planning, master planning, financing, construction, operation and maintenance of the storm water system.

Storm Water Management Plan or *Plan* means a plan for receiving, handling and transporting storm water within the Town storm water system.

Storm Water Utility shall be operated as an enterprise following the accepted principles and procedures established by the Governmental Accounting Standards Board as a publicly held “Enterprise Fund.”

Storm water system means all natural and manmade elements, facilities, structures, equipment and land that are used for or incidental to the conveyance, control, treatment or disposition of storm water.

Storm water system development charges or *storm water development charges* means charges that are a one-time payment that fund the expansion of public facilities needed to accommodate new

development. The intent is for new development to pay for its proportional share of the capital costs for additional infrastructure capacity.

Surface waters means water naturally open to the atmosphere (rivers, lakes, reservoirs, ponds, streams, impoundments, seas, etc.) and all springs, wells or other collectors directly influenced by surface water.

Sec. 13-172. Storm water management plan.

The Town Manager, or his or her designees, shall develop a Storm Water Management Plan for the Town based on sound engineering studies that indicate the location of all facilities in the Town, including those facilities that currently exist and those determined to be needed and that are intended to be constructed in the future. The Town Council may adopt the Plan by resolution. All substantial modifications or amendments shall also be made by resolution of the Town Council. The Plan shall guide the Storm Water Utility in the construction, operation and maintenance of the storm water system. The Town shall, in all ways and within the limits of its powers, solicit adjacent municipalities and counties to cooperate in providing storm water facilities in drainage basins, or parts thereof, extending outside the Town limits and in general to carry out the Plan. Maps showing all drainage basins and proposed facilities may be furnished to the Larimer and Weld County Commissioners for their use in this matter as such maps are requested and become available and updated.

Sec. 13-173. Storm water fees.

- (1) Revenues. The Storm Water Utility must receive sufficient revenue to ensure proper operation and maintenance, development and perpetuation of the system and maintenance of the utility's financial integrity. Operation and maintenance expenses include the annual cost of salaries and wages, employee fringe benefits, power, other purchased utilities, repair materials and supplies, smaller items of equipment that do not extend the useful life of major facilities and general overhead. These costs represent the normal everyday costs of operation that should be covered by monthly service charges. Major capital improvements are typically funded through either debt financing cash reserves from storm water management utility fees or system development charges.
- (2) System development charges. As each parcel of land is developed or redeveloped and approved as to final plat, each gross acre of such filing shall be assessed a system development charge in the amount set forth by resolution of the Town Council in the Town Fee Schedule. These charges fund the expansion of public facilities needed to accommodate new growth.
- (3) Storm water management utility fee. There is hereby imposed on every property within the Town and upon the owners thereof a storm water management fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule. Each single-family residential lot shall be equivalent to one (1) ERU. A schedule of ERUs applicable properties other than single-family residential properties shall be set by resolution of the Town Council in the Town Fee Schedule. This fee is to pay for the operation, maintenance and minor capital expenses associated with replacement and improvement of the Town storm water facilities and of such future storm water facilities as may be required and to pay for the design, right-of-way acquisition and construction or reconstruction of storm water facilities to the extent that such costs have been determined to be the responsibility of developed properties. The proceeds of this fee are deemed to be in payment

for use of the Town's storm water system by the real property on which the fee is imposed and by the owners thereof.

Sec. 13-174. Certain properties exempt from fees.

The following land uses are exempt from storm water management utility fees:

- (1) Public park land;
- (2) Public or private ponds, lakes, reservoirs, rivers, creeks, natural water courses, wetlands or irrigation ditch/canal rights-of-way;
- (3) Public streets, highways, rights-of-way and alleys;
- (4) Railroad rights-of-way except railroad property not utilized for railroad purposes;
- (5) Cemeteries; and
- (6) Lands actively used for agriculture and larger than two (2) acres in size.

Sec. 13-175. - Administrative review; appeals process.

- (1) Petition. A person who disputes the amount of a storm water management utility fee may petition for a hearing. The petition shall be in writing, filed with the Town Clerk and contain facts in support of the position alleged therein. The petition shall be submitted under oath in writing or orally at the duly scheduled hearing. A person may only file one petition in connection with a particular dispute, except upon a showing of changed circumstances sufficient to justify the filing of an additional petition.
- (2) Hearing. The Town Manager may hold a hearing on the petition or may designate another person as a hearing officer with authority to hold such hearing. The hearing shall be held within a reasonable time after the filing of a petition at the Town Hall or other place as designated by the hearing officer, and notice thereof and the proceedings shall otherwise be in accordance with the rules and regulations issued by the Town. The petitioner shall have the burden of proof.
- (3) Final order. Within fourteen (14) days of a hearing, the hearing officer shall make written findings of fact and conclusions based upon all relevant information contained in the petition and presented at the hearing. The hearing officer's determination shall be considered a final order, which may, within ten (10) days of its issuance, be appealed to the Town Council.
- (4) Appeal of the final order. An appeal to the Town Council shall be in writing and filed with the Town Clerk, setting forth the specific errors and omissions of the hearing officer in such hearing officer's final order. At the time of filing, the appellant must pay the docket fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule. Written notice of the hearing shall be given to all parties concerned at least (5) days prior to the hearing. The appellant shall have burden of proof on an appeal. The Town Council shall make its final determination and affirm, modify or reverse the final order.
- (5) Service. Service by certified mail, return receipt requested, shall be conclusive evidence of service for the purpose of this Article. Service may also be accomplished by electronic mail on the condition that the recipient acknowledges receipt of the electronic mail.

Sec. 13-176. Storm water facilities required for subdivisions.

Prior to the final approval of the plat of any subdivision or planned unit development ("PUD") plan, the owner of the property being subdivided shall, at such owner's cost, prepare detailed plans and specifications for the construction and installation of all storm water facilities and BMPs required for such subdivision, including the facilities required to convey storm water to existing drains, detention ponds or

other existing discharge points, all in conformity with the Plan adopted by the Town. The Town shall review such plans and specifications and, after the Town's acceptance of the same, the plat of the subdivision or PUD plan may be approved with respect the storm water facilities, subject to the Town being furnished with acceptable assurance that such facilities will be constructed and installed as indicated and approved.

Sec. 13-177. Title granted to Town and responsibility for accepted facilities.

Title granted to the Town for storm water structures and facilities, including but not limited to detention ponds, inlet and outlet structures and ditches, shall be by warranty deed and unencumbered fee simple title. All storm water facilities constructed, installed or provided hereunder shall, upon acceptance of the same by the Town, become the property of the Town, and the Town thereafter shall be responsible for the operation and maintenance of the same. The Town shall have exclusive authority in determining what facilities to accept, own, operate and maintain.

Sec. 13-178. Town to maintain storm water facilities; exception.

The Town shall maintain all public storm water facilities accepted by the Town located within the Town-owned land, Town rights-of-way and public easements, and may maintain additional dedicated public storm water facilities located within or adjacent to the Town. Such public facilities include, but are not limited to, open drainage ways and piped storm waters constructed expressly for use by the general public and as a part of the Town storm water facilities, bridges, roadside storm water ditches and gutters, flood control facilities, including detention and retention basins, dikes, overflow channels, pump stations and other improvements that have been designed and constructed expressly for use by the general public. Such public storm water facilities do not include facilities not accepted by the Town for maintenance.

Sec. 13-179. Disclaimer.

Floods or drainage problems associated with storm water runoff may occasionally occur which exceed the capacity of storm sewer facilities constructed and maintained pursuant to this Article. This Article does not imply, and the Town expressly disclaims, that property liable for the charges established herein will always be free from storm water flooding or flood drainage. This Article does not purport to reduce the need or the necessity for the owner obtaining flood insurance. The establishment of a Storm Water Management Utility, its functions, maintenance of storm water drainage structures and facilities and the activities of the Storm Water Management Utility and/or its agents does not create liability of any nature or kind on the part of the Town for damages caused by storm water except as provided, if at all, by the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S.

Secs. 13-180.—13-199. - Reserved.

ARTICLE VIII - Cross-Connection Control Program

Sec. 13-200. Purpose.

Sec. 13-201. Authority.

Sec. 13-202. Responsibility.

Sec. 13-203. Administration.

Sec. 13-204. General requirements.

Sec. 13-205. Standards for backflow prevention assemblies.

Sec. 13-206. Installations

Sec. 13-207. Testing and maintenance.

Sec. 13-208. Right of entry.

Sec. 13-209. Violations.

Sec. 13-210 – 220. Reserved.

Sec. 13-200. Purpose.

The purpose of this Article is to:

- (1) Protect the Town's public potable water supply from the possibility of contamination or pollution by isolating within the Town's customers' internal distribution system such contaminants or pollutants which could backflow or back-siphon into the public water system;
- (2) Promote the elimination or control of existing cross-connections, actual or potential, between the Town's customers' on-site potable water systems and non-potable systems
- (3) Provide for the maintenance of a continuing program of cross-connection control that will effectively prevent the contamination or pollution of potable water systems by cross-connection; and
- (4) Provide that backflow prevention devices within structures, building and appurtenant plumbing will be regulated by the Town's plumbing code, as adopted and in effect from time to time, and in accordance with this Article.

Sec. 13-201. Authority.

The Town, as the water purveyor, has the primary responsibility and authority for preventing water from unapproved sources, or any other substances, from entering the public potable water system, pursuant to the Town's Home Rule Charter and applicable federal and state laws and rules and regulations.

Sec. 13-202. Responsibility.

The Town, or such person's designee, shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow or back-siphonage of contaminants or pollutants through the water service connection. If the Town determines that an approved backflow device is required at the Town's water service connection to any customer's premises, the Town shall give written notice to said customer to install an approved backflow

prevention device at each service connection to such customer's premises. The customer shall install the approved device or devices at the customer's own expense within ninety (90) days of the receipt of the notice or the customer's water service may, in the Town's discretion, be discontinued until the proper device or devices are installed.

Sec. 13-203. Administration.

- (1) The Town, by and through its public works department, shall operate a "cross-connection control program," which includes, among other procedures, the provisions required by this Article and the required recordkeeping related to initial inspection, hazard level, initial device testing, yearly device testing and device replacement and similar measures.
- (2) Each property owner located in the Town or served by the Town's water system, or that has Town water facilities on such property, shall allow his or her property to be inspected for possible cross-connections, and such owner shall follow the provisions of the Town's cross-connection program if a cross-connection is permitted.

Sec. 13-204. General requirements.

The following requirements shall be met for all containment backflow prevention assemblies, required on identified hazardous cross connections:

- (1) Commercial, industrial, multi-family and institutional buildings shall have an approved reduced pressure zone assembly to isolate all building fixtures and taps from the Town's water distribution system.
- (2) Backflow prevention assemblies shall be installed in an accessible location to facilitate maintenance, testing and repair. Drawings must show various installations.
- (3) All backflow prevention assemblies shall be installed on the customer side, following the water meter, at a Town approved location.
- (4) It shall not be permissible to have connections or tees between the meter and service line backflow prevention assembly, unless approved in writing by the Town.
- (5) The valves associated with the backflow prevention device shall not be used as the inlet or outlet valve of the water meter. Test cocks shall not be used as supply connections.
- (6) In order to ensure that backflow prevention assemblies continue to operate satisfactorily, they shall be tested at the time of installation and on an annual schedule thereafter. Such test shall be conducted in accordance with American Society of Sanitary Engineering (A.S.S.E.) and/or University of Southern California, Foundation of Cross-Connection Control and Hydraulic Research (U.S.C. F.C.C.C. and H.R.) performance standards and field test procedures as directed by the Colorado Department of Public Health and Environment, as adopted and in effect from time to time.
- (7) All costs for design, installation, maintenance, repair and testing shall be borne by the customer.
- (8) All fire sprinkler systems shall conform to the applicable sections in the most-current edition of the National Fire Protection Association pamphlets and to the policies and procedures of, as appropriate, the Front Range Fire Rescue Fire Protection District or the Loveland Fire Recue Authority.
- (9) All identified hazardous cross-connections to the Town's water system shall conform to, or be brought into conformance with, the requirements of this Article within one year of adoption of this Article.

Sec. 13-205. Standards for backflow prevention assemblies.

Any backflow prevention assembly required herein shall be a model and size approved by the department of public works. Only approved backflow prevention assemblies shall be used. The term “approved backflow prevention assembly” shall mean an assembly that has been manufactured in full conformance with the standards established by the latest version of the Colorado Department of Public Health and Environment Cross-Connection Control Manual. Final approval shall be evidenced by a “certificate of approval” issued by an approved testing laboratory certifying full compliance with Colorado Department of Public Health and Environment standards and A.S.S.E. and/or U.S.C. F.C.C.C. and H.R. specifications. The following testing laboratories are qualified to test and certify backflow prevention assemblies, and an assembly being listed on their periodic approved list shall constitute meeting all of the above requirements:

- (1) A.S.S.E., American Society of Sanitary Engineering, 28901 Clemens Road, Suite 100, Westlake, Ohio 44145.
- (2) U.S.C. Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, OHE 430-D University Park-MC, 1453, Los Angeles, California 90089-14534.2.

In addition, the Town may provide written approval of testing laboratories other than the laboratories listed above.

Sec. 13-206. Installations.

The following requirements shall apply with respect to installation of any backflow prevention assembly:

- (1) Backflow prevention assemblies shall be installed in accordance with the specifications of the Town plumbing code, as adopted and in effect from time to time.
- (2) Backflow prevention assembly installations shall be inspected and approved for use by the Town.
- (3) All backflow assemblies shall be installed in the horizontal position unless a variance is obtained for other installation pursuant to the variance procedures applicable to the Town’s plumbing code. Any variance granted may include specifications for vertical installation and may contain such other terms and conditions as are determined necessary by the Town or the chief building official.
- (4) A single check valve is not considered to be a backflow prevention assembly.
- (5) Reduced pressure backflow prevention devices shall be installed above ground. The unit shall be placed at least twelve (12) inches above finish grade to allow clearance for the repair work. A concrete slab at finish grade is recommended. Proper drainage shall be provided for the relief valve and drainage may be piped away from the location, provided that the valve and drain line are readily visible from above grade and provided that the relief valve is separated from the drain line by a minimum of double the diameter of the supply line. A modified vault installation may be used if constructed with ample side clearances. Precautions shall be taken to protect above ground installations from freezing and damage, and the Town may impose installation specifications upon an installation to protect the same from freezing or damage, and to protect the public water system and water supply.

Sec. 13-207. Testing and maintenance.

The following requirements shall apply with respect to testing and maintenance of cross-connection assemblies:

- (1) Identified hazardous cross connections (containment protection): The property owner and the customer at any premises where backflow prevention assemblies are installed shall obtain a certified test of the assemblies at least once per year. Such duty shall be a joint and several obligation of the property owner and the customer. If the Town deems the hazard to be great enough, the Town may, require certified inspections and testing at more frequent intervals. The certified tests shall be at the expense of the property owner and the customer and shall be performed by a certified technician approved by the Colorado Department of Public Health and Environment and the department of public works. In addition, an inspection of the assembly may be performed at any time pursuant to the right-of-entry procedures contained in this Article.
- (2) As necessary, the backflow prevention assembly shall be repaired or replaced at the expense of the property owner and the customer whenever the assembly is found to be defective. Records of all such tests, repairs or replacements shall be kept for three years by the property owner and the customer and the department of public works.
- (3) Existing backflow prevention assemblies shall be tagged by the technician performing the test at the completion of the test, showing the names of the technician and date of test.
- (4) All testing equipment used in the testing of backflow prevention assemblies shall be checked for accuracy yearly, or more often, and the proof of compliance shall be submitted to the department of public works upon request.
- (5) The department of public works retains the right to test or otherwise check the installation and operation of any containment assembly at any time to assure proper operation.

Sec. 13-208. Right of entry.

By previously arranged appointment and upon presentation of proper credentials, a department of public works representative shall have the right of entry to inspect any and all buildings or premises for the presence of cross-connections, for possible hazards relative thereto and for determining compliance with this Article. This right of entry shall be a condition of water service in order to protect the health, safety and welfare of the customers throughout the Town's water distribution system. The property owner and the customer shall work cooperatively with the department of public works to schedule an inspection or be subject to the remedies set forth in this Article. Questions regarding proper credentials should be directed to the Town.

Sec. 13-209. Violations.

- (1) Failure of a property owner or customer to cooperate in the installation, maintenance, testing or inspection of backflow prevention assemblies as required by this Article shall be grounds for the discontinuance of water service to the premises or the requirement of installation of an air-gap separation from the public potable water system.
- (2) The Town may discontinue water service to any premises within the Town if unprotected cross-connections exist on the premises. When a defect is found in an installed backflow prevention assembly, or if a backflow prevention assembly has been removed or bypassed, the Town may discontinue water service until such conditions or defects are corrected.
- (3) In the Town's judgment and discretion, the discontinuance of service may be summary, immediate and without written notice when such action is necessary to protect the purity of the public potable water supply, the safety of the water system or the health, safety and welfare of members of the public.

- (4) It shall be unlawful for any person to violate any provision of this Article. In addition to the discontinuance of water service or other action taken by the Town, a person who violates the provisions of this Article shall be subject to the penalties set forth in Article IV of Chapter 1 of the Code. The Municipal Court is further authorized to enter orders for injunctive relief to require compliance with this Article.

Sec. 13-210 – 13-220. Reserved.

Section 2. 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 3. Code revisions. Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

Section 4. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town's Home Rule 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 on January 1, 2021. Copies of the entire Ordinance shall be 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 _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: **Second Reading** Ordinance No. 2020-190

ACTION PROPOSED: Consider Final Approval of Ordinance No. 2020-190 An Ordinance Amending Article II Of Chapter 13 of The Johnstown Municipal Code to Add Section 13-55 Establishing A Special Fee Concerning Regional Sanitary Sewer Improvements to Be Paid by Benefitted Properties in the Area Generally Located Near And Adjacent to State Highway 60 and Remitted to the Sanitary Sewer Utility Enterprise

ATTACHMENTS: 1. Ordinance 2020-190

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

Enclosed for review and consideration is Ordinance No. 2020-190 which will establish the Regional Sewer Fee to be applied within the Highway 60 sanitary sewer drainage basins.

For years, Staff and developers have known the fact that the collection system was at or near capacity and that new sewer services could not be reasonably accommodated, until significant improvements were made to the sanitary sewer collection infrastructure. This information was also acknowledged and recognized in the 2011 Wastewater Master Plan developed and analyzed by The Engineering Company (TEC). As a result, the Town couldn't make commitments to provide sewer service and the only way this would change is if a developer were willing to make millions of dollars in regional improvements and provided with a reimbursement agreement by the Town funded through future development connections into the improved system. With a developer having no short-term guarantee on the payback, development within the Highway 60 corridor has been stifled, issuing a minimal amount of permits compared to other communities in the region and when compared to the other receiving wastewater treatment plants in our own community.

In February 2019, the Staff presented the current condition to the Town Council, educating them on the deficiency in the collection system and the need to address capacity issues in the existing system to facilitate development. Staff was directed by Council to evaluate the condition and propose alternatives.

The Community That Cares

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Town Staff along with the Town's Consulting Engineer represented by IMEG embarked on a system-wide evaluation of the sanitary system in place. The evaluation included an assessment of current development in place, verification of the line sizes collecting the current wastewater flows, and determination of the remaining available capacity in the existing lift stations and existing sewer interceptors for additional development.

In July 2019, Town Staff presented these findings to the Council. The results of the analysis performed by our consulting engineers verified that extremely limited capacity remained in our collection system before major upgrades to the system would be necessary along the Highway 60 sanitary sewer corridors. Options were provided to Council for consideration to facilitate new development, including a proposal that the Town initiate the expansion of the sanitary sewer collection infrastructure and require reimbursement at the time of building permit to help recover those attributable costs, generally borne by the developer. Council supported this alternative above the others and Staff has been working on the project with the design engineer for about the past 15 months. Design of the Phase I is near completion and construction will commence early next year, with completion of the multi-phase project expected in June 2023. The system expansion is being designed with the focus of these interceptors collecting future sanitary sewer to meet the development for at least the next 40 years.

The projects cost estimate at this time is \$70MM, with a 30 year payback that would include principal and interest. The regional sewer fee proposed in this ordinance will serve as this reimbursement mechanism; to be used to retire any debt services issued or loaned as part of the project and not at the current taxpayers' expense.

Based on the ordinance proposed the evening the application of this fee would be to all new development where the wastewater flows are received by the Central Wastewater Treatment Plant except:

- (a) Alterations or expansion of existing buildings where no additional dwelling units are created or square footage added;
- (b) The construction of accessory buildings or structures that do not add dwelling units or square footage to the principal building or use of the land;
- (c) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same square footage; or
- (d) Additional residential dwelling units in existing established subdivisions or on property subject to approved final plats wherein the Town committed to provide water and sewer service pursuant to a water and sewer service agreement executed prior to January 1, 2021.

Additionally, the fees have been focused on ensuring the Town's ability to recover its costs and to pay any debt or loans issued as mentioned above. The fees proposed are included in the Town Fee Schedule 2020-38. Those fees are as shown below and do provide some benefit to higher density, while also considering the fact that their daily wastewater flows may be less than the traditional single family detached home. The proposed fees are:

Sec. 13-55. Regional Sewer Fee.

Sewer Regional Improvement Fee:

Per Single Family Equivalent	\$9,500.00
Duplex and Triplex (per unit)	\$7,500.00
Town Homes <12 units/acre (per unit)	\$6,500.00
Town Homes >12 units/acre (per unit)	\$6,000.00
Multi-Family (per unit)	\$5,000.00
Commercial, Industrial and Other (per SFE)	\$9,500.00

Town Staff is recommending approval of this ordinance to ensure development can proceed along the Highway 60 corridor and the Town is able to recover its cost.

LEGAL ADVICE:

The ordinance presented was drafted by the Town Attorney.

FINANCIAL ADVICE:

This Regional Sewer Fee will allow the Town to expand its waste water collection infrastructure without direct expenses paid for by the existing residents, but rather the new development that creates the need and causes the impact.

RECOMMENDED ACTION:

Approve Ordinance 2020-190 as presented on second reading.

Reviewed and Approved for Presentation,

Town Manager

**TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2020-190**

AN ORDINANCE AMENDING ARTICLE II OF CHAPTER 13 OF THE JOHNSTOWN MUNICIPAL CODE TO ADD SECTION 13-55 ESTABLISHING A SPECIAL FEE CONCERNING REGIONAL SANITARY SEWER IMPROVEMENTS TO BE PAID BY BENEFITTED PROPERTIES IN THE SEWER SHED BASIN SERVED BY THE CENTRAL WASTEWATER TREATMENT PLANT AND REMITTED TO THE SANITARY SEWER UTILITY ENTERPRISE

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 established the Sanitary Sewer Utility Enterprise (“Enterprise”), and is the governing body of the Enterprise with the authority to act for and on behalf of the Enterprise; and

WHEREAS, the Town is aware that the potential for growth and development in and around the area generally located east of U.S. Interstate 25 (“I-25”) and in relative close proximity to State Highway 60, as shown on Exhibit A attached hereto and incorporated herein by reference (“Region”), is significant; and

WHEREAS, the Town is further aware that, while the opportunity exists, growth and development cannot occur due to constraints in the capacity of the Town’s sanitary sewer system and limitations in the existing sanitary sewer interceptor lines to carry wastewater flows to the Town’s Central Wastewater Treatment Plant (“Central WWTP”); and

WHEREAS, in 2019, IMEG Corporation, a Delaware corporation (“IMEG”), conducted a system-wide study and evaluation of the Region’s sanitary sewer system, which included an assessment of development and a calculation of the remaining available capacity in the existing lift stations and sanitary sewer interceptor lines, and concluded that, despite the potential for many thousands of new residential dwelling units, the Town could only issue approximately five hundred (500) to seven hundred (700) additional residential building permits in the Region until major upgrades to the sanitary sewer system are undertaken and that, without the upgrades, a moratorium would need to be considered upon the delivery of wastewater flows delivered to the Central WWTP (“Study”); and

WHEREAS, as a part of the Study, IMEG analyzed the best location to install the necessary infrastructure in the Region to expand the sanitary sewer system and deliver additional wastewater flows to the Central WWTP and concluded that, as subsequently amended, three new sanitary sewer interceptor lines should be installed and a new lift station should be constructed to serve the Region, including: (i) a sanitary sewer interceptor line from the Johnstown Farms development to the Central WWTP; (ii) a sanitary sewer interceptor line generally located at I-25 to the Central WWTP north of State Highway 60; (iii) a sanitary sewer interceptor line generally located from I-25 along State Highway 60 connecting to

the Johnstown Farms lift station; and (iv) a new lift station at Johnstown Farms with an additional force main to accommodate a larger design flow (collectively, the “Improvements”); and

WHEREAS, a depiction of the proposed location of the Improvements is set forth on Exhibit A; and

WHEREAS, based upon two estimates, one from IMEG and one from a contractor retained by IMEG, the Town anticipates that the total cost to design, construct and install the Improvements is approximately \$70,000,000; and

WHEREAS, while the Town has historically required developers to install infrastructure to accommodate development, the Town Council recognizes that the Improvements are extensive and require the expenditure of significant funds that may not reasonably be imposed upon any single developer; and

WHEREAS, to foster growth and development, the Town Council desires that the Town, acting on behalf of the Enterprise, install the Improvements using a variety of funding mechanisms, and recover the capital improvement costs from the imposition of a special fee, to be known as the “Regional Sewer Fee,” paid by property owners or developers in the Region who will economically benefit from the Improvements by the ability to connect to the sanitary sewer interceptor lines and/or discharge wastewater flows to the Central WWTP and thus develop their properties; and

WHEREAS, the Town is a home rule municipality that, under Article XX, Section 6 of the Colorado Constitution, has the authority to enact fees to recover the cost of providing infrastructure to properties within its jurisdiction; and

WHEREAS, the Town Council, as the governing body of the Enterprise, has authority to adopt a special fee for and on behalf of the Enterprise to fund the capital costs related to infrastructure improvements incurred to further the goals and purposes of the Enterprise; and

WHEREAS, the Colorado Supreme Court has affirmed this or similar authority in several separate decisions, including *Loup-Miller Const. Co. v. City and County of Denver*, 676 P.2d 1170 (Colo. 1984), *Bloom v. City of Fort Collins*, 784 P.2d 304 (Colo. 1989), and *E-470 Public Highway Authority v. The 455 Company*, 3 P.3d 18 (Colo. 2000); and

WHEREAS, to fairly apportion the cost to be recovered from and among the benefitted properties in the Region, IMEG determined that the special fee should be based on the industry standard measurement for the generation of wastewater, providing that each single family equivalent (“SFE”) generates approximately two-hundred twenty (220) gallons per day of wastewater, and recommended that the special fee be imposed on a per SFE basis; and

WHEREAS, the utilization of an SFE basis for the special fee allows the application to be scalable for non-residential development, including commercial and industrial uses, which would have SFE values assigned based upon a sewer projection analysis; and

WHEREAS, based on the geographic layout of the Region and market conditions and projections, the Town reasonably anticipates the construction of approximately two hundred and fifty (250) residential dwelling units or other types of construction totaling approximately two hundred fifty

single family equivalents (250 SFEs) annually in the Region, and a total of approximately fifteen thousand five hundred (15,500) SFEs in the Region; and

WHEREAS, a depiction of the anticipated SFEs in the Region is set forth on Exhibit A; and

WHEREAS, after an analysis of the funding options available to the Enterprise, including, among other potential options, an interfund loan from the General Fund and to the Sanitary Sewer Enterprise Fund in the approximate amount of \$9,500,000 and the issuance of a revenue bond in the approximate amount of \$55,000,000, payable over a thirty (30) year term, the revenue available to Enterprise and the cost of debt to fund the Improvements, the Town Manager and the Town's Finance Director concluded that, to fund the Improvements, the special fee should equate to \$9,500 per SFE;

WHEREAS, based on the foregoing, for the purpose of providing sanitary sewer services to the Region and defray the cost of the Improvements, the Town Council desires to impose a Regional Sewer Fee upon benefitted properties in the Region in the amount of \$9,500 per SFE and desires that the Town collect the Regional Sewer Fee at the time of issuance of each building permit; and

WHEREAS, alternatively, rather than collect the Regional Sewer Fee one at a time upon issuance of each building permit, the Town Council recognizes that having an influx of funds may ultimately reduce the cost to fund the Improvements and thus desires to provide discretion to permit a reduction in the amount of the Regional Sewer Fee when a property owner or developer of a large subdivision in the Region prepays all, or a significant portion, of the Regional Sewer Fees due and owning for each dwelling unit or other type of development in the subdivision; and

WHEREAS, the Town Council directs that revenues recognized from the Regional Sewer Fee be remitted to the Enterprise and deposited in the Sanitary Sewer Enterprise Fund and be used solely for the cost of the Improvements and not for the operation and maintenance of the Town's sanitary sewer system or for any other purpose; and

WHEREAS, the Town Council hereby finds, determines and declares that the Regional Sewer Fee is reasonably related to the expenses incurred by the Enterprise in carrying out its legitimate goal of providing wastewater treatment services to the Region; and

WHEREAS, the Town Council hereby further finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property, that this Ordinance is necessary for the protection of public convenience and welfare and that this Ordinance is in the best interests of the citizens of the Town.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Section 13-55. Article II of Chapter 13 of the Johnstown Municipal Code shall be amended to add Section 13-55, which shall read in full as follows:

Sec. 13-55 – Regional Sewer Fee

- (1) Purpose. To foster growth and development in and around the area generally located along, near and in relative close proximity to State Highway 60 and expand the ability to deliver wastewater flows to the Central Wastewater Treatment Plant, the Town, acting on behalf of the Sanitary Sewer Utility Enterprise, desires to undertake the design, construction and installation of significant regional sanitary sewer infrastructure improvements that will benefit property owners in the geographic area and recover the cost of such improvements from benefitted property owners.

(2) Definitions.

For purposes of this Section, the following definitions apply:

Benefitted Property means a parcel of land, of whatever size and whatever designation, that is subject to a building permit in the Region.

Building permit means a building permit issued in accordance with the Code before building or construction activity may be initiated on a Benefitted Property.

Central Wastewater Treatment Plant or *Central WWTP* means the wastewater treatment plant located east of the Town along State Highway 60, as may be subsequently replaced, expanded, upgraded or renamed.

Improvements means the infrastructure designed, constructed and installed in the Region to expand the sanitary sewer system and deliver additional wastewater to the Central WWTP and includes, without limitation: (i) a sanitary sewer interceptor line from the Johnstown Farms development to the Central WWTP; (ii) a sanitary sewer interceptor line generally located at I-25 to the Central WWTP north of State Highway 60; and (iii) a sanitary sewer interceptor line generally located from I-25 along State Highway 60 to a newly constructed lift station at Johnstown Farms.

Property owner(s) means the current and future owner or developer of Benefitted Property in the Region.

Region means the sewer shed basin wherein wastewater is treated at the Central WWTP and includes property generally located in the southern portion of the Town along, near and in relative close proximity to State Highway 60. The Region is depicted on Appendix A to this Article, which may be amended from time to time by resolution of the Town Council.

Regional Sewer Fee means the special fee imposed upon property owners in the Region to reimburse the Town for cost of designing, constructing and installing the Improvements.

SFE means “single family equivalent” and is a number related to the volume of wastewater generated by an average dwelling unit housing not more than three and one-half persons. The SFE unit value assigned to an average single-family detached dwelling unit is generally one. In the Town’s discretion, the SFE unit value assigned to any particular dwelling unit may be greater than, equal to or less than one. The SFE unit value assigned to non-residential uses shall be based

on the Town's estimated volume of wastewater generated by such uses as compared to the generation of wastewater by an average single-family detached dwelling unit.

(3) Establishment and payment of special fee.

- (a) There is hereby established a special fee known as the Regional Sewer Fee.
- (b) The Regional Sewer Fee shall be levied and assessed in the amount of \$9,500 per SFE and shall be due and payable as provided by resolution of the Town Council in the Town Fee Schedule.
- (c) The Regional Sewer Fee shall be paid by property owners in the Region at the time of issuance a building permit.

(4) Prepayment of fee. To incentive prepayment and reduce the cost of financing the Improvements, in lieu of the payment of the Regional Sewer Fee at the time of issuance of a building permit, upon request of the property owner or developer, the Town Council may reduce the Regional Sewer Fee when the owner or developer of a large subdivision prepays all or a significant portion of the Regional Sewer Fees due and owing for each dwelling unit or other type of development in the subdivision.

(5) Exemption from payment of fee. If a request is made upon application for a building permit, property owners shall not be required to pay the Regional Sewer Fee for the following building permits:

- (a) Alterations or expansion of existing buildings where no additional dwelling units are created or square footage added;
- (b) The construction of accessory buildings or structures that do not add dwelling units or square footage to the principal building or use of the land;
- (c) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same square footage; or
- (d) Additional residential dwelling units in existing established subdivisions or on property subject to approved final plats wherein the Town committed to provide water and sewer service pursuant to a water and sewer service agreement executed prior to January 1, 2021.

(6) Use of funds; accounting. The revenues recognized from the Regional Sewer Fee shall be remitted to the Sanitary Sewer Utility Enterprise and deposited in the Sanitary Sewer Enterprise Fund. The funds shall be used solely for the cost of the Improvements and shall not be used for the operation and maintenance of the sanitary sewer system or for any other purpose. The Town, acting on behalf of the Enterprise, shall keep an accurate accounting of the cost of the Improvements and the revenues collected from the Regional Sewer Fee.

(7) Fee not an impact fee or development charge. The Town Council does not intend that the Regional Sewer Fee be construed as an impact fee or development charge within the meaning of Section 29-20-104.5, C.R.S., as amended, but that the Regional Sewer Fee be a special fee within

the home rule authority of the Town. To the extent that the provisions of Section 29-20-104.5, C.R.S., as amended, conflict with the provisions of this section, the section shall control.

Section 2. Code revisions. Minor changes such as the format and other changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content will be altered by such changes.

Section 3. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town's Home Rule 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 on January 1, 2021. Copies of the entire Ordinance shall be 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 _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

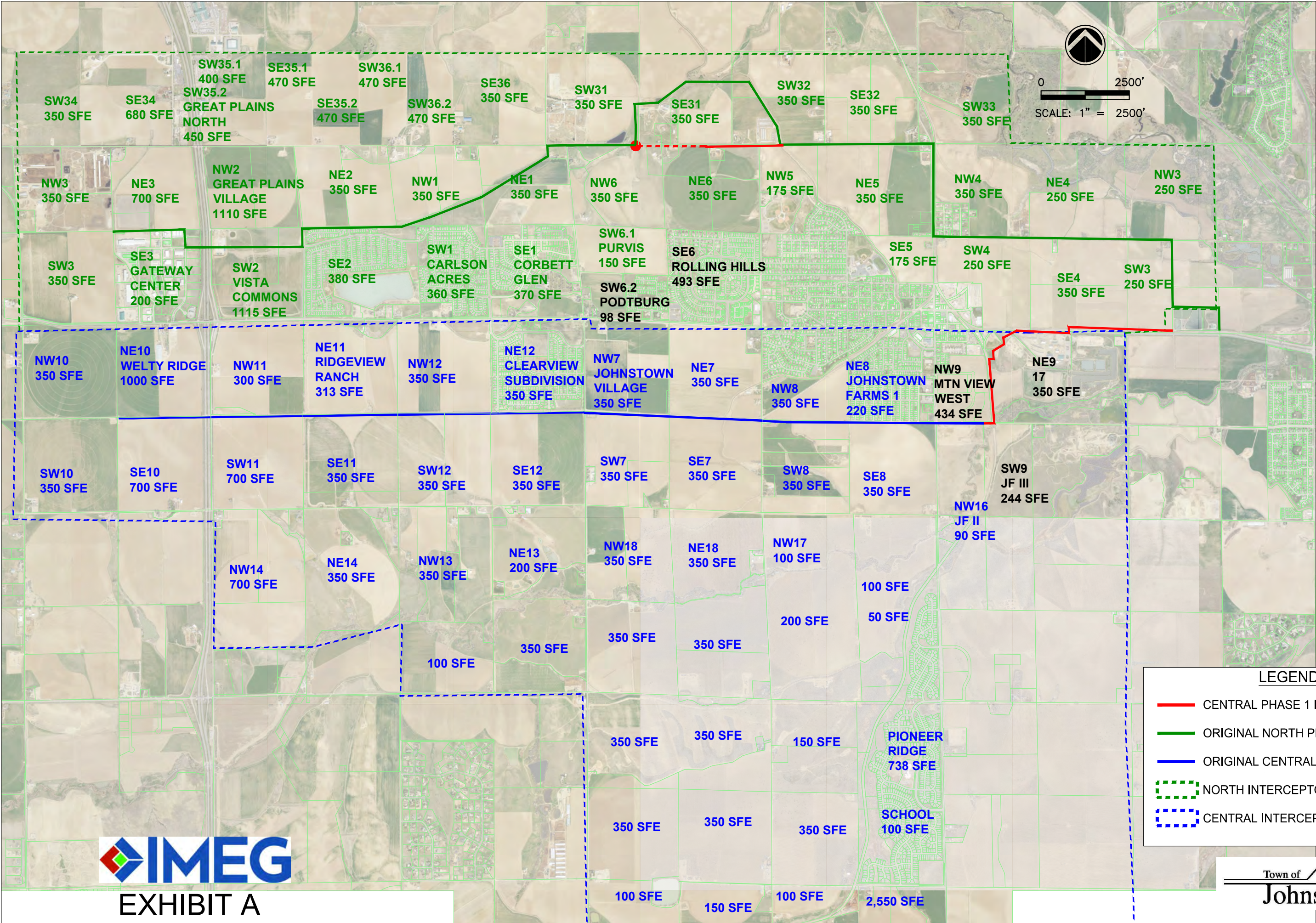
By: _____ By: _____
Diana Seele, Town Clerk Gary Lebsack, Mayor

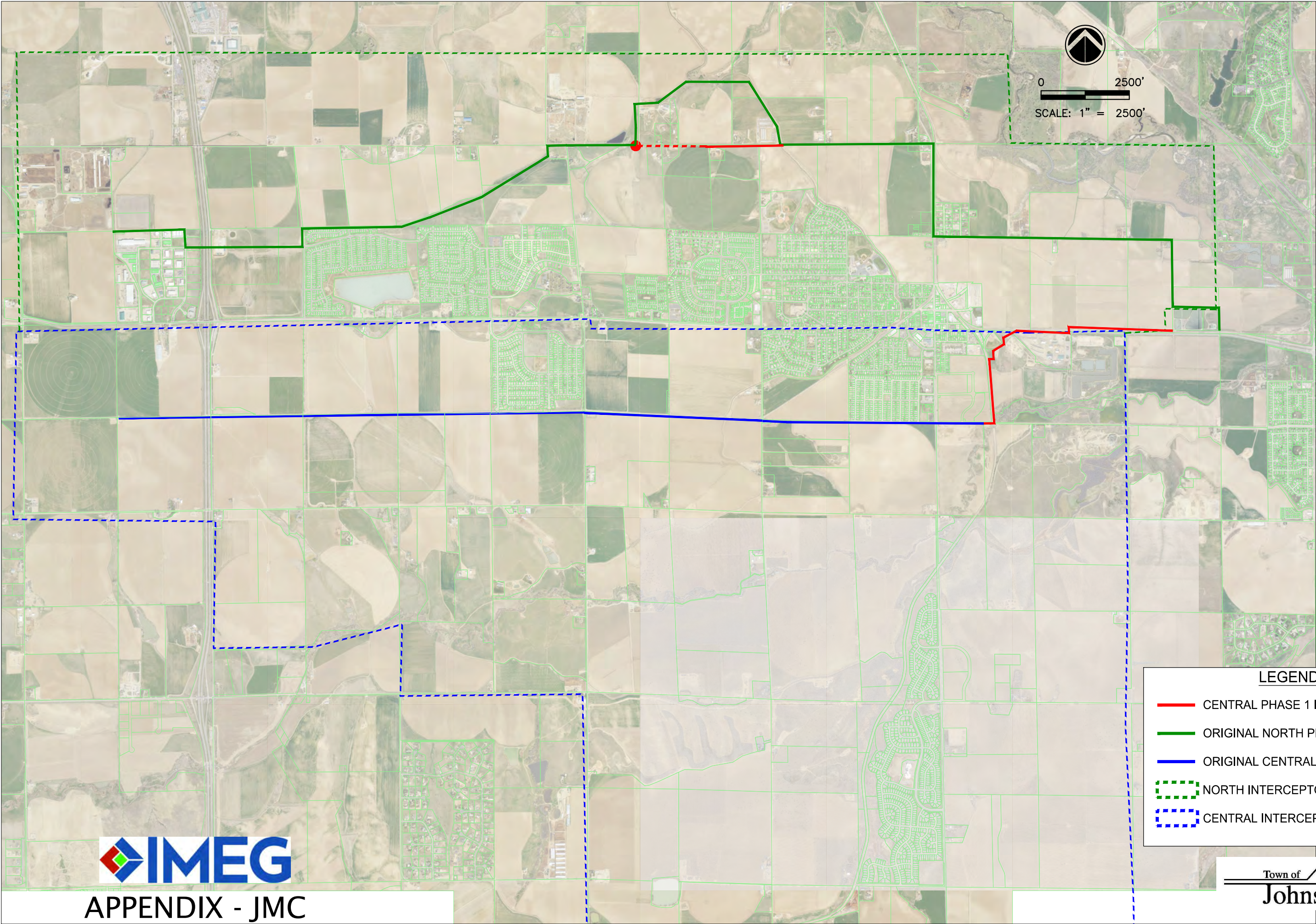
PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____ By: _____
Diana Seele, Town Clerk Gary Lebsack, Mayor





LEGEND:

- CENTRAL PHASE 1 INTERCEPTOR
- ORIGINAL NORTH PHASE 1 & 2
- ORIGINAL CENTRAL PHASE 2 & 3
- NORTH INTERCEPTOR SEWERSHED
- CENTRAL INTERCEPTOR SEWERSHED





Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: **Second Reading** - Ordinance No. 2020-191, an Ordinance Amending Sections 4-111, 5-111, 5-113, 6-6, 6-42, 6-46, 6-63, 6-83, 6-111, 6-133, 6-135, 6-161, 6-186, 6-189, 7-62, 7-131, 8-87, 15-4, 16-62, 17-13 and 17-51 of the Johnstown Municipal Code Concerning the Referral of the Town's Fees, Rates and Charges to the Town Fee Schedule

ACTION PROPOSED: Consider Final Approval of Ordinance No. 2020-191

ATTACHMENTS: 1. Ordinance No. 2020-191

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

Enclosed for review and consideration is an ordinance that would amend multiple sections within the current Johnstown Municipal Code. These amendments specifically repeal and replace certain sections that make references to various Town fees that are currently in existence within the Johnstown Municipal Code. The repealing of these sections and replacing do not change the intent of the sections of the Municipal Code that are modified herein; but are rather pointing now to the Town's Fee Schedule for directions related to the applicable fees associated with these sections. This ordinance and the proposed changes go hand in hand with the consideration to approve Resolution 2020-38 establishing the Johnstown Town Fee Schedule. This ordinance, mirrors the Town Fee Schedule in that if approved it will become effective January 1, 2021.

LEGAL ADVICE:

The ordinance was drafted by the Town Attorney.

FINANCIAL ADVICE:

Not Applicable.

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

RECOMMENDED ACTION:

Approve Ordinance 2020-191 as presented on second reading.

Reviewed and Approved for Presentation,

Town Manager

TOWN OF JOHNSTOWN, COLORADO
ORDINANCE NO. 2020-191

AN ORDINANCE AMENDING SECTIONS 4-111, 5-111, 5-113, 6-6, 6-42, 6-46, 6-63, 6-83, 6-111, 6-133, 6-135, 6-161, 6-186, 6-189, 7-62, 7-131, 8-87, 15-4, 16-62, 17-13 AND 17-51 OF THE JOHNSTOWN MUNICIPAL CODE CONCERNING THE REFERRAL OF THE TOWN'S FEES, RATES AND CHARGES TO THE TOWN FEE SCHEDULE

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 has authority to establish a consolidated schedule of the Town's fees, rates and charges that are levied and assessed for municipal services and, concurrently herewith, is adopting such a consolidated schedule to be known as the Town Fee Schedule; and

WHEREAS, to provide consistency and uniformity in the Johnstown Municipal Code ("Code"), the Town Council desires to omit the amount of the Town's fees, rates and charges from the Code and, rather, refer the amount of such fees, rates and charges to the Town Fee Schedule; and

WHEREAS, to effectuate the foregoing, 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. Subsections 4-111(a) and (b) of Article VIII of Chapter 4 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 4-111. Penalties; assessment.

- (a) *Penalty.* A penalty and interest on the unpaid balance shall be imposed upon the vendor and become due in the event the tax is not remitted by the twentieth day of the month as required by this Article, or such other date as prescribed by the Town, in the amount set forth by resolution of the Town Council in the Town Fee Schedule.
- (b) *Penalty due to fraud.* If the Town Manager determines that the tax is not paid due to fraud with the intent to evade the tax, then, in lieu of the penalty set forth in Subsection (a), the Town Manager shall add a penalty to account for the fraud in the amount set forth by

resolution of the Town Council in the Town Fee Schedule, in addition to interest on the unpaid balance.

Section 2. Section 5-111 of Article IV of Chapter 5 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 5-111. Application.

At the time of making an application for a franchise within the Town or at the time of application for a transfer or renewal of an existing franchise, the franchisee shall make a partial payment of the franchise expenses of the Town in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Section 3. Subsection 5-113(1) of Article IV of Chapter 5 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

- (1) In the event that the expenses incurred by the Town, as set forth above, are less than the franchisee's initial deposit, the Town shall deduct the expenses incurred and provide an accounting of the remaining deposit.

Section 4. Section 6-6 of Article I of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-6. Fees.

Fees and charges for licenses or permits shall be paid in the amount set forth by resolution of the Town Council in the Town Fee Schedule and, in the absence of any specific provision to the contrary, shall be paid in advance at the time application therefor is made to the Town Clerk. When an applicant has not engaged in the business until after the expiration of part of the current license year, the license or permit fee shall be prorated by quarters in the absence of any specific provision to the contrary and the fee paid for each quarter or fraction thereof during which the business has been or will be conducted. Except as otherwise provided, all license or permit fees shall become a part of the General Fund.

Section 5. Section 6-42 of Article II of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-42. Application.

Any person, partnership, association or corporation desiring to obtain a pyrotechnic display sale permit shall file an application therefor with the Fire Chief, which application shall be accompanied by an application fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule, shall be signed by at least one (1) person twenty-one (21) years of age or older who shall be responsible for the operation under this permit, and which application shall contain the following:

1. The name and address of the applicant;
2. The names and addresses of the officers, if any, of the applicant;
3. The location where the applicant will sell fireworks;

4. The date when the applicant was organized and established if the applicant is an association, partnership or corporation;
5. The names and addresses of all wholesalers or distributors from whom the applicant proposes to purchase pyrotechnic displays for resale;
6. The applicant's state sales tax permit number;
7. The manner, method and times when and how the applicant proposes to sell pyrotechnic displays;
8. Such other information as the Fire Chief may require in order to complete the investigation required by Section 6-43; and
9. A statement that the applicant has been licensed by the Secretary of State to make such sale.

Section 6. Section 6-46 of Article II of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-46. Cleanup bond.

Every person granted a pyrotechnic display sale permit shall post with the Town Clerk a cash bond or an approved letter of credit or guaranty from a banking institution authorized to do business in the state, in the amount set forth by resolution of the Town Council in the Town Fee Schedule, to guarantee the prompt removal of any temporary pyrotechnic display sale stand and the cleaning up of the debris from the site of any temporary pyrotechnic display sale stand, which bond shall be returned to the permit holder only in the event he or she removes the temporary stand and cleans up all of the debris to the satisfaction of the Fire Chief. In the event that the permit holder shall fail to so remove the stand and the debris, the cash bond or the money guaranteed by the letter of credit or letter of guaranty shall be forfeited to the Town. In no event shall the permit holder be entitled to the return of the cash bond if he or she fails to remove the temporary pyrotechnic display sale stand and clean up all of the debris therefrom by noon on July 7 of the year in which the permit is granted.

Section 7. Section 6-63 of Article III of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-63. Application; contents.

Any person desiring to conduct a public display of fireworks or pyrotechnic display shall submit an application therefor to the Fire Chief, together with an application fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule, which application shall contain the following information:

1. The name of the organization sponsoring the display, together with the names of the persons to actually be in charge of the display;
2. The date, time and exact location on which the display is to be held;
3. The name of the pyrotechnic operator who is to supervise the discharge of the fireworks;
4. The class of fireworks to be discharged, the number of set pieces and shells (specifying single or multiple break), and other items including experimental or model rockets or missiles, which shall be activated at such display;
5. The manner and place of storage of such fireworks prior to and during the display;

6. A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained, the location of all nearby trees, telegraph and telephone lines, or other overhead obstructions;
7. Proof that satisfactory compensation insurance is carried for all employees;
8. Proof of public liability insurance in an amount required by the Town; and
9. In the Town's discretion, proof that the applicant has obtained a performance bond conditioned on compliance with the provisions of this Article in a sum required by the Town.

Section 8. Section 6-83 of Article IV of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-83. Fee.

The license fee for each license required by this Article shall be in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Section 9. Section 6-111 of Article VI of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-111. License fee; when payable.

There shall be an annual license fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule for each coin-operated game machine within the Town. This fee shall be paid by the operator of the business to the Town on March 1 of each year.

Section 10. Subsection 6-133(b) of Article VII of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-133. Application; application fee.

- b) At the time of the filing of the application, a fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule shall be paid to the Town Clerk to cover the cost of investigating the facts stated herein.

Section 11. Subsections 6-135(a) and (b) of Article VII of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-135. License fee.

- a) The license fee, which shall be charged in advance by the Town Clerk for any such license, shall be in the amount set forth by resolution of the Town Council in the Town Fee Schedule.
- b) An annual license and permit may be obtained by paying in advance to the Town Clerk an annual fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule. This license shall be kept in full force and effect by submitting to the Town Clerk, after each thirty (30) day period during which the annual license is in force, a sworn statement setting forth that the facts as contained in the original application still remain the same as set forth therein. If such written statement is not filed at the end of every thirty (30)

day period during which the annual license is to be in full force and effect, the Town Clerk may suspend the license and any such business carried on after the suspension of the license shall be deemed a violation of this Article.

Section 12. Subsections 6-161(c) and (d) of Article VIII of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-161. Application and licensing required for tree trimmers.

- c) No such license shall be issued until the applicant therefor has presented to the Town Clerk a satisfactory liability insurance policy in the amount required by the Town. Said policy coverage is to extend to all operations of the licensee and shall be written according to local custom and practice for the benefit and protection of the Town and the people therein. Such insurance policy shall require at least thirty (30) days' advance notice to the Town before cancellation. In the event of the cancellation or termination of any such required insurance policy during the license term, the license shall be terminated and the holder thereof shall surrender the same to the Town Clerk unless the licensee presents to the Town Clerk a substitute insurance policy meeting the requirements of this Section.
- d) No license shall be issued hereunder until the applicant has paid a license fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule. Every license issued hereunder shall expire one (1) year after the date of its issuance. Renewal applications may be submitted at the office of the Town Clerk within thirty (30) days of the date the license will expire.

Section 13. Subsections 6-186(c) and (d) of Article X of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-186. Forms; fees; validity.

- c) The contractor shall pay a non-refundable fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule, due and payable with the submission of the contractor licensing application, which fee shall be applied to offset the Town's costs associated with regulating the Building Code and administering the contractor licensing program.
- d) A contractor's license is valid for a period of one year from the date of issuance, and may be renewed by payment of a renewal fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Section 14. Subsection 6-189(c) of Article X of Chapter 6 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 6-189. Disciplinary procedures, violations and penalties.

- c) *Town Council.* An appeal to the Town Council shall be in writing, filed with the Town Clerk and allege with particularity the errors and omissions contained in the Town Manager's order. The contractor shall, at that time of making such appeal, pay to the Town Treasurer a docket fee in the amount set forth by resolution of the Town Council in

the Town Fee Schedule. Written notice of the hearing shall be given to the contractor and to any other parties concerned at least five (5) days prior to the hearing. The contractor shall have the burden of proof on appeal. Within thirty (30) days of the hearing, the Town Council shall make its final determination and affirm, modify or reverse the Town Manager's order. The decision of the Town Council shall be final and conclusive, except as provided by the laws of the State of Colorado.

Section 15. Subsection 7-62(a) of Article IV of Chapter 7 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 7-62. Persons served by water taps to receive service and pay the costs and billing.

- a) All persons and businesses receiving collection and removal for garbage, ashes, trash and other waste materials shall be billed and shall pay said charges monthly with their water bill in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Section 16. Section 7-131 of Article VII of Chapter 7 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 7-131. License; duplicate tags; ownership changes.

- a) In the event a tag issued pursuant to this Article is lost or destroyed, a new or duplicate tag may be obtained from the Town Clerk upon payment of a duplicate tag fee.
- b) In the event the ownership of a licensed dog or cat is changed, the new owner must license such dog or cat within thirty (30) days of ownership in accordance with the provisions of this Article and pay to the Town Clerk a license fee.
- c) The fees referenced in this section shall be in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Section 17. Section 8-87 of Article VI of Chapter 8 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 8-87. Inspection and permitting requirements.

The Golf Car shall be inspected for safety and for the required equipment by the Johnstown Police Department every three (3) years and issued a Town permit sticker. The Golf Car owner must show proof of a current driver's license and complying insurance at the time of inspection and permitting. The permit fee shall be in the amount set forth by resolution of the Town Council in the Town Fee Schedule. A copy of the ordinance regulating the operation of Golf Cars on the Town streets and roadways and a copy of Johnstown Police Department Rules and Regulations, if any, shall be provided to the Golf Car owner at the time of inspection and permitting.

Section 18. Subsection 15-4(a) of Article I of Chapter 15 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 15-4. Procedure prior to approval or denial of petition; approval or denial.

- a) The petition for annexation shall be filed with the Town Clerk at least two (2) weeks prior to the Planning and Zoning Commission meeting on the third Wednesday of each month at

which such petition shall be considered. The petition shall be accompanied by an annexation filing fee in the amount set forth by resolution of Town Council in the Town Fee Schedule.

Section 19. Subsection 16-62(b) of Article V of Chapter 16 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 16-62. Procedure.

- b) *Filing.* A petition for change or amendment submitted by a private property owner shall be prepared in triplicate on forms provided for such purpose and filed with the Town Clerk, and shall be accompanied by a fee to defray the cost of giving notice, investigation and other administrative processing in the amount set forth by resolution of the Town Council in the Town Fee Schedule.

Section 20. Section 17-13 of Article II of Chapter 17 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 17-13. Fees.

- (a) There shall be a fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule for the following:
 - (1) Preliminary plats and final plats;
 - (2) Plats for each filing; and
 - (3) Recordation of the plats.
- (b) The fees shall be paid at the time of submission of such plats to the Town.

Section 21. Subsection 17-51(b) of Article IV of Chapter 17 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 17-51. Dedication.

- b) In addition to such conveyance of land as set forth under Subsection (a) above, a park fee in the amount set forth by resolution of the Town Council in the Town Fee Schedule shall be collected per lot at the time the building permit is issued from the party obtaining said building permit. Such fee shall be deposited in a special fund to be accounted for separately and used only for improvements to parks and not for land acquisition.

Section 22. 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 23. Code revisions. Minor changes such as the format and other related changes to unify the revised Code may be necessary. The Town Clerk is hereby authorized to make such changes, provided that neither the intent nor substantive content of this Ordinance be altered by such changes.

Section 24. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town's Home Rule 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 on January 1, 2021. Copies of the entire Ordinance shall be 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 _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: Second Amendment of Water Sewer Service Agreement

ACTION PROPOSED: Consider Approval of the Second Amendment of the Water Sewer Service Agreement

ATTACHMENTS: 1. Second Amendment of the Water Sewer Service Agreement

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

On June 6, 2016, the Town and Johnstown Plaza, LLC entered into a Water and Sewer Service Agreement (“WSSA”) for property being developed as a Shopping Center. Based on the significant economic benefits, the Town agreed to allow the developer to pay cash-in lieu of water dedication for the Shopping Center. The Town set aside 4.5 shares of the Consolidated Home Supply Ditch and Reservoir Company (“Home Supply”) and created the Johnstown Plaza Water Bank. The WSSA provided that the Johnstown Plaza Water Bank would terminate on December 31, 2018. Prior to the expiration of the existing WSSA, the developer requested that the Town extend the Johnstown Plaza Water Bank for an additional two years and recognized that the water demand was less than originally anticipated. On January 23, 2019, Town Council approved the First Amendment to the WSSA, extending the Johnstown Plaza Water Bank to and including December 31, 2020, and reduced the amount of water set aside to 2.5 shares of Home Supply.

With the December 31, 2020 deadline approaching, Johnstown Plaza, LLC is again requesting an extension of the Water Sewer Service Agreement. Currently remaining in the allocation since the last amendment is 6.48 acre-feet of water. Based on the attached Second Amendment this agreement would extent out until December 31, 2021 and Johnstown Plaza would have until that time to complete the commercial shopping center development to its full build out.

LEGAL ADVICE:

This second amendment presented was drafted by the Town Attorney.

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FINANCIAL ADVICE:

The Town does sell the shares of Home Supply under this agreement at a slight discount, but the overall financial benefit the commercial development revenue, outweighs the discount applied on a per share basis. Based on this transaction in general, the Town benefits financially.

RECOMMENDED ACTION:

Approve the Second Water Sewer Service Agreement Amendment

Reviewed and Approved for Presentation,

Town Manager

SECOND AMENDMENT TO WATER AND SEWER SERVICE AGREEMENT

THIS SECOND AMENDMENT TO WATER AND SEWER SERVICE AGREEMENT is made and entered into this ____ day of _____, 2020, by and between JOHNSTOWN PLAZA, LLC, a Kansas limited liability company (“Developer”), and THE TOWN OF JOHNSTOWN, a Colorado municipal corporation, (“Town”), collectively sometimes referred to as “the Parties.”

RECITALS:

WHEREAS, on or about June 6, 2016, the Parties entered into a Water and Sewer Service Agreement (“WSSA”) for Property being developed as a Shopping Center in the Town; and

WHEREAS, based on the economic benefits, the additional employment and the extraordinary opportunity presented by the location of the Shopping Center in the Town, the Town agreed to allow the Developer to pay cash-in lieu of water dedication for the in-building and outdoor water fountain needs of the Shopping Center; and

WHEREAS, to effectuate the foregoing, the Town set aside shares of the Consolidated Home Supply Ditch and Reservoir Company from the shares owned by the Town and created the Johnstown Plaza Water Bank; and

WHEREAS, the WSSA provided that the Johnstown Plaza Water Bank would terminate on December 31, 2018 and that the water that had not been used by the Developer would revert back to the Town; and

WHEREAS, on December 12, 2018, the Developer requested that the Town extend the Johnstown Plaza Water Bank for two additional years, to and including December 31, 2020, to satisfy the in-building water needs of future tenants in the Shopping Center; and

WHEREAS, based on the Developer’s request, on January 23, 2019, the Town and the Developer entered into the First Amendment to Water and Sewer Service Agreement (“First Amendment”), wherein, in addition to a reduction in the amount of water, the Town extended the Johnstown Water Bank to December 31, 2020; and

WHEREAS, the Developer seeks a second extension of the Johnstown Water Bank, to and including December 31, 2021; and

WHEREAS, given the substantial value that has accrued to the Town by virtue of the Shopping Center, the Town desires to accommodate the Developer’s request and extend the Johnstown Plaza Water Bank to December 31, 2021.

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. ***Recitals and Terms.*** The Recitals are incorporated into the Agreement as if fully set forth herein. Capitalized terms used but not defined herein shall have the meaning set forth in the WSSA.

2. ***Extension of the Johnstown Plaza Water Bank.*** The Johnstown Plaza Water Bank, providing water for the in-building water needs of the Shopping Center, shall be extended to, and shall terminate on, December 31, 2021. Water that has not been allocated to the use of Developer pursuant to the terms of the WSSA by December 31, 2021, shall revert back to the Town, shall be available for any and all uses deemed appropriate by the Town and shall not be available for any use by the Developer absent a written amendment to this Agreement signed by the Parties.

3. ***Validity of WSSA.*** Except as expressly modified herein, the WSSA and the First Amendment shall remain in full force and effect

[The remainder of the page intentionally left blank.]

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

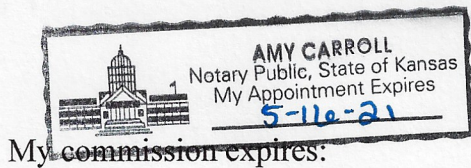
JOHNSTOWN PLAZA, LLC

By: Allen Schlup
Allen Schlup, Managing Member

STATE OF Kansas)
) ss.
COUNTY OF Johnson)

SUBSCRIBED AND SWORN to before me this 14 day of December, 2020,
by Allen Schlup, as the authorized member of Johnstown Plaza, LLC.

WITNESS my hand and official seal.



Amy Carroll
Notary Public

137 NW 1501 Rd Urich, MO 64788
Address

ATTEST:

TOWN OF JOHNSTOWN, COLORADO
a municipal corporation

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

MEMORANDUM

TO: Honorable Mayor and Town Council Members

FROM: Matt LeCerf, Town Manager

DATE: December 21, 2020

CC: Town Staff
Local Media

SUBJECT: Town Manager's Report

Upcoming Town Council Work Sessions – If there are topics that the Council would like staff to schedule for discussion, please let me know. The following topics are recommended for Council discussion (all meetings will be held in the Town Council Chambers unless otherwise indicated):

- 01/04/2021 – Regular Town Council Meeting
 - 01/20/2021 – Regular Town Council Meeting (Wednesday)
-

Administration, Finance, & Planning

- *Home Supply Shares* – The Town has rescheduled the closing on the 2 shares of Home Supply it plans to purchase to December 22. There were complications at the planned closing on December 15 that prevented us from closing. The Town also has been offered the option to purchase another share of Home Supply that is not changed.
- *United Power Franchise Renewal* – United Power and Town Staff continue to negotiate the upcoming franchise renewal. We expect to have this agreement presented before Town Council sometime in Q1 of 2021.
- *DOLA Grant* – DOLA has determined that they will not be offering Energy Impact Grants with a deadline of August 2021 and an award date of December 2021. Council may want to discuss if we want to wait on the grant for the Estes Avenue Drainage Project or pursue other avenues for funding.
- *Comprehensive Plan* – A “Discussion Draft” of the Johnstown Area Comprehensive Plan has been posted to the Town’s website and emailed to stakeholders for public review and comment. We will incorporate changes to this draft as we receive comments over the

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next month, including continuing to build on the plan's graphics. A "Final Draft" version is anticipated in mid-to-late December, depending on the feedback we receive.

- *Certification of Tax Levies* – DLG 70 forms have been completed and successfully delivered to both Larimer and Weld County certifying and setting the mill levy for the 2021 budget year.
- *CARES Grant* – Staff is preparing the final filing for the CARES act that closes December 30. Currently the Town has filed 2 reports and received reimbursement for 1. The 2nd is still being processed by DOLA.
- *Caselle Training* – Staff is participating in webinar trainings this week to make sure that we are in compliance with 1099 filing requirements.

Public Works Department

- *Street Signs* – The new signs to replace the current lighted signs on the mast arms along Highway 60 are finally ready to be replaced. These signs were supposed to be replaced last spring but due to an error with CDOT, they were delayed. CDOT has completed the signs and will be installing them soon. The request for the change was made by CDOT due to safety.
- *Parks* – Playground equipment in our parks continues to be sanitized a minimum of 3 times per week. We unfortunately received a call of vandalism in the Lake Park bathroom which resulted in Staff power washing all the bathrooms.
- *Lake Dam* – Staff installed a second air plug on the outfall pipe at Town Lake to add extra safety precautions to the dam leak until the new structure is replaced.
- *Cemetery* – Wreaths for the Wreaths Across America Program were delivered on December 15.
- *Grading* – County Roads 42, 44 and 46 were recently graded twice for a total of 6 miles. They also placed 45 tons of gravel on County Road 3 south of HWY 34.
- *Fleet* – Five police cruiser were serviced.
- *Snow* – Light plowing and sanding occurred on December 11 and 13 during the snow events.
- *Water* – A water leak was discovered on Highway 60. After some time of searching, the leak was located North of Highway 60. An old valve was found to be leaking from the packing gland. The repair was completed and we are working with CDOT to get the roadway patched when the weather is cooperative and asphalt plants have material available.
- *Lone Tree Pump House* – The Lone Tree Pump House is up and running. Crews are flushing the line to make sure all old water is cleared before we start pumping raw water to plant. Some final SCADA work needs to happen for final communication between plant and the pump house.
- *Surge Tank* – Repair was completed on the surge tank at the water treatment plant. Staff found a leak and bad gasket on the hatch. Repairs were completed.
- *SOP's* – New Standard Operating Procedures are being put in place for sampling at the water treatment plant. Staff will have these to help meet all our sampling requirements so testing is done on time to avoid late or bad samples. Standard Operating Procedures are

also being put in place at our wastewater plants and our lift stations. Our goal is to be proactive by catching something before it breaks and prevent any issues.



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: Public Hearing – First Reading Ordinance No. 2020-192 an Ordinance Amending Section 17-263(B) of Article XIV Of Chapter 17 of the Johnstown Municipal Code Concerning Special Flood Hazard Areas

ACTION PROPOSED: Consider Approval of Ordinance No. 2020-192

ATTACHMENTS: 1. Ordinance No. 2020-192

PRESENTED BY: Kim Meyer, Director of Planning & Development

AGENDA ITEM DESCRIPTION:

Enclosed for review and consideration is an ordinance that would amend Chapter 17 of the Johnstown Municipal Code related to Special Flood Hazard Areas. This amendment updates the titles and effective date of the applicable Flood Insurance Study for Larimer County, adds a reference to the Flood Insurance Study for Weld County and date, and references the accompanying FIRM (Flood Insurance Rate Maps) maps, commonly referred to as floodplain maps.

This code update would maintain the Town's compliance with the National Flood Insurance Program (NFIP) and allows homeowners to obtain and renew any flood insurance policies they may have.

LEGAL ADVICE:

The ordinance was drafted by the Town Attorney.

FINANCIAL ADVICE:

Not applicable.

RECOMMENDED ACTION:

Approve Ordinance No. 2020-192, as prepared, on first reading.

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SUGGESTED MOTIONS:

For Approval

I move to approve Ordinance No. 2020-192 upon first reading, as proposed.

For Denial

I move to deny Ordinance No. 2020-192 upon first reading as proposed.

Reviewed and Approved for Presentation,

Town Manager

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2020-192

**AN ORDINANCE AMENDING SECTION 17-263(b) OF ARTICLE
XIV OF CHAPTER 17 OF THE JOHNSTOWN MUNICIPAL CODE
CONCERNING SPECIAL FLOOD HAZARD AREAS**

WHEREAS, the Town of Johnstown, Colorado is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado; and

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

WHEREAS, Article XIV of Chapter 17 of the Johnstown Municipal Code regulates flood damage prevention; and

WHEREAS, based on updated scientific and engineering reports and flood insurance studies, the Federal Emergency Management Agency has identified the special flood hazard areas in Larimer County and Weld County; and

WHEREAS, the Town Council desires to amend Section 17-263(b) of Article XIV of Chapter 17 of the Johnstown Municipal Code to incorporate the the designated special flood hazard areas identified by the flood insurance studies and the attendant mapping as the minimum 100-year floodplain area in the Town; and

WHEREAS, Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the preservation of the public health, welfare, peace, safety and property and that this Ordinance is in the best interests of the citizens of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO, AS FOLLOWS:

Section 1. Subsection 17-263(b) of Article XIV of Chapter 17 of the Johnstown Municipal Code shall be repealed and readopted to read as follows:

Sec. 17-263. General provisions.

(b) Basis for establishing the Special Flood Hazard Area. The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in scientific and engineering reports entitled “The Flood Insurance Study for Larimer County, Colorado and Incorporated Areas,” dated January 15, 2021, and, “The Flood Insurance Study for Weld County, Colorado and Incorporated Areas,” dated January 20, 2016, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto, are hereby adopted by reference and declared to be a part of this Article. The Special Flood Hazard

Areas identified by the flood insurance studies and attendant mapping are the minimum area of applicability of this Article and may be supplemented by studies designated and approved by the Town Council. The Floodplain Administrator shall keep a copy of the Flood Insurance Studies (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

Section 2. 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 3. Publication; Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town's Home Rule 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 Home Rule Charter of the Town of Johnstown, Colorado. 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 _____, 2020.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the Town Council of the Town of Johnstown, Colorado, this ____ day of _____, 2021.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: Public Hearing: The Ridge at Johnstown Filing No. 2, Final Subdivision Plat and Final Development Plans

ACTION PROPOSED: Consider Approving Resolution 2020-43 Approving The Ridge at Johnstown Filing No. 2, Final Subdivision Plat and Final Development Plans

ATTACHMENTS:

1. Vicinity Map
2. Master Plan Exhibit
3. Planning & Zoning Commission Staff Report
4. Public Comment
5. Proposed Final Plat & Development Plan
6. Resolution 2020-43

PRESENTED BY: Kim Meyer, Director of Planning & Development

AGENDA ITEM DESCRIPTION:

The proposed 23-acre subdivision/development plan would create 80 single family lots, with lot sizes ranging from 5,730 SF to 12,203 SF, with an average lot size of 6,780 SF. The lots comprise approximately 53.5% of the total acreage. Eleven outlots equal 4.98 acres (21.4% of total acreage) of common open spaces, trail corridors, stormwater detention, and pocket park areas, and are to be dedicated to the metropolitan district.

This property is located between Larimer County Road (LCR) 18 (aka Freedom Parkway) and LCR 16, on the west side of LCR 3E. The property appears to have historically been used for dry land ag purposes. This property is included in The Villages at Johnstown Metro Districts, and is the second filing on the eastern portion of the larger The Ridge at Johnstown development (approved as “The Villages at Johnstown” PUD and preliminary plat). Early grading and site work have begun on the site, with approved engineering construction drawings, and an At Risk Agreement signed by the developer recognizing this work is being performed at their risk without current final town approvals of plat and development plans.

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Significant off-site improvements are needed to serve this subdivision – most of which will be constructed in conjunction with the adjacent (to the east) Filing No 1 subdivision, including paving and improvements to LCR 3E, intersection improvements at LCR 18, oversized-sanitary sewer line connections (12" and 15") in the future High Plains Boulevard alignment from the eastern edge of the development north to the Low Point WWTP. Those improvements will provide the water and sewer connections needed, as well as support the transportation network in the area. These items are noted in the accompanying development agreement, indicating that this Filing No. 2 is contingent upon those associated improvements being completed.

Background:

Prior Actions: In 2002, the property was annexed and zoned PUD-R as part of the R&D Annexation. Updated Design Guidelines and Preliminary Plat for The Villages at Johnstown (245 acres) were approved in 2018, from the original 2006 set of plans and performance standards.

Design Standards: Existing Villages at Johnstown design/performance standards and guidelines would apply. Home elevation designs are subject to approval by Town Staff to ensure compliance with the design guidelines as well as the proposed Subdivision Development and Improvement Agreement. Fencing, landscaping, and street lighting will all be installed in conformance with these approved guidelines.

A modification to the overall performance standards has been proposed with requirements for xeriscaping and limited irrigation and planting area on single family lots, with irrigated turf installed in rear yards only. Planning staff is currently working with the Applicant on a more comprehensive modification to those standards, with will include these single-family lot landscaping modifications; these are included by reference and inclusion in the overall planning case file and Town approvals of the development plan and subsequent water agreements which will accommodate these standards.

Transportation System: Access to the development will be via LCR 3E, currently a county road. Improvements will include paving of the full mile of LCR 3E, full build-out to a minor arterial cross section along the development site frontage, and intersection improvements on CR 18. Dedicated right-of-way for ultimate build-out of LCR 3E along the eastern boundary is accommodated on the plat, with construction drawings reflecting these improvements. The subdivision is designed to continue the street and pedestrian networks through, in the future, to the west with connections into future filings of the PUD development and to unincorporated lands to the south. Interim fire accesses may be required, until full build-out of adjacent land occurs, and will be appropriately coordinated with the fire district, as needed.

Water and Sanitary Sewer: Existing and planned capacities and pressures are adequate to serve these additional lots. Wastewater would run to the Low Point Wastewater Treatment Plant through lines currently being constructed by the Applicant as part of Filing No. 1.

Raw Water Dedication: Eighteen adjudicated shares of Home Supply water have been dedicated to the Town, providing 144 AF of water, or 288 SFE's. A portion of these have been allocated to Filing No. 1, with the remainder available and sufficient to serve these 80 new single-family lots and common areas. A proposed Water and Sewer Service Agreement accompanies this plat.

Storm Drainage: Stormwater runoff from the development would be managed in conformance with Town requirements and owned and maintained by the Metro District.

Parks and Open Space: The public land dedication requirement for this subdivision would be 2.3 acres, per municipal code. Per the subdivision plat, 4.98 acres is contained within outlets, to be dedicated to the Metro District as drainage, open space, and park areas for long term maintenance, with use and access provided to the neighborhood and the public. A 110' side swath of open space bisects the property, containing a pipeline easement, and serving as a series of mini pocket parks for each block, with a connecting concrete trail, with the intent of connecting to adjacent parcels as they may develop.

Emergency Services: Front Range Fire & Rescue Authority (FRFR) has approved the plans and construction drawings. Addressing of lots has been coordinated with FRFR and USPS.

Schools: The property lies within the Thompson School District and the overall development will meet requirements for cash-in-lieu payable directly to the district at building permit.

Technical Analysis: The application and submittal materials substantially comply with Town codes, standards, and other requirements, requirements of the annexation agreement, and the approved preliminary plat. The proposed single-family residential land use is consistent with the Johnstown Area Comprehensive Plan and The Ridge at Johnstown Design Guidelines and Preliminary Plat approval. Approval of the engineering reports and construction drawings is pending minor revisions and edits.

Planning & Zoning Commission: On August 26, 2020, the Planning and Zoning Commission (PZC) held a public hearing to consider this Final Subdivision & Final Development Plan. The only public comment presented was from a phone call with staff (Attachment 4). No substantive modifications to the plat or plans have occurred since that time. No additional public comment has been received.

After deliberations, the Planning and Zoning Commission reviewed and recommended to the Town Council approval of the The Ridge at Johnstown Filing No. 2 Final Subdivision and Final Development Plan with the conditions (Attachment 3).

LEGAL ADVICE:

Resolution was drafted by Town Attorney.

FINANCIAL ADVICE:

Not applicable.

RECOMMENDED ACTION:

Approve Resolution 2020-43 approving The Ridge at Johnstown Filing No. 2, Final Subdivision Plat and Final Development Plans as presented, with conditions.

SUGGESTED MOTIONS:

For Approval

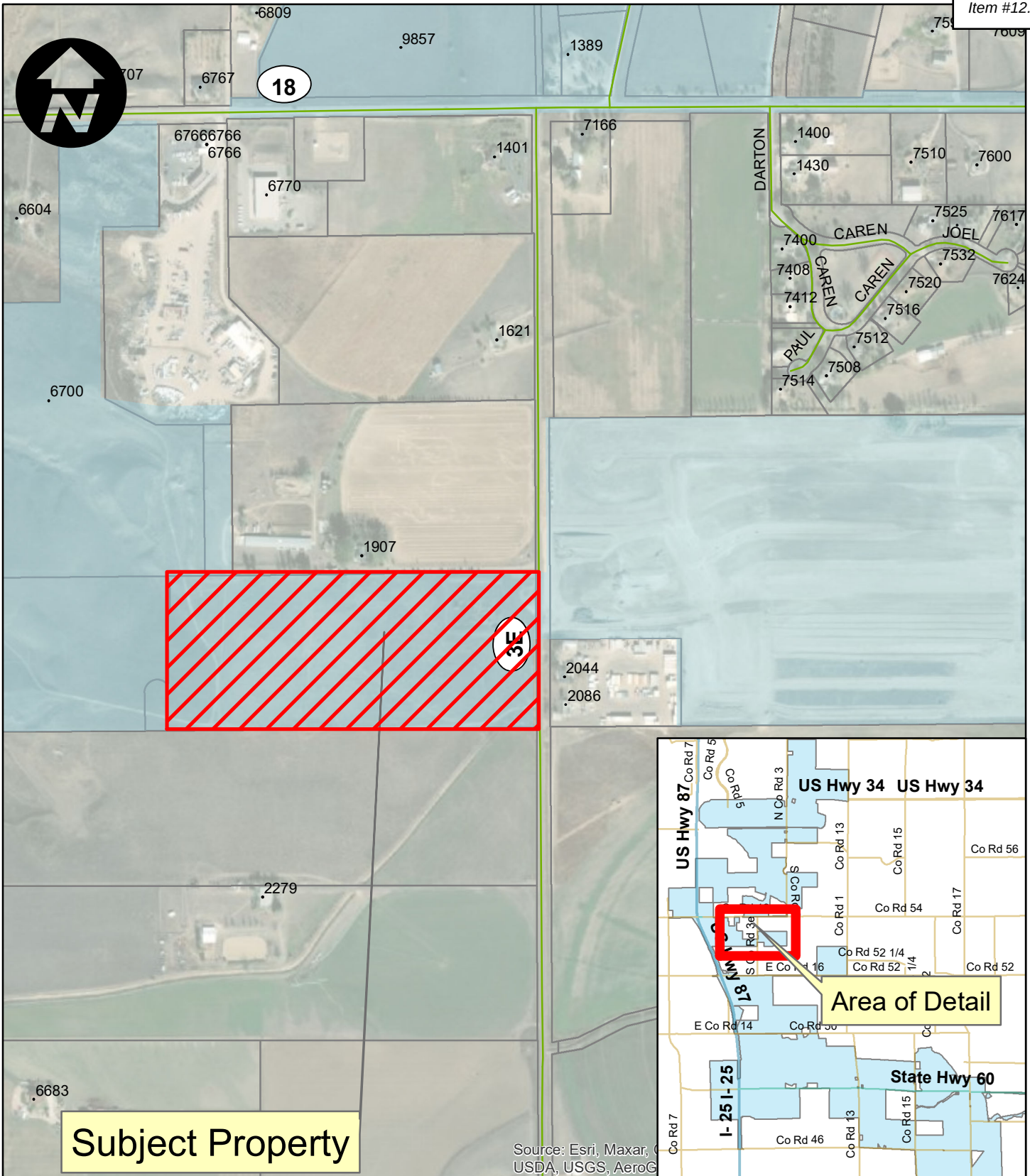
I move to approve Resolution 2020-43, approving The Ridge at Johnstown Filing No. 2, Final Subdivision Plat and Final Development Plans as presented, with conditions as stated in the resolution.

For Denial

I move to deny Resolution 2020-43.

Reviewed and Approved for Presentation,

Town Manager



Subject Property



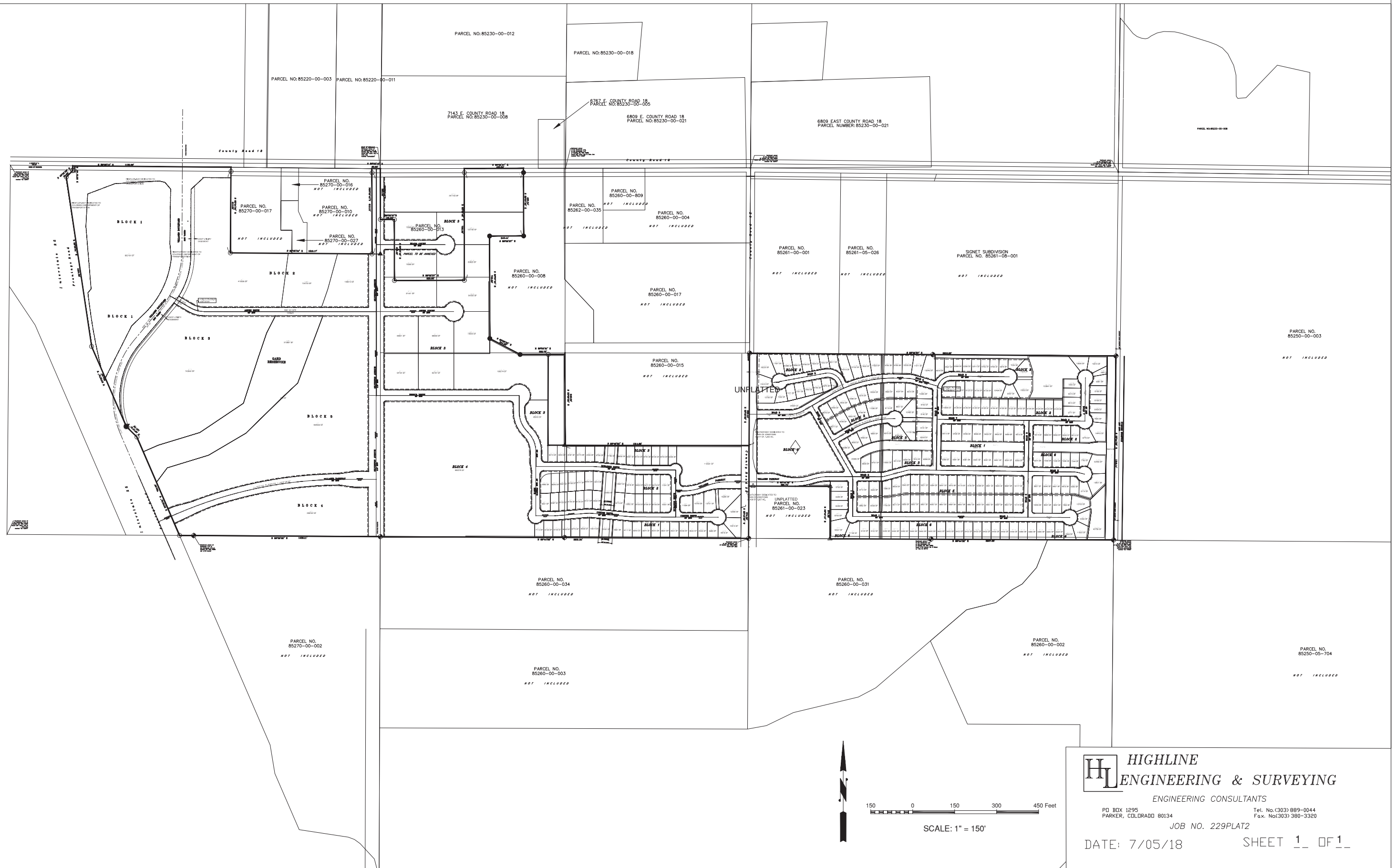
SUB19-0006
Ridge at Johnstown Filing 2
Approx. 2000 LCR 3e

500 1,000 2,000

THE VILLAGES AT JOHNSTOWN

PRELIMINARY PLAT AMENDMENT NO. 1

A PORTION OF THE NORTHEAST 1/4 OF SECTION 27 AND A PORTION OF THE NORTH 1/2 OF SECTION 26, TOWNSHIP 05 NORTH, RANGE 68 WEST 6th PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO.





Town of Johnstown

PLANNING & ZONING COMMISSION AGENDA MEMORANDUM

ITEM:	SUB19-0006 The Ridge at Johnstown Filing No. 2 – Final Development Plan and Final Subdivision
DESCRIPTION:	Final Subdivision and Final Development Plan for The Ridge at Johnstown Filing No. 2, encompassing 23.277 acres and creating 80 single-family lots.
LOCATION:	Approximately 2001 Larimer County Road 3E (Parcel #8526200003)
APPLICANT:	J-25 Land Holdings, LLC (owner)
STAFF:	Darryll Wolnik, Planner II
HEARING DATE:	August 26, 2020

PROPERTY INFORMATION

The applicant, J-25 Land Holdings LLC, is requesting final subdivision of and development plans for 23.277 acres of land located at approximately 2001 Larimer County Rd. 3E (Larimer County Parcel #8526200003) – halfway between Larimer County Road (LCR) 16 and LCR 18. The proposed subdivision is currently a single undeveloped parcel, historically used for agricultural purposes, which is wholly-owned by the Applicant. *(See Attachment A.)*

The subject property is bordered by both unincorporated Larimer County and the Town of Johnstown. These abutting unincorporated lands are zoned in Larimer County as FA-Farming. This subject property, as well as the adjoining town property to the east and west is zoned PUD-MU in Johnstown, with approvals as “The Villages at Johnstown.” This adjacent land to the east is also owned by the applicant and is part of a prior phase and filing of this development.

The uses that surround this proposed subdivision are primarily agricultural in nature. Lands to the north and south are farming / agricultural uses. Property across LCR 3E is split; northeast is Ridge Filing 1, while southeast is an outdoor storage yard. J-25 Land Holdings owns vacant and annexed land to the west and northwest as future filings of the overall Ridge at Johnstown development.

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HISTORY

The subject property was annexed into the Town as part of the R&D #'s 2 & 3 Annexation. It was annexed into town by way of Ordinance #2001-648, effective January 1, 2002. Ordinance #2001-651 subsequently zoned the subject property PUD-R (Residential). This is reflected in the ODP filed with the town in 2000. On March 1, 2002, the Town entered into an annexation agreement with the original annexation petitioner.

In 2006, a preliminary plat and performance standards were approved through Resolution #2005-43. In 2018, the performance standards were updated, and a new preliminary plat was approved. *(See Attachment D)* This Final Subdivision and Final Development Plan were submitted for review in 2019.

NOTICE

Notice was published in the local paper of widest circulation, the Johnstown Breeze, on Thursday, August 6, 2020. This notice provided the date, time, and location of the Planning and Zoning Commission hearing, as well as a description of the project. Notices were mailed to all property owners within 500 feet of the property in question. This notice included a map of the proposed project and surrounding area. A community meeting was not held. No comments or concerns from adjacent property owners was received as of the date of publication of this memorandum.

PROJECT OVERVIEW

This proposed subdivision would create 80 single-family lots. *(See Attachment B)* These lots comprise 12.451 acres (53.5%) of the property, and range from 5,730 SF and 12,203 SF, with an average lot size of 6,780 s/f. Eleven common outlots would be created as part of this plat, constituting 4.976 acres (21.4%) of open space and stormwater detention areas. No parks will be created as part of this project, though there will be a 109.5'-wide trail that stretches north-south through roughly the middle of the property. Of note is the proposed landscape standards revolving around water use. The applicant has proposed water-conservation focused landscaping requirements on private lots. These requirements will limit water use across the proposed subdivision, thereby decreasing the irrigation demand and water usage. A non-potable irrigation system, or connection to that managed by Thompson Crossing Metro District (Thompson River Ranch) was investigated for the overall development, but was deemed infeasible.

The proposed subdivision has one ultimate access point to County Road 3E on the east, with one street connecting to that road. County Road 3E is currently an unimproved gravel road, that will be upgraded with Ridge Filing 1 from CR 18 to CR 16 with paving of the existing roadway, and half-width buildout along the frontage of this property. The other access point would be on the west side, to future filings and will connect through once a roadway is built. The proposed subdivision has a

north/south street connection to adjacent parcels on the west end of the property. The road on the western border of the property will be stubbed out to the north and south for future connections. The Transportation Master Plan indicates that CR 3E is expected to be a Minor Arterial. The appropriate half-width rights-of-way for these ultimate roadways will be dedicated with this subdivision.

Part of the proposed subdivision is a trail network. The trail network utilizes common spaces between and behind homes to allow residents to walk in areas away from traffic, while connecting the proposed subdivision through a mid-block trail. The trails also connect to the main entry road, which allows access to the neighborhood park directly across LCR 3E as part of Filing 1. Johnstown Municipal Code Sec 17-51 requires dedication of a minimum of 10% of the gross land area to the Town for public park land; a minimum of 2.33 acres for this development. In this case, where a residential Metro District (a quasi-governmental special district) is anticipated to own and maintain these open spaces, per Section V.A.2 of the approved Service Plan, and therefore ensure adjacent residents and future developments can interconnect and enjoy the trail network and open spaces, the Town waives the requirement of specific dedication.

The development proposes a 25' landscape buffer along LCR 3E, along with a 10' sidewalk within the ROW. Residences that back to LCR 3E will also have a +20' landscape area to buffer them from the public ROW area. To the north, Outlots A and F provide a 10' buffer from rear lot lines of single-family lots to the edge of the development. There is no such buffer along the south property line, as single-family lots abut directly to the adjacent property, which is an open field used for agricultural purposes. To the northeast along CR 3E, Outlot F provides the larger open space/park area/drainage area that acts as a buffer between single-family lots and LCR 3E. Staff is working with the Applicant to ensure that along the arterial-facing perimeters of the development, there is a consistent fencing scheme with solid privacy fencing, masonry columns every 100' in appropriate locations; and a consistent open fence design for the areas where rear yards back to the smaller landscape/trail areas to avoid a tight corridor feel.

A sanitary sewer main will connect through Filing 1 to the new off-site main along the High Plains Boulevard ultimate alignment connecting north into the Low Point Wastewater Treatment Plant. The plant has sufficient capacity for this subdivision. These improvements are required to be installed and accepted by the Town prior to the first Certificate of Occupancy (CO) being issued. These improvements will also serve the future filings to the west, and be oversized to allow future development to connect in as well.

Stormwater will be managed and detained on-site in a detention pond at the northeast corner as part of Outlot F, to be manage and maintained by the metro district.

The proposed subdivision is part of the larger 245-acre “The Ridge at Johnstown” development area, previously approved as “The Villages at Johnstown.” Filing 1, which was recently approved by the Town, is located east of CR 3E, opposite this project. That proposed development also consists of single-family detached housing, in a similar configuration to this project. Future filings of The Ridge are located further west and north of this project, adjacent to I-25 and CR 18. Those future filings are proposed, per the approved preliminary plat and performance standards, to be more mixed-use, with higher density residential and employment/commercial, though specific development plans have not yet been submitted to the Town. “The Ridge” is governed by a set of performance standards, approved in 2018. These performance standards act as additional zoning regulations for the area and control for things such as architecture, uses, setbacks, and landscaping. In addition, the applicant has proposed stringent landscape standards relating to water conservation. Under the proposed standards, each lot would be allotted a maximum allowable square-footage of irrigated landscaping. Performance standards will be enforced by a combination of an HOA, metro district, and the Town as appropriate.

COMPREHENSIVE PLAN GOALS

Goal CF 4 – Encourage a sustainable environment through techniques such as water-wise landscaping and water-efficient irrigation.

The proposed subdivision will limit the use of water-intensive landscaping on private lots via a maximum square-footage rule for such landscaping.

Goal CC 1 – Walkable, mixed-use economic centers

The proposed subdivision is part of the larger Ridge at Johnstown development, which will feature higher-density residential and commercial and employment areas within the overall development.

Goal PG 2 – Provide a variety of recreational opportunities for all ages and abilities that will draw the community together.

The proposed development will have a trail network, connecting the neighborhood to the park and to each other.

Staff Analysis

Overall, the Subdivision and Development Plans are in keeping with the performance standards of The Ridge, as well as public improvements standards and specs, and the municipal code. The plans have gone through rigorous review by Staff and our ancillary reviewers.

The attempts to create a more water-conscious neighborhood are greatly appreciated by Staff, and we believe this will be an ongoing trend both to address the increasing cost of raw water and its impact on housing affordability, as well as Western conservation efforts. We are hopeful the

landscaping proposed creates a unique neighborhood look and experience that homeowners and the community can appreciate.

The off-site improvements required with previous Filing 1 were substantial, and served to create a solid foundation for service for the adjoining properties and future development to the west, this property included. Staff appreciates the willingness and readiness of the developers and their design team to work through the details of those construction plans to arrive at improvements that will facilitate this development, as well as future development in the area. The paving of CR 3E as well as the ultimate build-out along the frontages of this project, will help to mitigate the strain of additional traffic on this current gravel county road.

STAFF CONCERNS

Staff has concerns about the fire accesses onto the property. The proposed development features a single access point onto LCR 3E, with no other permanent or temporary accesses proposed. As a result, Front Range Fire Rescue (FRFR) Fire Marshal Tyler Drage has conditioned his approval to be applicable to only the eastern half of the filing, at which point they will no longer permit any homes until a second point of access is provided in conformance with fire code. While Outlot H is labelled a 20' emergency access, utility, and pedestrian easement, the FDP shows it to be only gravel. It is also in close proximity to the main access into the subdivision at 181.57'. Staff will request approval of this subdivision be conditioned upon completion of a FRFR-approved secondary point of access prior to any building permits being issued east of the 50' gas pipeline easement.

RECOMMENDED FINDINGS AND MOTIONS

Based on the application materials received and the preceding analysis for the proposed Final Subdivision and Final Development Plan for The Ridge at Johnstown Subdivision Filing No. 2, the Planning & Zoning Commission finds:

1. The proposed subdivision and development plans can be served by Town utilities, and the surrounding transportation network is adequate to support this level of development.
2. The proposed subdivision and development plans will advance the goals set forth in the Johnstown Area Comprehensive Plan.
3. The proposed subdivision and development plans are in substantial conformance with all applicable Johnstown regulations, standards, and codes.

and therefore, moves to recommend to the Town Council approval of The Ridge at Johnstown Subdivision Filing No. 2 Final Subdivision and Final Development Plan, with the following conditions:

1. Applicant work with staff to resolve any outstanding final redlines or comments, until all plans, reports, and drawings are approved by Town Staff and the Town Engineer;
2. Applicant create a second egress point to meet Front Range Fire Rescue requirements prior to any building permits being issued for lots west of the 50' gas pipeline easement;
3. Applicant work with staff on the landscape guide to reduce water usage within the proposed project. This landscape guide will be integrated into an amendment to be completed in 2020, to the development's Performance Standards document, and therefore readily available to all builders and homeowners.
4. The Applicant seek approval of configuration and construction drawings for Larimer County Road 3E in accordance with Town Staff, Town Engineer, and Larimer County Engineering, just as in Filing No. 1.
5. The Applicant execute an approved Subdivision Development and Improvement Agreement and Water and Sewer Service Agreement with the Town Council, with all obligations, special provisions, and required fees therein.

Alternate Motions

- A. Motion to Approve with No Conditions: "I move that the Commission recommend to Town Council approval of the Ridge at Johnstown Subdivision Filing No. 2 – Final Subdivision and Final Development Plan as presented. "
- B. Motion to Deny: "I move that the Commission recommend to the Town Council denial of the Ridge at Johnstown Subdivision Filing No. 2 – Final Subdivision and Final Development Plan based upon the following..."

Respectfully Submitted,

Planner:



Darryll Wolnik
Planner II

Reviewed by:



Kim Meyer
Planning & Development Director

File Name: S:\PLANNING\2019 Land Use Projects\SUB19-0006 The Ridge Filing 2 (Center Village)\Staff Report.docx

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

Public Comment

Project: The Ridge at Johnstown, Filing No. 2 Final Subdivision & Final Development Plan

Date: 8/26/20

Taken by: Kim Meyer, Director

Via: Phone conversation

Commenter: Linnea Sidi, 2640 S LCR 3E, owner/resident

- Concerns largely related to existing traffic and impact of additional traffic on CR 3E – speeding, volume, and overall safety
- Speeding occurs now on LCR 3E and on LCR 16
- Road rage at farm equipment moving slowly on the road adjacent to ag land
- Herds of deer cross this road regularly
- Current construction is increasing traffic already, and those trucks fly down the road. Complaints to the owners have yielded no results to this behavior.
- Didn't get notice of the meeting, and would like better access to remote meeting possibilities.

THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE)
PART OF THE SOUTH HALF OF THE NORTHWEST OF SECTION 26,
T. 5 N., R. 68 W. OF THE 6TH P.M.,
JOHNSTOWN, LARIMER COUNTY, COLORADO

DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS THAT J-25 LAND HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, BEING OWNER OF THE FOLLOWING DESCRIBED PROPERTY:

PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PM, LARIMER COUNTY, COLORADO, DESCRIBED AS FOLLOWS;

BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 26, MONUMENTED WITH A 2 ½" ALUMINUM CAP IN RANGE BOX, STAMPED LS 38304, 2014.

THENCE N89°44'19"W, A DISTANCE OF 1315.85 FEET ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER TO THE CENTER WEST 1/16TH CORNER, MONUMENTED WITH A NUMBER 6 REBAR WITH A 2 ½" ALUMINUM CAP STAMPED 26512, 2018;

THENCE N89°43'42"W, A DISTANCE OF 235.59 FEET ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID NORTHWEST QUARTER;

THENCE N00°10'22"E, A DISTANCE OF 109.03 FEET TO A NON-TANGENT POINT OF CURVATURE;

THENCE ON A SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 55.00 FEET, A CENTRAL ANGLE OF 106°28'13", A DISTANCE OF 102.20 FEET, A CHORD BEARING OF N03°17'04"W WITH A CHORD DISTANCE OF 88.12 FEET TO A REVERSE CURVE;

THENCE ON A SAID CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, A CENTRAL ANGLE OF 49°46'41", A DISTANCE OF 13.03 FEET, A CHORD BEARING OF N25°03'42"E WITH A CHORD DISTANCE OF 12.63 FEET;

THENCE N00°10'22"E, A DISTANCE OF 263.90 FEET;

THENCE N09°27'44"W, A DISTANCE OF 65.41 FEET;

THENCE N00°00'00"E, A DISTANCE OF 75.42 FEET;

THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 160.00 FEET, A CENTRAL ANGLE OF 17°12'16", A DISTANCE OF 48.04 FEET, A CHORD BEARING OF N08°36'08"W WITH A CHORD DISTANCE OF 47.86 FEET TO THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26;

THENCE S89°56'13"E, A DISTANCE OF 253.77 FEET ON SAID NORTH LINE TO THE CENTER 1/16TH CORNER OF THE NORTHWEST QUARTER, MONUMENTED BY A 2" IRON PIPE FILLED WITH CONCRETE AND A 3/4" WASHER STAMPED LS 4845 SET IN THE CONCRETE;

THENCE S89°49'38"E, A DISTANCE OF 1262.67 FEET ON THE NORTH LINE OF THE SOUTH HALF OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER TO THE WEST RIGHT OF WAY LINE OF COUNTY ROAD 3E, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED 'PLS 37067';

THENCE S00°18'18"W, A DISTANCE OF 288.21 FEET ON SAID WEST RIGHT OF WAY LINE, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED 'PLS 37067';

THENCE S89°46'36"E, A DISTANCE OF 55.00 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED 'PLS 37067';

THENCE S00°18'18"W, A DISTANCE OF 374.22 FEET ON SAID EAST LINE TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1,013,967 SQUARE FEET OR 23.777 ACRES.

***** NOTE: ALL COURSES IN THIS LEGAL DESCRIPTION ARE MONUMENTED WITH A NUMBER 5 REBAR AND 1 1/4" PURPLE PLASTIC CAP STAMPED PLS 37067 UNLESS STATED OTHERWISE.

AND DO HEREBY SUBDIVIDE THE SAME INTO LOTS, BLOCKS, OUTLOTS, RIGHT OF WAY AND EASEMENTS UNDER THE NAME OF **THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE)** AS SHOWN ON THIS MAP AND DO HEREBY DESIGNATE AND DEDICATE ALL RIGHT OF WAY AND EASEMENTS FOR PUBLIC USE, UNLESS OTHERWISE NOTED.

BASIS OF BEARING:
BEARINGS ARE BASED ON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, IN WHICH THE SOUTH LINE OF SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, T5N, R68W, 6TH PM, LARIMER COUNTY, CO; BEARS N89°44'19"W, A DISTANCE OF 1,315.85 FEET BETWEEN THE CENTER QUARTER CORNER OF SECTION 26, MONUMENTED A 2 ½" ALUMINUM CAP IN RANGE BOX, STAMPED LS 38304, 2014 AND THE CENTER WEST 1/16TH CORNER, MONUMENTED WITH A NUMBER 6 REBAR WITH A 2 1/2" ALUMINUM CAP STAMPED 26512, 2018; WITH ALL OTHER BEARINGS RELATIVE THERETO.

J-25 LAND HOLDINGS, LLC

BY _____

STATE OF COLORADO)

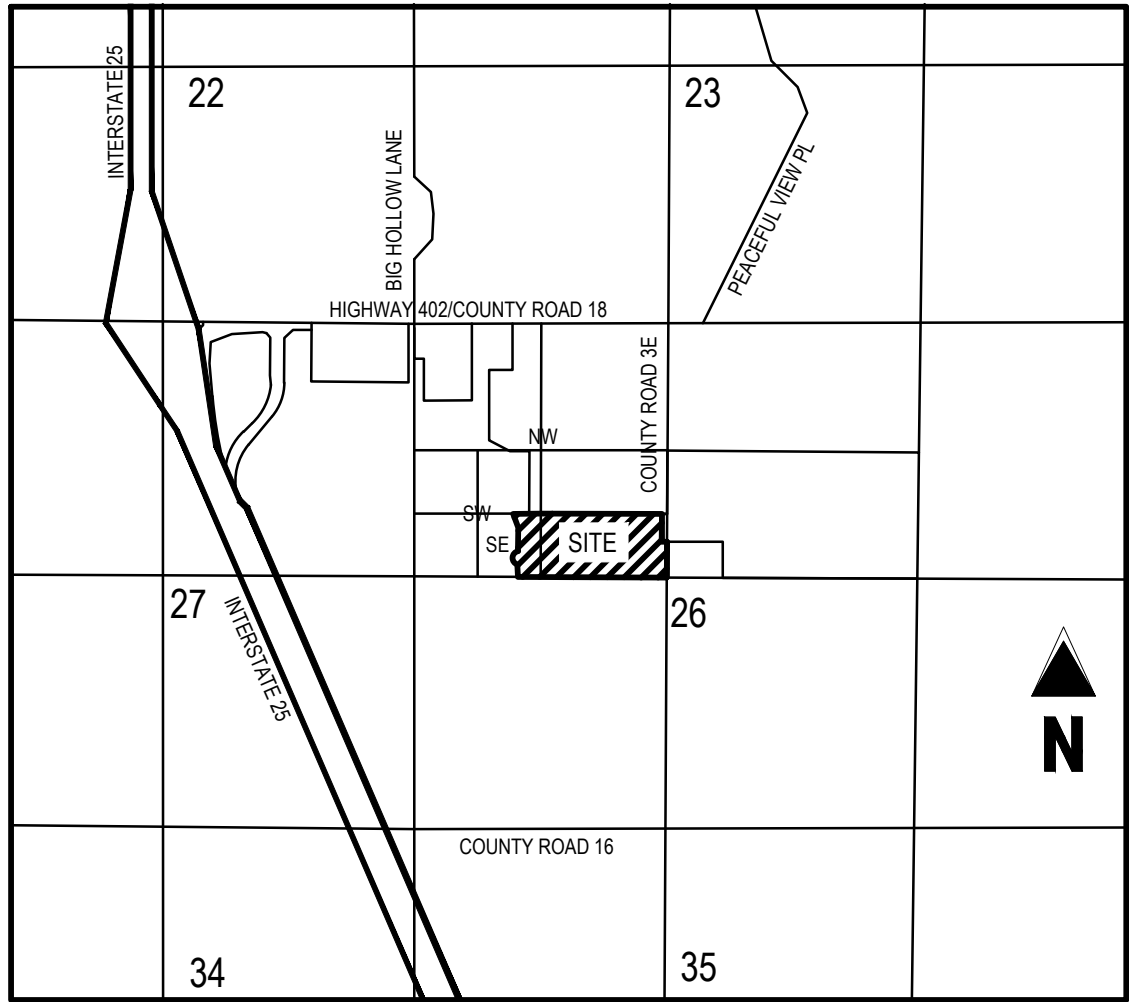
COUNTY OF LARIMER)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____
2019 BY _____ AS _____ OF J-25 LAND HOLDING , LLC.

WITNESS HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: _____

NOTARY PUBLIC



VICINITY MAP
NOT TO SCALE

OWNER AND DEVELOPER

J-25 LAND HOLDINGS, LLC
C/O CALBER
16074 N. 78TH STREET, SUITE B104
SCOTTSDALE, AZ 85260

SITE ENGINEER

GALLOWAY & COMPANY
JAMES PRELOG
15265 RONALD REAGAN BLVD., SUITE 210
JOHNSTOWN, CO 80534

SURVEYOR

GALLOWAY & COMPANY
FRANK A. KOHL
15265 RONALD REAGAN BLVD., SUITE 210
JOHNSTOWN, CO 80534

SITE STATISTICS:

LARGEST LOT: 12,203 SF
SMALLEST LOT: 5,944 SF
AVERAGE LOT SIZE: 6,850 SF
LOTS: 80, 11 OUTLOTS

LAND USE SUMMARY					
THE RIDGE AT JOHNSTOWN (CENTER VILLAGE)					
OUTLOTS	AREA (SQ. FT.)	AREA (ACRES)	OWNERSHIP	MAINTENANCE	AMENITY TYPE
A	18,514	0.425	METRO DISTRICT	METRO DISTRICT	UTILITY, DRAINAGE AND PEDESTRIAN ACCESS EASEMENT
B	13,731	0.315	METRO DISTRICT	METRO DISTRICT	UTILITY AND PEDESTRIAN ACCESS EASEMENT
C	13,705	0.315	METRO DISTRICT	METRO DISTRICT	UTILITY AND PEDESTRIAN ACCESS EASEMENT
D	1831.49	0.042	METRO DISTRICT	METRO DISTRICT	UTILITY AND PEDESTRIAN ACCESS EASEMENT
E	13,705	0.315	METRO DISTRICT	METRO DISTRICT	UTILITY AND PEDESTRIAN ACCESS EASEMENT
F	89,825	2.062	METRO DISTRICT	METRO DISTRICT	DRAINAGE AND UTILITY EASEMENT
G	14,002	0.321	METRO DISTRICT	METRO DISTRICT	DRAINAGE AND UTILITY EASEMENT
H	2,935	0.067	METRO DISTRICT	METRO DISTRICT	UTILITY, PEDESTRIAN AND EMERGENCY ACCESS EASEMENT
I	9,222	0.212	METRO DISTRICT	METRO DISTRICT	DRAINAGE AND UTILITY EASEMENT
J	37,679	0.865	METRO DISTRICT	METRO DISTRICT	UTILITY AND PEDESTRIAN ACCESS EASEMENT
K	1612.47	0.037	METRO DISTRICT	METRO DISTRICT	DRAINAGE AND UTILITY EASEMENT
TOTAL OUTLOTS	216,762	4.976			21.38%
STREET RIGHT OF WAY (ALL PUBLIC ROADWAYS)					
ROAD	AREA	AREA ACRES			
INTERNAL ROADWAY RIGHT OF WAY	254,839	5.850			25.13%
SINGLE FAMILY LOTS					
LOTS	AREA ACRES	NUMBER OF LOTS			
SINGLE FAMILY LOTS	12.451	80			53.49%
TOTAL AREA	23.277	TOTAL PERCENTAGE			100.00%

TOWN COUNCIL

THIS PLAT, TO BE KNOWN AS **THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE)**, IS APPROVED AND ACCEPTED BY THE TOWN OF JOHNSTOWN, BY RESOLUTION 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 _____, 2019.

BY: _____ ATTEST: _____
MAYOR TOWN CLERK

PLAT NOTES

- GENERAL OVERLOT DRAINAGE NOTE: LOTS AND TRACTS AS PLATTED HEREIN MAY BE REQUIRED TO CONVEY SURFACE DRAINAGE FROM OTHER LOTS AND TRACTS IN THIS FILING, IN ACCORDANCE WITH TOWN REQUIREMENTS AND THE APPROVED DRAINAGE PLAN FOR THIS FILING. NO ALTERATIONS TO THE GRADING OF THE LOTS AND TRACTS MAY BE MADE THAT WOULD DISRUPT THE APPROVED DRAINAGE PLAN, WITHOUT PRIOR APPROVAL FROM THE TOWN. ALL NATURAL AND IMPROVED DRAINAGE WAYS OR DRAINAGE SYSTEMS IN SAID LOTS AND TRACTS SHALL BE MAINTAINED BY THE LOT OR TRACT OWNER IN ACCORDANCE WITH TOWN CRITERIA. SHOULD THE OWNER FAIL TO ADEQUATELY MAINTAIN SAID FACILITIES, THE TOWN SHALL HAVE THE RIGHT TO ENTER SAID LAND FOR THE PURPOSES OF OPERATIONS AND MAINTENANCE OF THE DRAINAGE WAYS OR DRAINAGE SYSTEMS. ALL SUCH MAINTENANCE COSTS WILL BE ASSESSED TO THE PROPERTY OWNER.
- STORM SYSTEM MAINTENANCE: THE TOWN OF JOHNSTOWN REQUIRES THAT MAINTENANCE ACCESS BE PROVIDED TO ALL STORM DRAINAGE FACILITIES TO ASSURE CONTINUOUS OPERATIONAL CAPABILITY OF THE SYSTEM. THE PROPERTY OWNER SHALL BE RESPONSIBLE FOR THE MAINTENANCE OF ALL DRAINAGE FACILITIES INCLUDING INLETS, PIPES, CULVERTS, CHANNELS, DITCHES, HYDRAULIC STRUCTURES, AND DETENTION BASINS LOCATED ON THEIR LAND UNLESS MODIFIED BY THE SUBDIVIDERS AGREEMENT. SHOULD THE OWNER FAIL TO ADEQUATELY MAINTAIN SAID FACILITIES, THE TOWN SHALL HAVE THE RIGHT TO ENTER SAID LAND FOR THE PURPOSES OF OPERATIONS AND MAINTENANCE. ALL SUCH MAINTENANCE COSTS WILL BE ASSESSED TO THE PROPERTY OWNER.
- STREET SIGNAGE: THE OWNER/DEVELOPER IS RESPONSIBLE FOR INSTALLATION OF ALL ROADWAY SIGNAGE, INCLUDING "NO PARKING/FIRE LANE" SIGNAGE, AS REQUIRED BY THE TOWN PUBLIC WORKS/STREETS DEPARTMENT AND/OR APPLICABLE FIRE DISTRICT. THE OWNER SHALL MAINTAIN SAID SIGNAGE.

GENERAL NOTES

- UTILITY NOTE: THE LOCATION OF UTILITIES SHOWN HEREON WAS ESTABLISHED FROM SURFACE EVIDENCE, EXISTING UTILITY MARKERS AND UTILITY LOCATES FROM A UTILITY CONTRACTOR. THE EXACT LOCATION OF BURIED UTILITIES IS UNCERTAIN. PRIOR TO ANY EXCAVATION THE CONTRACTOR SHOULD CONTACT THE UTILITY NOTIFICATION CENTER. THE SURVEYOR MAKES NO GUARANTEE EITHER EXPRESSED OR IMPLIED THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION DEPICTED ALTHOUGH THE UTILITIES ARE LOCATED AS ACCURATELY AS POSSIBLE FROM THE INFORMATION AVAILABLE AT THE TIME OF THE SURVEY. THIS SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.
- UNDERGROUND UTILITY MARKINGS PLOTTED HEREON WERE BASED OFF EXISTING PAINT MARKINGS FOUND AT THE TIME OF SURVEY, NO UTILITY LOCATES WERE PERFORMED BY OR REQUESTED BY GALLOWAY.
- THIS MAP OR PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE PERSON, PERSONS OR ENTITY NAMED IN THE SURVEYOR'S STATEMENT HEREON. SAID STATEMENT DOES NOT EXTEND TO ANY UNNAMED PERSON WITHOUT AN EXPRESS RE-STATEMENT BY THE SURVEYOR.
- PER THE FEMA FLOOD INSURANCE RATE MAPS (FIRM), MAP NO. 08069C1213F AND 08069C1405F, HAVING AN MAP REVISED DATE OF DECEMBER 19, 2006, INDICATES THE SUBJECT PROPERTY TO BE DESIGNATED AS ZONE X (OUTSIDE 0.2% CHANCE OF FLOOD). THIS SURVEY MAKES THIS STATEMENT BY GRAPHIC PLOTTING ONLY. THE SURVEYOR RECOMMENDS A FLOOD STUDY IF MORE INFORMATION IS REQUIRED.
- ALL LINEAL MEASUREMENTS SHOWN ARE GROUND DISTANCES AND U.S. SURVEY FEET.
- EASEMENTS AND PUBLIC DOCUMENTS SHOWN OR NOTED ON THIS SURVEY WERE EXAMINED AS TO LOCATION AND PURPOSE AND WERE NOT EXAMINED AS TO RESTRICTIONS, EXCLUSIONS, CONDITIONS, OBLIGATIONS, TERMS OR AS THE RIGHT TO GRANT THE SAME.
- CAUTION: THE SURVEYOR PREPARING THIS MAP WILL NOT BE RESPONSIBLE FOR, OR LIABLE FOR, UNAUTHORIZED CHANGES TO OR USES OF THIS MAP. ALL CHANGES TO THIS EXHIBIT MUST BE APPROVED IN WRITING BY THE SURVEYOR IN CHARGE.
- 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 COMMENCE MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON. C.R.S. 13-80-105(3)(A).

SURVEYOR'S CERTIFICATION:

I, FRANK A. KOHL, BEING A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT OF **THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE)** WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION AND THAT THE SURVEY WAS PERFORMED IN ACCORDANCE WITH COLORADO STATE LAW AND IS ACCURATELY REPRESENTED ON THIS PLAT.

DATED THIS _____ DAY OF _____, 2019.

FRANK A. KOHL
COLORADO PROFESSIONAL LAND SURVEYOR NO. 37067
FOR AND ON BEHALF OF GALLOWAY & COMPANY, INC.

Galloway
5265 Ronald Reagan Blvd., Suite 210
Johnstown, CO 80534
970.800.3300
GallowayUS.com

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THE RIDGE AT JOHNSTOWN
FILING NO. 2 (CENTER VILLAGE)

PART OF THE SOUTH HALF OF THE NORTHWEST
QUARTER OF SECTION 26, TOWNSHIP 5 NORTH,
RANGE 68 WEST OF THE 6TH P.M., JOHNSTOWN,
LARIMER COUNTY, COLORADO

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Project No:	JLH000001.10
Drawn By:	AN
Checked By:	FAK
Date:	10/11/19

THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE)

PART OF THE SOUTH HALF OF THE NORTHWEST OF SECTION 26,

T. 5 N., R. 68 W. OF THE 6TH P.M.,

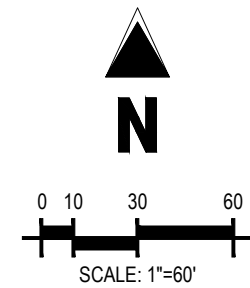
JOHNSTOWN, LARIMER COUNTY, COLORADO

LEGEND

- PROPERTY LINE
- ADJACENT PROPERTY LINE
- PLSS ALIQUOT LINE
- EXISTING EASEMENT
- ALIQUOT CORNER (AS DESCRIBED)
- FOUND MONUMENT (AS DESCRIBED)
- SET 24" # 5 REBAR WITH 1-1/4" PURPLE PLASTIC CAP, STAMPED PLS 37067 UNLESS OTHERWISE NOTED
- REC. NO. RECEPTION NUMBER
- SF SQUARE FEET
- AC ACRES

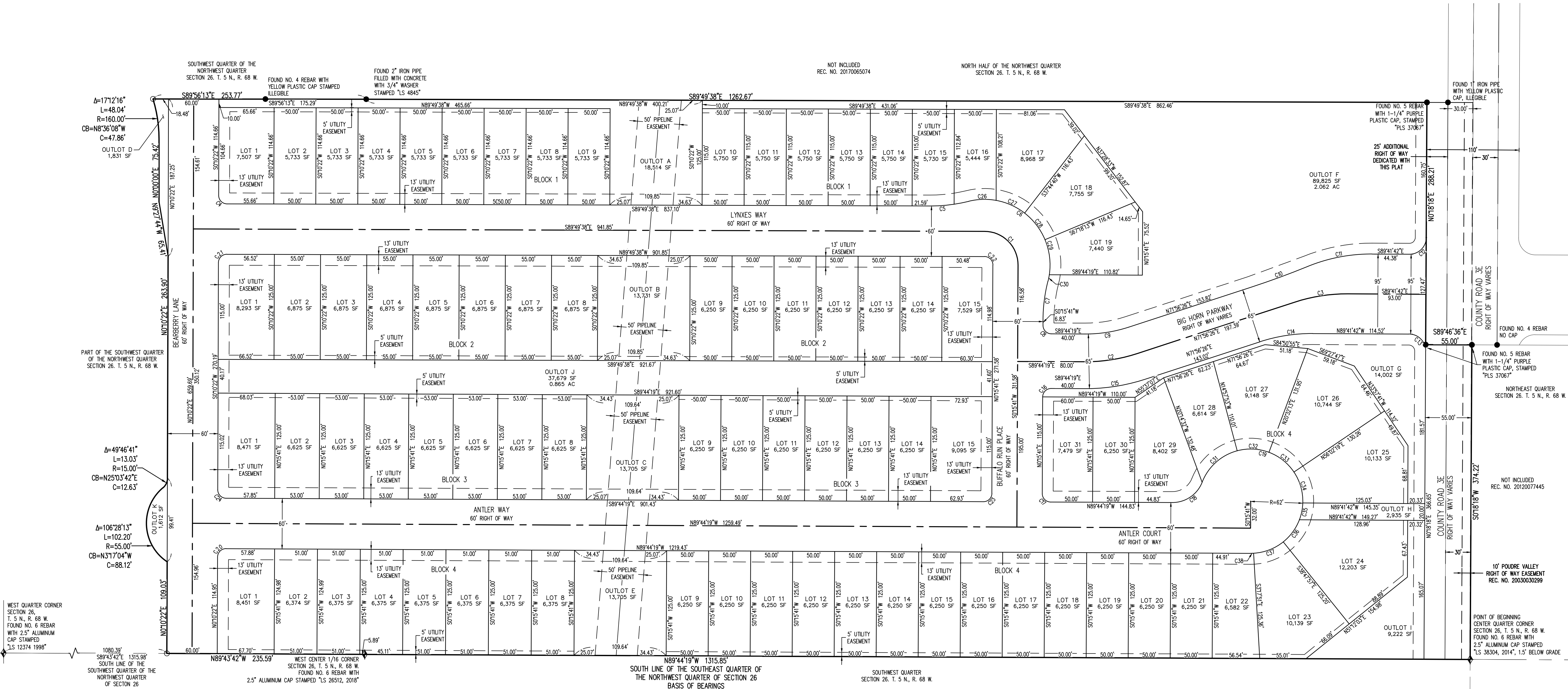
PARCEL CURVE SEGMENT TABLE				
CURVE TAG #	DELTA	LENGTH (FT)	RADIUS (FT)	CHORD BEARING
C1	90°05'19"	62.89	40.00	S44°46'59"E
C2	18°19'14"	63.31	198.00	N81°06'04"E
C3	18°21'52"	64.10	200.00	N81°07'22"E
C4	90°00'00"	15.71	10.00	S44°49'38"E
C5	14°05'15"	46.22	188.00	S83°07'44"W
C6	118°15'50"	161.00	78.00	N44°46'59"W
C7	14°05'15"	46.22	188.00	S71°18'18"W
C8	90°00'00"	15.71	10.00	S44°44'19"E
C9	18°19'14"	52.76	165.00	N81°06'04"E
C10	4°05'43"	71.47	1000.00	N69°53'35"E
C11	22°27'34"	78.40	200.00	N79°04'31"E
C12	89°59'51"	31.42	20.00	S45°18'23"W
C13	90°00'00"	31.42	20.00	S44°41'42"E
C14	18°21'52"	64.10	200.00	N81°07'22"E
C15	18°19'14"	73.54	230.00	S81°06'04"W
C16	90°00'00"	15.71	10.00	N45°51'41"E
C17	90°00'00"	15.71	10.00	N44°44'19"W
C18	68°53'59"	45.70	38.00	S55°48'41"W
C19	248°53'59"	269.34	62.00	N34°11'19"W

PARCEL CURVE SEGMENT TABLE				
CURVE TAG #	DELTA	LENGTH (FT)	RADIUS (FT)	CHORD BEARING
C20	90°05'19"	15.72	10.00	N45°13'01"E
C21	90°00'00"	15.71	10.00	S45°10'22"W
C22	90°05'19"	15.72	10.00	N44°46'59"W
C23	90°00'00"	15.71	10.00	N45°15'41"E
C24	89°54'41"	15.69	10.00	S44°46'59"E
C25	24°10'26"	32.91	78.00	N88°01'19"E
C26	24°10'26"	32.91	78.00	S88°10'19"W
C27	27°29'08"	37.42	78.00	N65°59'54"W
C28	29°33'33"	40.24	78.00	N37°28'33"W
C29	31°15'46"	42.56	78.00	N70°35'44"W
C30	5°46'57"	7.87	78.00	N11°27'27"E
C31	53°40'26"	56.08	62.00	S48°11'54"W
C32	35°30'06"	38.42	62.00	N87°12'50"W
C33	35°30'06"	38.42	62.00	N51°42'44"W
C34	35°54'01"	38.85	62.00	N16°00'41"W
C35	18°55'13"	20.47	62.00	N11°23'56"E
C36	30°20'30"	32.83	62.00	N36°01'48"E
C37	35°30'06"	38.42	62.00	N68°57'06"E
C38	3°33'31"	3.85	62.00	N88°28'55"E



NOT INCLUDED
REC. NO. 20170065074

NORTH HALF OF THE NORTHWEST QUARTER
SECTION 26, T. 5 N., R. 68 W.



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THE RIDGE AT JOHNSTOWN
FILING NO. 2 (CENTER VILLAGE)

PART OF THE SOUTH HALF OF THE NORTHWEST
QUARTER OF SECTION 26, TOWNSHIP 5 NORTH,
RANGE 68 WEST OF THE 6TH P.M., JOHNSTOWN,
LARIMER COUNTY, COLORADO

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Project No: JLH000001.10
Drawn By: AN
Checked By: FAK
Date: 10/11/19

PRELIMINARY
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NOT FOR CONSTRUCTION

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THE RIDGE AT JOHNSTOWN FILING 2
CENTER VILLAGE
J-25 LAND HOLDINGS

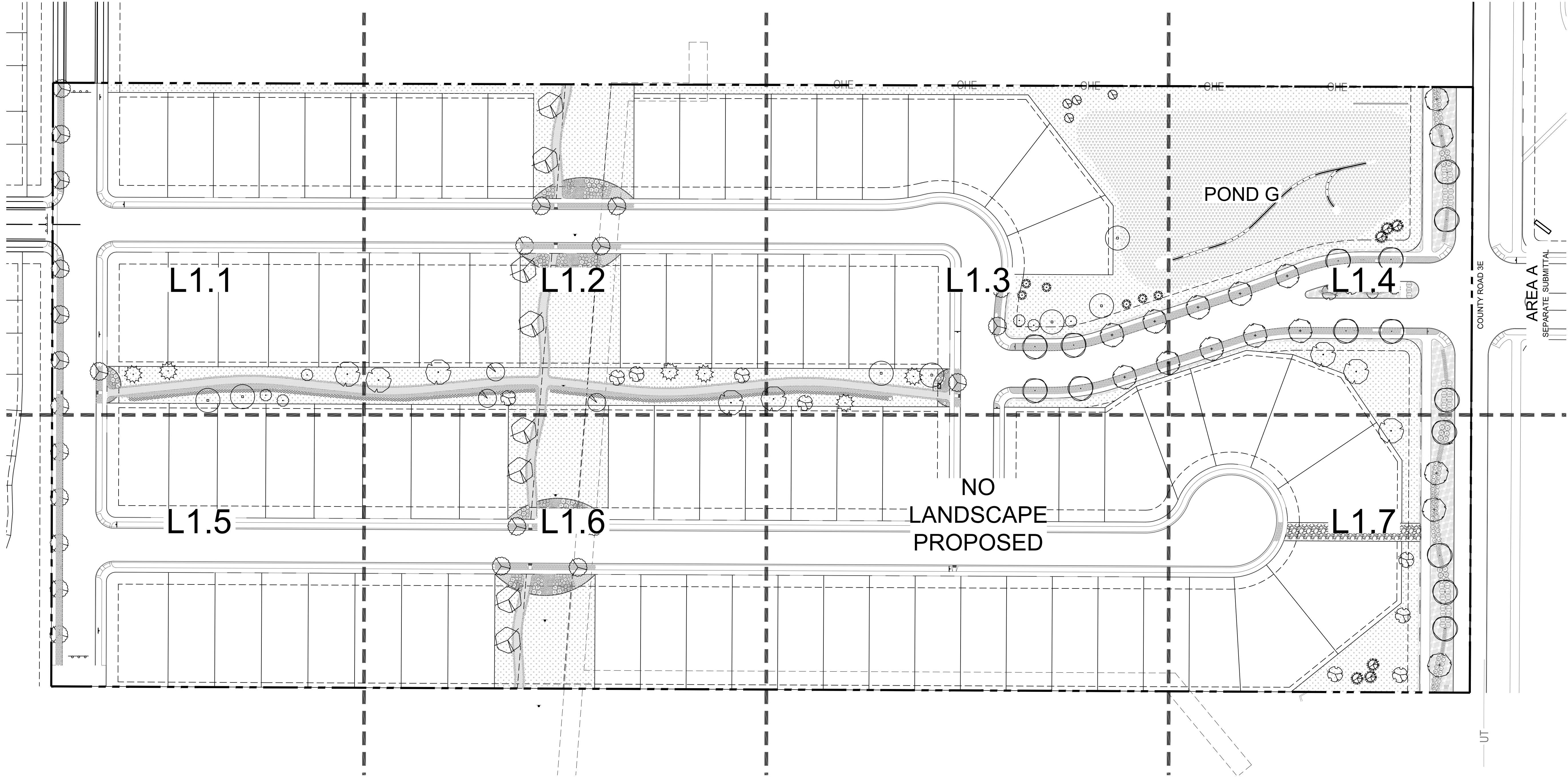
JOHNSTOWN, CO

#	Date	Issue / Description	Init.
1	12/16/19	Landscape Set Updates	SRA
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Project No:	JLH000001
Drawn By:	SRA
Checked By:	TTN
Date:	06.03.2020

OVERALL LANDSCAPE PLAN

L1.0



COMMON AREA LANDSCAPE STANDARDS
FOR THE RIDGE

- COMMON AREAS WITHIN THE RIDGE SHALL UTILIZE XERISCAPE PRINCIPLES TO THE GREATEST EXTENT POSSIBLE.
- TREE LAWN AREAS SHALL BE PLACED IN ACCORDANCE WITH THE FOLLOWING STANDARDS
 - WHERE TREE LAWNS ARE ADJACENT TO LOTS ONE SHADE TREE SHALL BE PROVIDED FOR EACH LOT WITHIN THE TREE LAWN. TWO SHADE TREES SHALL BE PROVIDED FOR CORNER LOTS.
 - WHERE TREE LAWNS ARE NOT ADJACENT TO LOTS ONE SHADE TREE SHALL BE PROVIDED AT A MINIMUM EVERY 50 LINEAR FEET.
 - THE TREES SHALL BE LOCATED SO AS NOT TO INTERFERE WITH SIGHT DISTANCES AT DRIVEWAYS OR INTERSECTIONS.
 - AT INTERSECTIONS A MINIMUM OF 50 SQUARE FEET OF PERENNIALS SHALL BE PROVIDED IN THE TREE LAWN. ENSURE PERENNIALS SELECTED DO NOT INTERFERE WITH VEHICULAR VISIBILITY.
 - 3/4" SMALL TAN ROCK WITH WEED BARRIER FABRIC SHALL BE PROVIDED IN ALL TREE LAWN AREAS.
- INTERNAL PEDESTRIAN PATHS SHALL EITHER BE CONCRETE OR A TRAIL BREEZE MATERIAL.
- PLANTING BEDS SHALL BE USED TO ACCENT PEDESTRIAN AND VEHICULAR GATEWAYS.
- INTERNAL TREES SHALL BE LOCATED TO MAXIMIZE SHADE AND WIND BREAK PRINCIPLES.

REQUIRED LANDSCAPE CALCULATIONS	AREA	FORMULA	REQUIRED	PROVIDED
OPEN SPACE REQUIREMENTS	221,100 SF	1 TREE & 5 SHRUBS / 4,500 SF (UP TO 30% REQ. SHRUBS MAY BE SUBSTITUTED FOR TREES AT 10:1)	49 TREES & 246 SHRUBS	49 TREES & 316 SHRUBS
ROW REQUIREMENTS				
INTERNAL ROW (EXCLUDES ROW ADJACENT TO HOMES*)	N/A	1 TREE / 50 LF	27 TREES	27 TREES
COUNTY ROAD 3E	14,342 SF	1 TREE & 5 SHRUBS / 1,000 SF	14 TREES & 72 SHRUBS (MINIMUM TREE SPACING 1/50 LF)	14 TREES & 72 SHRUBS

*NOTE: ROW ADJACENT TO HOMES WILL BE DESIGNED WITH LOTS.

IRRIGATED AREAS

ROW SPRAY:	0 SF
ROW DRIP	4,320 SF
INTERNAL SPRAY:	0 SF
INTERNAL DRIP:	9,670 SF

TEMPORARY IRRIGATION (SPRAY) UNTIL ESTABLISHMENT: 171,821 SF

PRELIMINARY
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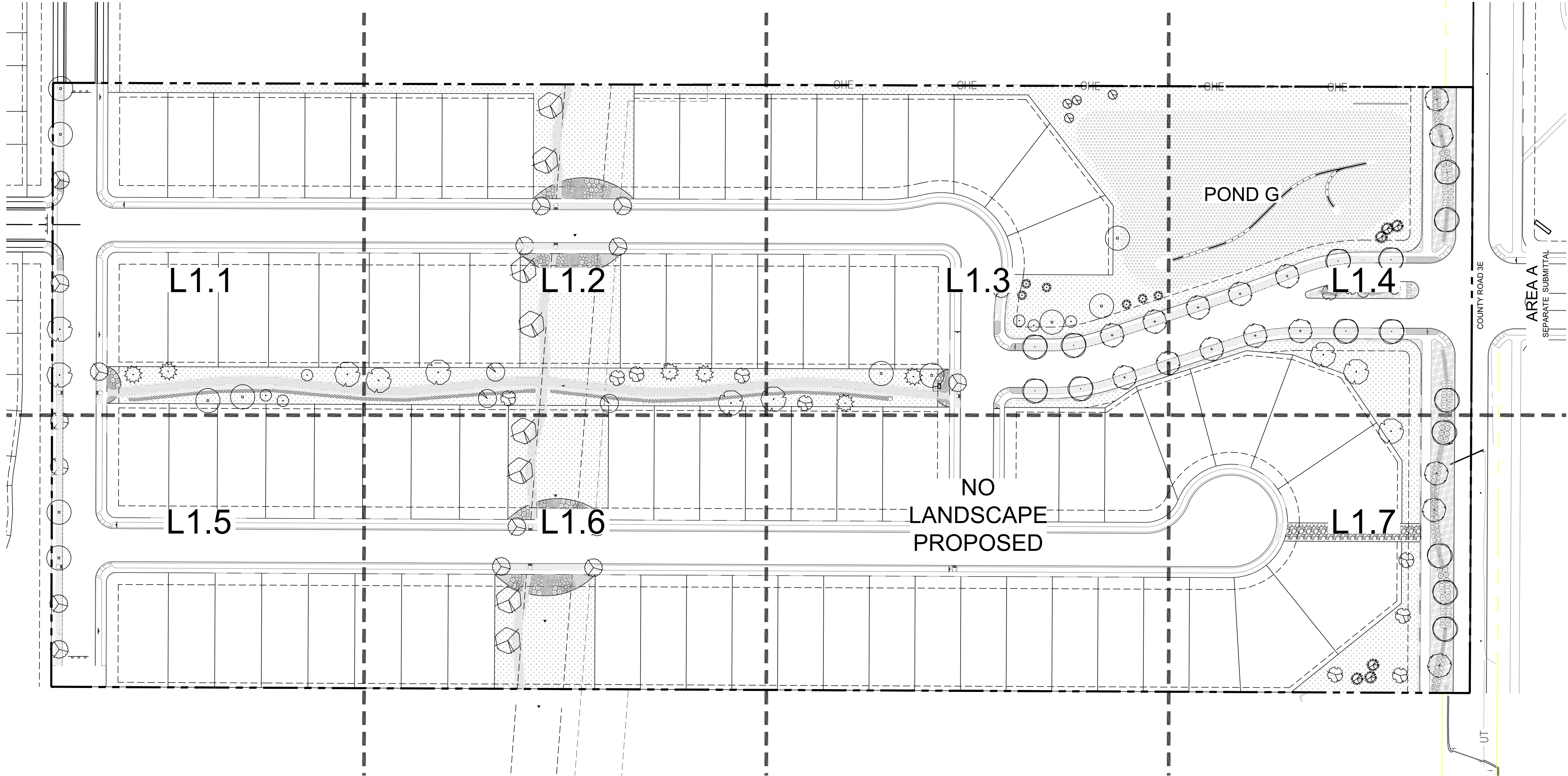
THE RIDGE AT JOHNSTOWN FILING 2
CENTER VILLAGE
J-25 LAND HOLDINGS

JOHNSTOWN, CO

#	Date	Issue / Description	Init.
1	12/16/19	Landscape Set Updates	SRA
2	8/21/20	Landscape Set Updates	SRA
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Project No: JLH000001
Drawn By: SRA
Checked By: TTN
Date: 09.22.2020
OVERALL LANDSCAPE PLAN

L1.0



COMMON AREA LANDSCAPE STANDARDS
FOR THE RIDGE

- COMMON AREAS WITHIN THE RIDGE SHALL UTILIZE XERISCAPE PRINCIPLES TO THE GREATEST EXTENT POSSIBLE.
- TREE LAWN AREAS SHALL BE PLACED IN ACCORDANCE WITH THE FOLLOWING STANDARDS
 - WHERE TREE LAWNS ARE ADJACENT TO LOTS ONE SHADE TREE SHALL BE PROVIDED FOR EACH LOT WITHIN THE TREE LAWN. TWO SHADE TREES SHALL BE PROVIDED FOR CORNER LOTS.
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- INTERNAL TREES SHALL BE LOCATED TO MAXIMIZE SHADE AND WIND BREAK PRINCIPLES.

REQUIRED LANDSCAPE CALCULATIONS	AREA	FORMULA	REQUIRED	PROVIDED
OPEN SPACE REQUIREMENTS	221,100 SF	1 TREE & 5 SHRUBS / 4,500 SF (UP TO 30% REQ. SHRUBS MAY BE SUBSTITUTED FOR TREES AT 10:1)	49 TREES & 246 SHRUBS	50 TREES & 328 SHRUBS
ROW REQUIREMENTS				
INTERNAL ROW (EXCLUDES ROW ADJACENT TO HOMES*)	N/A	1 TREE / 50 LF	41 TREES	41 TREES
COUNTY ROAD 3E	14,342 SF	1 TREE & 5 SHRUBS / 1,000 SF	14 TREES & 72 SHRUBS (MINIMUM TREE SPACING 1/50 LF)	12 TREES & 146 SHRUBS

*NOTE: ROW ADJACENT TO HOMES WILL BE DESIGNED WITH LOTS.

IRRIGATED AREAS

ROW SPRAY: 0 SF
ROW DRIP: 4,320 SF

INTERNAL SPRAY: 0 SF
INTERNAL DRIP: 9,670 SF

TEMPORARY IRRIGATION (SPRAY) UNTIL ESTABLISHMENT: 177,345 SF



#	Date	Issue / Description	Init.
1	12/16/19	Landscape Set Updates	SRA
2	8/21/20	Landscape Set Updates	SRA
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Project No:	JLH000001
Drawn By:	SRA
Checked By:	TTN
Date:	09.22.2020

LANDSCAPE PLAN

UTILITY NOTES

1. THE LANDSCAPE CONTRACTOR IS REQUIRED TO CONTACT THE TOWN PUBLIC WORKS DEPARTMENT, AND ANY OTHER PUBLIC OR PRIVATE AGENCY NECESSARY FOR UTILITY LOCATION PRIOR TO ANY CONSTRUCTION.
2. THIS DRAWING IS A PART OF A COMPLETE SET OF BID DOCUMENTS, SPECIFICATIONS, ADDITIONAL DRAWINGS, AND EXHIBITS. UNDER NO CIRCUMSTANCES SHOULD THESE PLANS BE USED FOR CONSTRUCTION PURPOSES WITHOUT EXAMINING ACTUAL LOCATIONS OF UTILITIES ON SITE, AND REVIEWING ALL RELATED DOCUMENTS.
3. THE LOCATION OF THE ALL UNDERGROUND UTILITIES ARE LOCATED ON THE ENGINEERING DRAWINGS FOR THIS PROJECT. THE MOST CURRENT REVISION IS HEREIN MADE PART OF THIS DOCUMENT. UNDERGROUND UTILITIES EXIST THROUGHOUT THIS SITE AND MUST BE LOCATED PRIOR TO ANY CONSTRUCTION ACTIVITY. WHERE UNDERGROUND UTILITIES EXIST, FIELD ADJUSTMENT MAY BE NECESSARY AND MUST BE APPROVED BY A REPRESENTATIVE OF THE OWNER. NEITHER THE OWNER NOR THE LANDSCAPE ARCHITECT ASSUMES ANY RESPONSIBILITY WHATSOEVER, IN RESPECT TO THE CONTRACTORS ACCURACY IN LOCATING THE INDICATED PLANT MATERIAL, AND UNDER NO CIRCUMSTANCES SHOULD THESE PLANS BE USED WITHOUT REFERENCING THE ABOVE MENTIONED DOCUMENTS.

EXISTING HIGH
PRESSURE OIL AND
GAS PIPELINE

LYNXES WAY

TREE LAWN AT
RESIDENTIAL LOTS
TO BE INSTALLED
WITH HOMES

PERENNIAL MIX B, TYP.
ROCK TYPE B, TYP. |
STEEL EDGING, TYP.
ROCK TYPE A, TYP.
BROWN TRAIL BREEZE, TYP.
XERISCAPE SEED, TYP.
ROCK TYPE C, TYP.

PLANTING LEGEND

LEGEND
ABBREV. BOTANIC NAME COMMON NAME

DECIDUOUS TREES

ACFR	ACER X FREEMANII 'JEFFERSRED'	AUTUMN BLAZE MAPLE
CASP	CATALPA SPECIOSA	WESTERN CATALPA
CEOC	CELTIS OCCIDENTALIS	COMMON HACKBERRY
GLTR	GLEDITSIA TRIACANTHOS 'INERMIS' 'SHADEMASTER'	SHADEMASTER HONEYLOCUST
GYDI	GYMNOCLADUS DIOICUS	KENTUCKY COFFEETREE
PLAC	PLATANUS X ACERIFOLIA 'MORTON CIRCLE'	EXCLAMATION LONDON PLANETREE
QUAL	QUERCUS ALBA	WHITE OAK
QUMA	QUERCUS MACROCARPA	BUR OAK
QURO	QUERCUS ROBUR	ENGLISH OAK

EVERGREEN TREES

PIAR	PINUS ARISTATA	BRISTLEcone PINE
PIED	PINUS EDULIS	PINYON PINE
PIPO	PINUS PONDEROSA	PONDEROSA PINE

ORNAMENTAL TREES

ACTA	ACER TATARICUM 'HOT WINGS'	HOT WINGS MAPLE
CRCR	GRATAEGUS CRUS-GALLI 'INERMIS'	THORNLESS COCKSPUR HAWTHORN
KOPA	KOELREUTERIA PANICULATA	GOLDENRAIN TREE
QUGA	QUERCUS GAMBELII	GAMBEL OAK

DECIDUOUS SHRUBS

AMCA	AMORPHA CANESCENS	LEADPLANT
CACL	CARYOPTERIS X CLANDONENSIS	BLUE MIST SPIREA
PEAT	PEROVSKIA ATRIPLICIFOLIA	RUSSIAN SAGE
POFR	POTENTILLA FRUTICOSA 'TANGERINE'	TANGERINE POTENTILLA
PRBE	PRUNUS BESSEYI	WESTERN SAND CHERRY
PRPB	PRUNUS BESSEYI 'PAWNEE BUTTES'	PAWNEE BUTTES SAND CHERRY
RHAR	RHUS AROMATICA 'GRO-LOW'	GROW LOW SUMAC
RHTR	RHUS TRILOBATA	THREE LEAF SUMAC
SYPA	SYRINGA PATULA 'MISS KIM'	MISS KIM LILAC
SYVU	SYRINGA VULGARIS	COMMON LILAC

EVERGREEN SHRUBS

CYPU	CYTISUS PURGAN 'SPANISH GOLD'	SPANISH GOLD BROOM
PIMU	PINUS MUGO 'WHITEBUD'	WHITEBUD MUGO PINE

ORNAMENTAL GRASSES

BOGR	BOUTELLOUA GRACILLIS 'BLONDE AMBITION'	BLOND AMBITION BLUE GRAMA
HESE	HELIOTRICHON SEMPERVIRENS	BLUE Avena

PERENNIAL MIX A

ACMI	ACHILLEA MILLEFOLEUM 'PAPRIKA'	PAPRIKA YARROW
AUSA	AURNIA SAXATILIS	BASKET OF GOLD
DEME	DELOSPERMA 'MESA VERDE'	MESA VERDE ICE PLANT
NATE	NASSELLA TENUISSIMA	MEXCAN FEATHER GRASS
SASY	SALVIA SYLVESTRIS 'MAINACHT'	MAY NIGHT SALVIA

PERENNIAL MIX B

ACTE	ACHILLEA MILLEFOLEUM 'TERRA COTTA'	TERRA COTTA YARROW
AGPS	AGASTACHE 'APACHE SUNSET'	APACHE SUNSET HYSSOP
ESCA	ESCHSCHOLZIA CALIFORNICA	CALIFORNIA POPPY
NATE	NASSELLA TENUISSIMA	MEXCAN FEATHER GRASS
SASY	SALVIA SYLVESTRIS 'MAINACHT'	MAY NIGHT SALVIA

MISCELLANEOUS

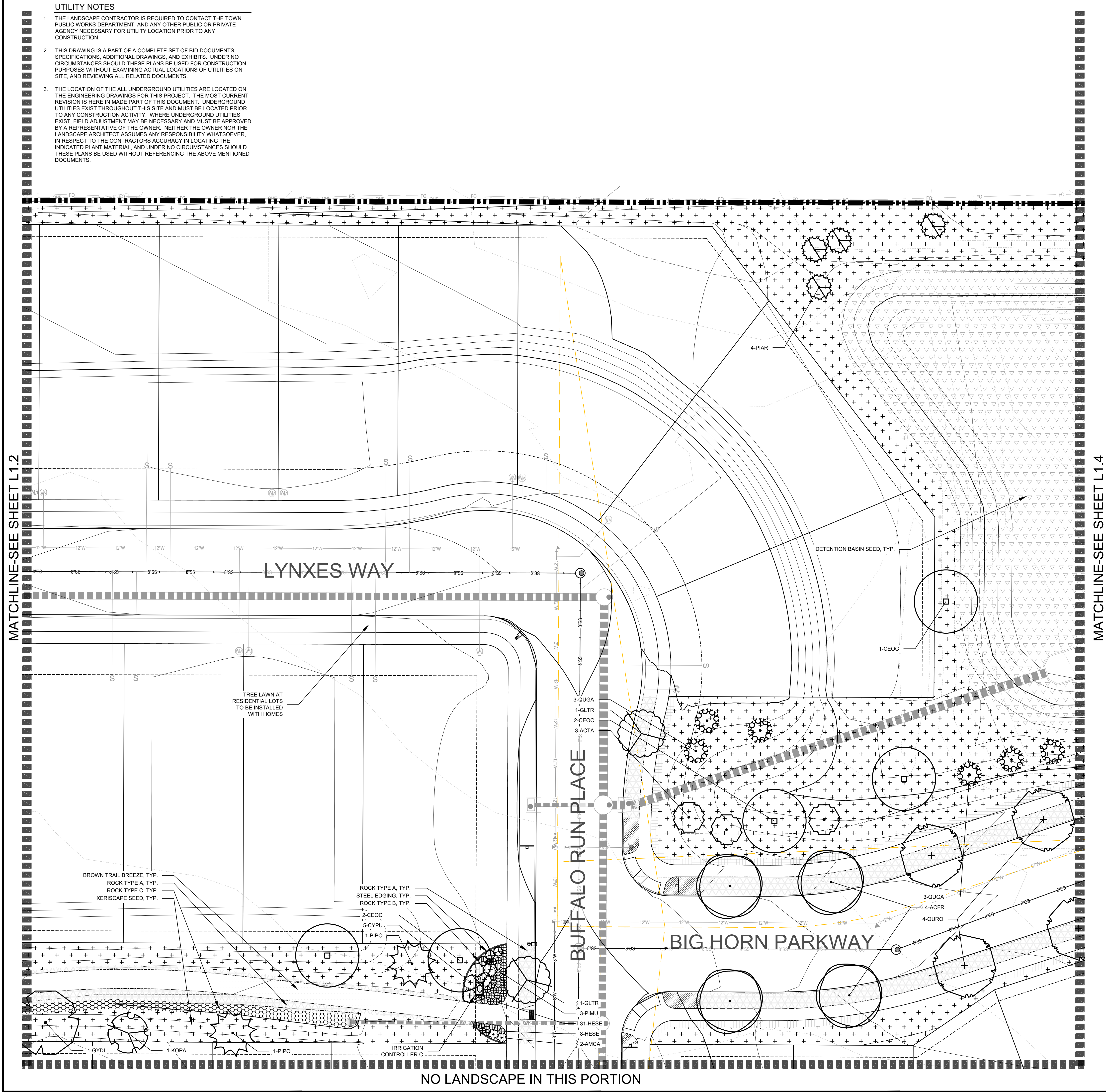
XERISCAPE SEED MIX	100% LOW GROW MIX AVAILABLE THROUGH ARKANSAS VALLEY SEED. SEE SEED NOTES SHEET L2.0
DETENTION BASIN SEED MIX	DETENTION BASIN SEED MIX CONSISTENT WITH REQUIREMENTS BY CITY OF FORT COLLINS. SEE SEED NOTES SHEET L2.0
ROCK TYPE C - LARGE MULTICOLOR ROCK COBBLE	5-12" GREY ROSE COBBLESTONE, AS AVAILABLE THROUGH PIONEER OR 3/4" BUTTER ROCK, AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL
ROCK TYPE A - SMALL TAN ROCK	1.5-3" WASHED RIVER ROCK, AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL
ROCK TYPE B - MEDIUM MULTICOLOR RIVER ROCK	BUTTER BREEZE SCREENED TO 3/4" AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL
TAN BREEZE	PREMIUM TRAIL MIX 1/4" MINUS AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL
BROWN TRAIL BREEZE	DARK BROWN SHREDDED CEDAR MULCH TO BE USED FOR MULCH RINGS AT ALL PLANTS AND IN PERENNIAL BEDS
WOOD MULCH	BLACK STEEL EDGING. SEE LANDSCAPE NOTES
STEEL EDGING	



#	Date	Issue / Description	Init.
1	12/16/19	Landscape Set Updates	SRA
2	8/21/20	Landscape Set Updates	SRA
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Project No:	JLH000001
Drawn By:	SRA
Checked By:	TTN
Date:	09.22.2020

LANDSCAPE PLAN



PLANTING LEGEND		
LEGEND	ABBREV.	BOTANIC NAME
COMMON NAME		
DECIDUOUS TREES		
ACFR	ACER X FREEMANII 'JEFFERSRED'	AUTUMN BLAZE MAPLE
CASP	CATALPA SPECIOSA	WESTERN CATALPA
CEOC	CELTIS OCCIDENTALIS	COMMON HACKBERRY
GLTR	GLEDITSIA TRIACANTHOS 'INERMIS' SHADEMASTER	SHADEMASTER HONEYLOCUST
GYDI	GYMNOCLODUS DIOICUS	KENTUCKY COFFEETREE
PLAC	PLATANUS X ACERIFOLIA 'MORTON CIRCLE'	EXCLAMATION LONDON PLANETREE
QUAL	QUERCUS ALBA	WHITE OAK
QUMA	QUERCUS MACROCARPA	BUR OAK
QURO	QUERCUS ROBUR	ENGLISH OAK
EVERGREEN TREES		
PIAR	PINUS ARISTATA	BRISTLECOONE PINE
PIED	PINUS EDULIS	PINYON PINE
PIPO	PINUS PONDEROSA	PONDEROSA PINE
ORNAMENTAL TREES		
ACTA	ACER TATARICUM 'HOT WINGS'	HOT WINGS MAPLE
CRCR	GRATAEGUS CRUS-GALLI 'INERMIS'	THORNLESS COCKSPUR HAWTHORN
KOPA	KOELREUTERIA PANICULATA	GOLDENRAIN TREE
QUGA	QUERCUS GAMBELII	GAMBEL OAK
DECIDUOUS SHRUBS		
AMCA	AMORPHA CANESCENS	LEADPLANT
CACL	CARYOPTERIS X CLANDONENSIS	BLUE MIST SPIREA
PEAT	PEROVSKIA ATRIPLICIFOLIA	RUSSIAN SAGE
POFR	POTENTILLA FRUTICOSA 'TANGERINE'	TANGERINE POTENTILLA
PRBE	PRUNUS BESSEYI	WESTERN SAND CHERRY
PRPB	PRUNUS BESSEYI 'PAWNEE BUTTES'	PAWNEE BUTTES SAND CHERRY
RHAR	RHUS AROMATICA 'GRO-LOW'	GROW LOW SUMAC
RHTR	RHUS TRILOBATA	THREE LEAF SUMAC
SYPA	SYRINGA PATULA 'MISS KIM'	MISS KIM LILAC
SYVU	SYRINGA VULGARIS	COMMON LILAC
EVERGREEN SHRUBS		
CYPU	CYTISUS PURGAN 'SPANISH GOLD'	SPANISH GOLD BROOM
PIMU	PINUS MUGO 'WHITEBUD'	WHITEBUD MUGO PINE
ORNAMENTAL GRASSES		
BOGR	BOUTELOUA GRACILLIS 'BLONDE AMBITION'	BLOND AMBITION BLUE GRAMA
HESE	HELIOTRICHON SEMPERVIRENS	BLUE Avena
PERENNIAL MIX A		
ACMI	ACHILLEA MILLEFOLEUM 'PAPRIKA'	PAPRIKA YARROW
AUSA	AURINIA SAXATILIS	BASKET OF GOLD
DEME	DELOSPERMA 'MESA VERDE'	MESA VERDE ICE PLANT
NATE	NASSELLA TENUISSIMA	MEXCAN FEATHER GRASS
SASY	SALVIA SYLVESTRIS 'MAINACHT'	MAY NIGHT SALVIA
PERENNIAL MIX B		
ACTE	ACHILLEA MILLEFOLEUM 'TERRA COTTA'	TERRA COTTA YARROW
AGPS	AGASTACHE 'APACHE SUNSET'	APACHE SUNSET HYSSOP
ESCA	ESCHSCHOLZIA CALIFORNICA	CALIFORNIA POPPY
NATE	NASSELLA TENUISSIMA	MEXCAN FEATHER GRASS
SASY	SALVIA SYLVESTRIS 'MAINACHT'	MAY NIGHT SALVIA
MISCELLANEOUS		
XERISCAPE SEED MIX	100% LOW GROW MIX AVAILABLE THROUGH ARKANSAS VALLEY SEED. SEE SEED NOTES SHEET L2.0	
DETENTION BASIN SEED MIX	DETENTION BASIN SEED MIX CONSISTENT WITH REQUIREMENTS BY CITY OF FORT COLLINS. SEE SEED NOTES SHEET L2.0	
ROCK TYPE C - LARGE MULTICOLOR ROCK COBBLE	5-12" GREY ROSE COBBLESTONE, AS AVAILABLE THROUGH PIONEER OR 3/4" BUTTER ROCK, AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL	
ROCK TYPE A - SMALL TAN ROCK	1.5-3" WASHED RIVER ROCK, AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL	
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TAN BREEZE	PREMIUM TRAIL MIX 1/4" MINUS AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL	
BROWN TRAIL BREEZE	DARK BROWN SHREDDED CEDAR MULCH TO BE USED FOR MULCH RINGS AT ALL PLANTS AND IN PERENNIAL BEDS	
WOOD MULCH	BLACK STEEL EDGING. SEE LANDSCAPE NOTES	
STEEL EDGING		



#	Date	Issue / Description	Init.
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2	8/21/20	Landscape Set Updates	SRA
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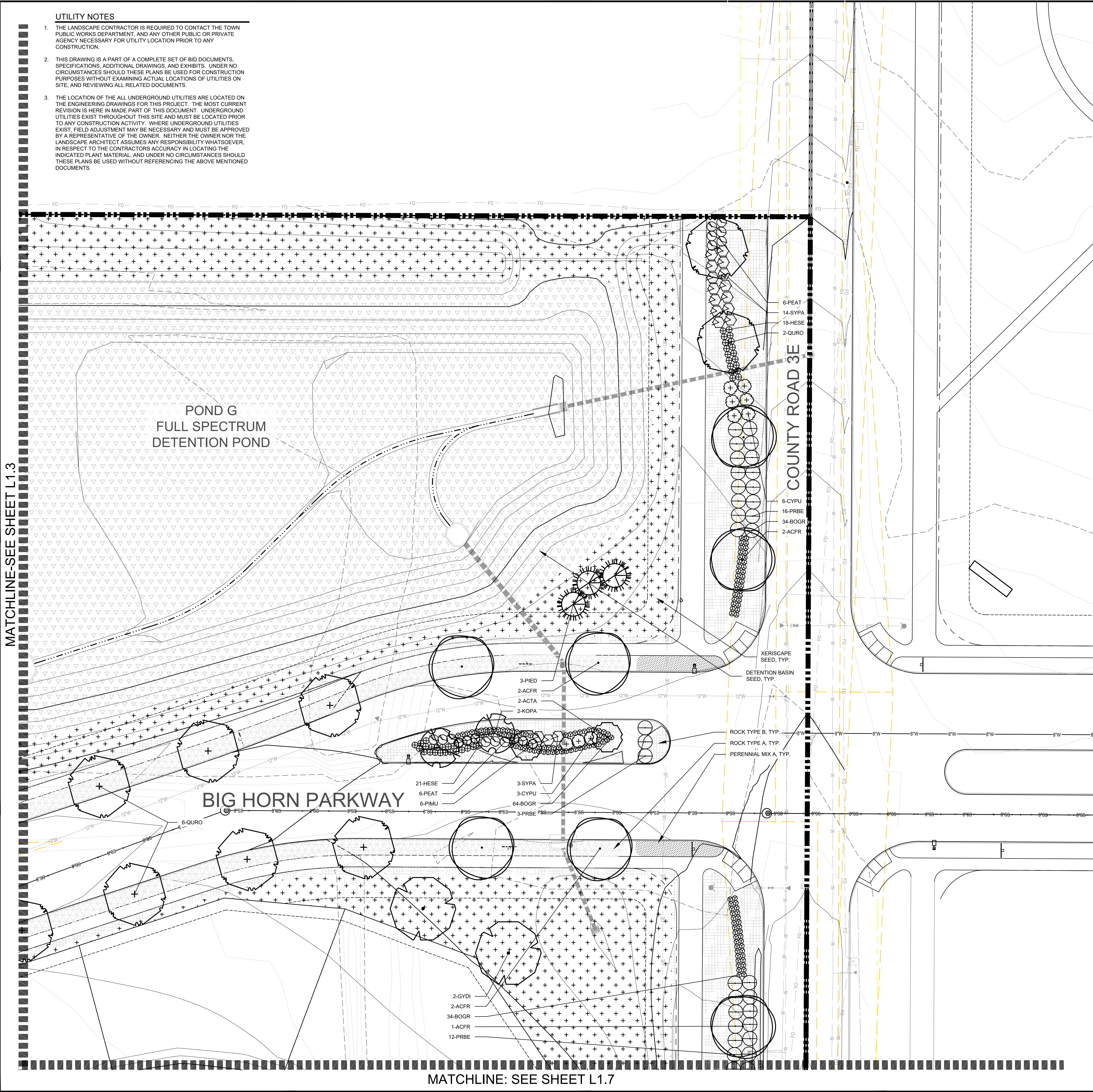
Project No:	JLH000001
Drawn By:	SRA
Checked By:	TTN
Date:	09.22.2020

LANDSCAPE PLAN

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MATCHLINE-SEE SHEET L1.3



PLANTING LEGEND

LEGEND	ABBREV.	BOTANIC NAME	COMMON NAME
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DECIDUOUS TREES			
ACFR	ACER X FREEMANII 'JEFFERSRED'		AUTUMN BLAZE MAPLE
CASP	CATALPA SPECIOSA		WESTERN CATALPA
CEOC	CELTIS OCCIDENTALIS		COMMON HACKBERRY
GLTR	GLEDITSIA TRIACANTHOS 'INERMIS' SHADEMASTER		SHADEMASTER HONEYLOCUST
GYDI	GYMNOCLADUS DIOICUS		KENTUCKY COFFEETREE
PLAC	PLATANUS X ACERIFOLIA 'MORTON CIRCLE'		EXCLAMATION LONDON PLANETREE
QUAL	QUERCUS ALBA		WHITE OAK
QUMA	QUERCUS MACROCARPA		BUR OAK
QURO	QUERCUS ROBUR		ENGLISH OAK

EVERGREEN TREES			
PIAR	PINUS ARISTATA		BRISTLECOONE PINE
PIED	PINUS EDULIS		PINYON PINE
PIPO	PINUS PONDEROSA		PONDEROSA PINE

ORNAMENTAL TREES			
ACTA	ACER TATARICUM 'HOT WINGS'		HOT WINGS MAPLE
CRCR	GRATAEGUS CRUS-GALLI 'INERMIS'		THORNLESS COCKSPUR HAWTHORN
KOPA	KOELREUTERIA PANICULATA		GOLDENRAIN TREE
QUGA	QUERCUS GAMBELII		GAMBEL OAK

DECIDUOUS SHRUBS			
AMCA	AMORPHA CANESCENS		LEADPLANT
CACL	CARYOPTERIS X CLANDONENSIS		BLUE MIST SPIREA
PEAT	PEROVSKIA ATRIPLICIFOLIA		RUSSIAN SAGE
POFR	POTENTILLA FRUTICOSA 'TANGERINE'		TANGERINE POTENTILLA
PRBE	PRUNUS BESSEYI		WESTERN SAND CHERRY
PRPB	PRUNUS BESSEYI 'PAWNEE BUTTES'		PAWNEE BUTTES SAND CHERRY
RHAR	RHUS AROMATICA 'GRO-LOW'		GROW LOW SUMAC
RHTR	RHUS TRILOBATA		THREE LEAF SUMAC
SYPA	SYRINGA PATULA 'MISS KIM'		MISS KIM LILAC
SYVU	SYRINGA VULGARIS		COMMON LILAC

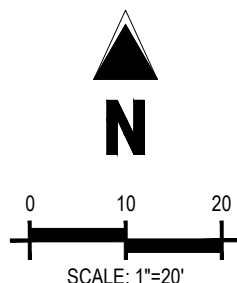
EVERGREEN SHRUBS			
CYPU	CYTISUS PURGAN 'SPANISH GOLD'		SPANISH GOLD BROOM
PIMU	PINUS MUGO 'WHITEBUD'		WHITEBUD MUGO PINE

ORNAMENTAL GRASSES			
BOGR	BOUTELLOUA GRACILLIS 'BLONDE AMBITION'		BLOND AMBITION BLUE GRAMA
HESE	HELIOTRICHON SEMPERVIRENS		BLUE Avena

PERENNIAL MIX A			
ACMI	ACHILLEA MILLEFOLIUM 'PAPRIKA'		PAPRIKA YARROW
AUSA	AURINIA SAXATILIS		BASKET OF GOLD
DEME	DELOSPERMA 'MESA VERDE'		MESA VERDE ICE PLANT
NATE	NASSELLA TENUISSIMA		MEXCAN FEATHER GRASS
SASY	SALVIA SYLVESTRIS 'MAINACHT'		MAY NIGHT SALVIA

PERENNIAL MIX B			
ACTE	ACHILLEA MILLEFOLIUM 'TERRA COTTA'		TERRA COTTA YARROW
AGPS	AGASTACHE 'APACHE SUNSET'		APACHE SUNSET HYSSOP
ESCA	ESCHSCHOLZIA CALIFORNICA		CALIFORNIA POPPY
NATE	NASSELLA TENUISSIMA		MEXCAN FEATHER GRASS
SASY	SALVIA SYLVESTRIS 'MAINACHT'		MAY NIGHT SALVIA

MISCELLANEOUS			
XERISCAPE SEED MIX			100% LOW GROW MIX AVAILABLE THROUGH ARKANSAS VALLEY SEED. SEE SEED NOTES SHEET L2.0
DETENTION BASIN SEED MIX			DETENTION BASIN SEED MIX CONSISTENT WITH REQUIREMENTS BY CITY OF FORT COLLINS. SEE SEED NOTES SHEET L2.0
ROCK TYPE C - LARGE MULTICOLOR ROCK COBBLE			5-12" GREY ROSE COBBLESTONE, AS AVAILABLE THROUGH PIONEER OR 3/4" BUTTER ROCK, AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL
ROCK TYPE A - SMALL TAN ROCK			1.5-3" WASHED RIVER ROCK, AS AVAILABLE THROUGH PIONEER OR APPROVED EQUAL
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BROWN TRAIL BREEZE			DARK BROWN SHREDDED CEDAR MULCH TO BE USED FOR MULCH RINGS AT ALL PLANTS AND IN PERENNIAL BEDS
WOOD MULCH			BLACK STEEL EDGING. SEE LANDSCAPE NOTES
STEEL EDGING			

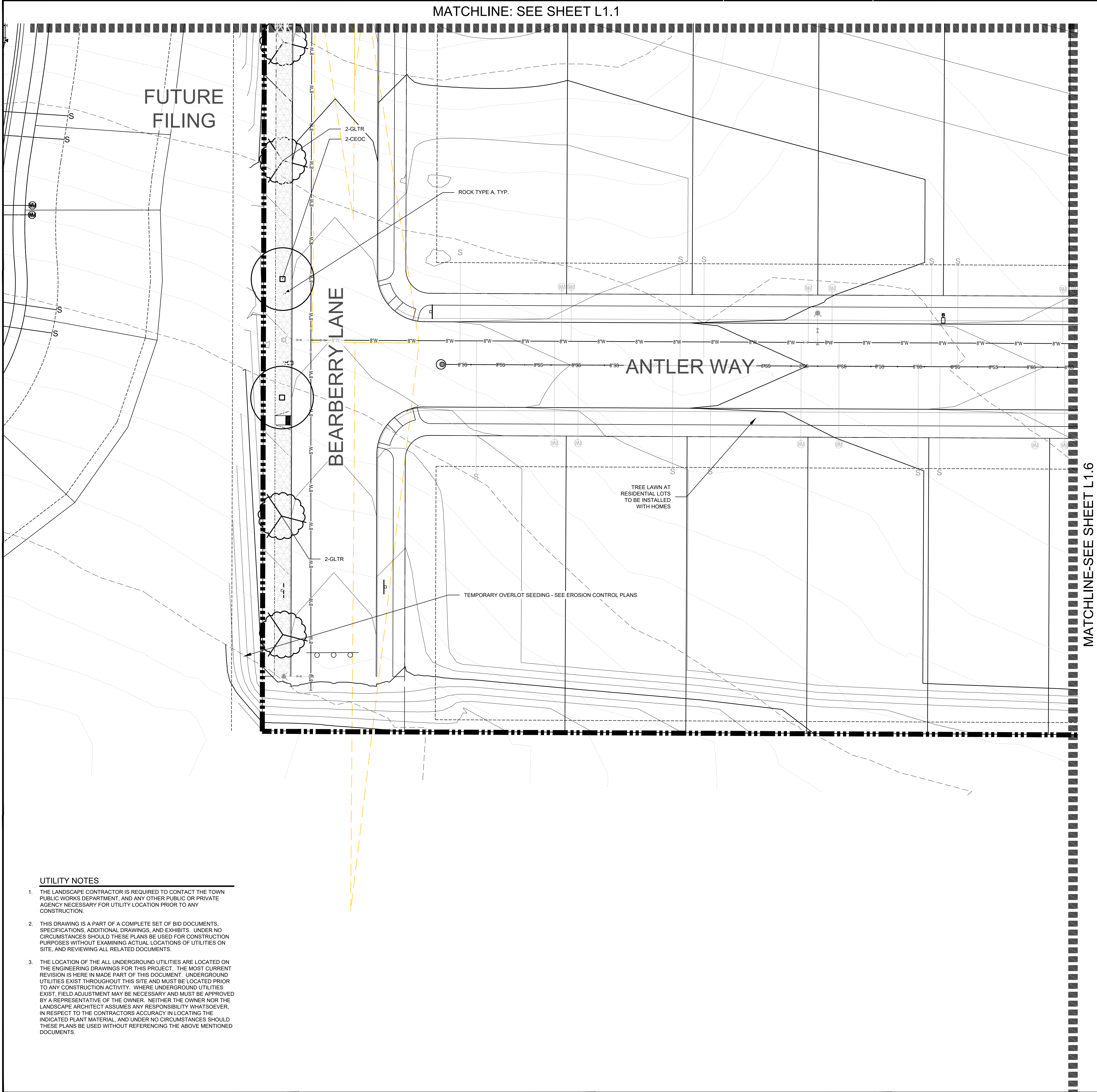




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Project No:	JLH000001
Drawn By:	SRA
Checked By:	TTN
Date:	09.22.2020

LANDSCAPE PLAN



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PLANTING LEGEND

LEGEND
ABBREV. BOTANIC NAME COMMON NAME

DECIDUOUS TREES		
ACFR	ACER X FREEMANII 'JEFFERSRED'	AUTUMN BLAZE MAPLE
CASP	CATALPA SPECIOSA	WESTERN CATALPA
CEOC	CELTIS OCCIDENTALIS	COMMON HACKBERRY
GLTR	GLEDTISIA TRIACANTHOS 'INERMIS' 'SHADEMASTER'	SHADEMASTER HONEYLOCUST
GYDI	GYMNOCLADUS DIOICUS	KENTUCKY COFFEETREE
PLAC	PLATANUS X ACERIFOLIA 'MORTON CIRCLE'	EXCLAMATION LONDON PLANETREE
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KOPA	KOELREUTERIA PANICULATA	GOLDENRAIN TREE
QUGA	QUERCUS GAMBELII	GAMBEL OAK

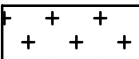
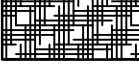
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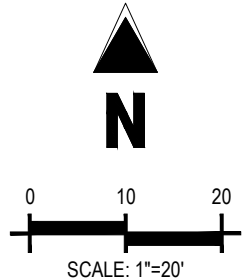
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THE RIDGE AT JOHNSTOWN FILING 2
CENTER VILLAGE
J-25 LAND HOLDINGS

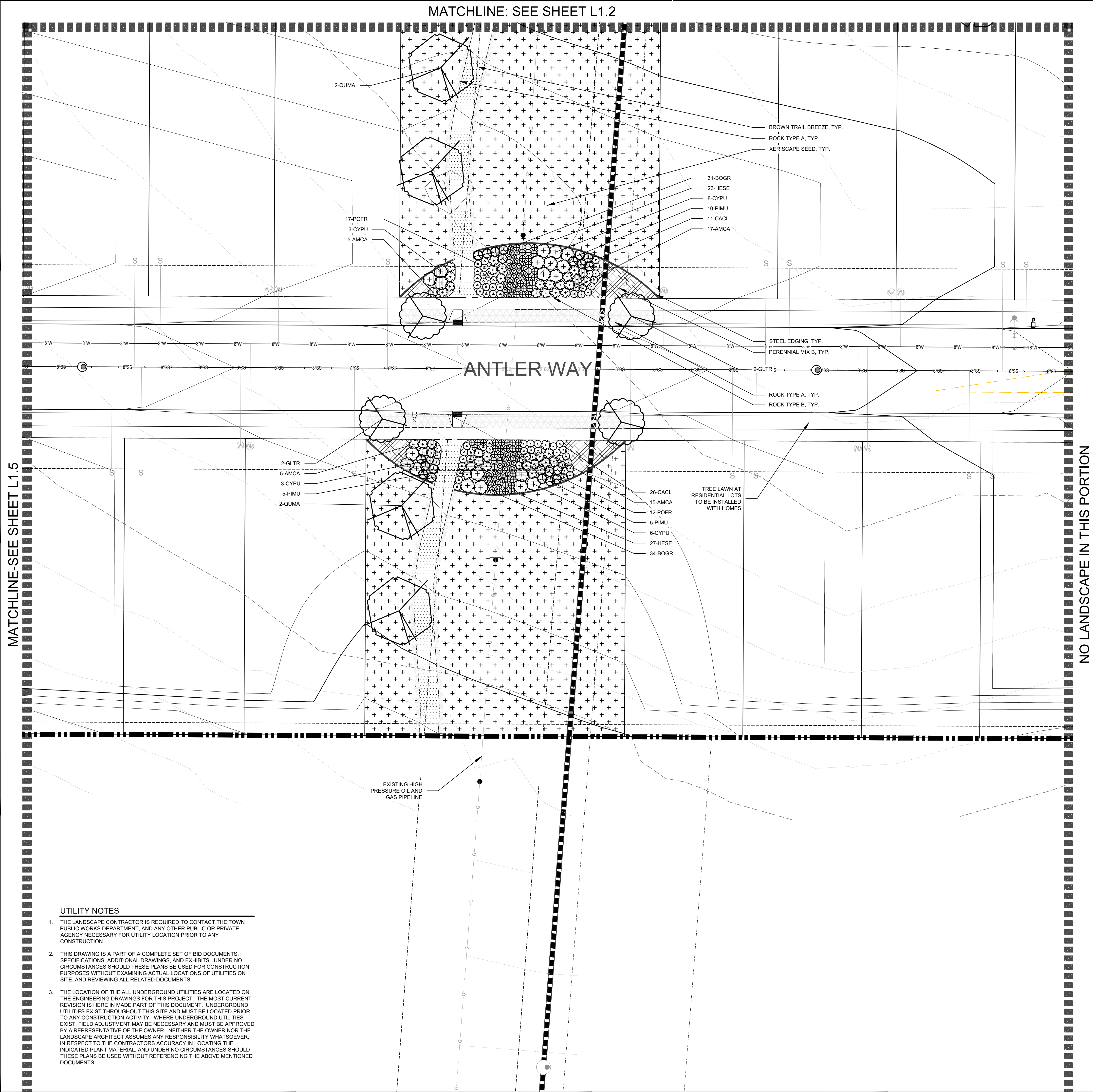
JOHNSTOWN, CO

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Project No: JH000001
Drawn By: SRA
Checked By: TTN
Date: 09.22.2020

LANDSCAPE PLAN

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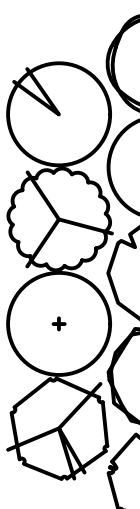


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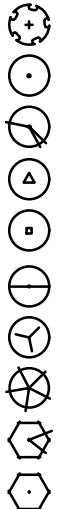
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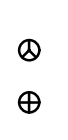
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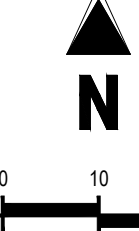
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THE RIDGE AT JOHNSTOWN FILING 2
CENTER VILLAGE
J-25 LAND HOLDINGS

JOHNSTOWN, CO

[illegible]

Project No:	JLH000001
Drawn By:	SRA
Checked By:	TTN
Date:	09.22.2020

LANDSCAPE PLAN

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**TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2020-43**

APPROVING THE FINAL SUBDIVISION PLAT AND THE FINAL DEVELOPMENT PLAN FOR THE RIDGE JOHNSTOWN, FILING NO. 2, LOCATED IN THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO, CONSISTING OF APPROXIMATELY 23.198 ACRES.

WHEREAS, J-25 Land Holdings, LLC, a Delaware limited liability company, the property owner (“Owner”), submitted an application to the Town of Johnstown (“Town”) for approval of a Final Subdivision Plat and Final Development Plan for The Ridge Johnstown, Filing No. 2, located in the South Half of the Northwest Quarter of Section 26, Township 5 North, Range 68 West of the 6th Principal Meridian, Town of Johnstown, County of Larimer, State of Colorado, consisting of approximately 23.198 acres; and

WHEREAS, on August 26, 2020, the Planning and Zoning Commission held a public hearing and recommended approval of the Final Subdivision Plat and Final Development Plan for The Ridge Johnstown, Filing No. 2, with conditions; and

WHEREAS, on December 21, 2020, the Town Council held a public hearing concerning approval of the Final Subdivision Plat and Final Development Plan for The Ridge Johnstown, Filing No. 2, and, after considering the Planning and Zoning Commission’s recommendation, reviewing the file and conducting such hearing, found that:

1. The Final Subdivision Plat and Final Development Plan for The Ridge Johnstown, Filing No. 2, satisfy the data requirements, design standards and required improvements contained in the Johnstown Municipal Code, including the regulations contained in Chapters 16 and 17; and
2. The Final Subdivision Plat for The Ridge Johnstown, Filing No. 2, conforms substantially with the approved Preliminary Plat; and

WHEREAS, based on the foregoing, Town Council desires to approve the Final Subdivision Plat and Final Development Plan for The Ridge Johnstown, Filing No. 2, with conditions.

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

Section 1. Final Subdivision Plat Approval: The Final Subdivision Plat for The Ridge Johnstown, Filing No. 2, located in the in the South Half of the Northwest Quarter of Section 26, Township 5 North, Range 68 West of the 6th Principal Meridian, Town of Johnstown, County of Larimer, State of Colorado, consisting of approximately 23.198 (“Property”), attached hereto as Exhibit A, is hereby approved, subject to the conditions set forth in Section 3.

Section 2. Final Development Plan Approval: The Final Development Plan for The Ridge Johnstown, Filing No. 2, attached hereto as Exhibit B, is hereby approved, subject to the conditions set forth in Section 3.

Section 3. Conditions of Approval: The Final Subdivision Plat and Final Development Plan for The Ridge Johnstown, Filing No. 2, are approved subject to the following conditions, which conditions shall bind the Owner and any subsequent owner or developer of the Property:

1. The Owner shall resolve all outstanding comments from Town Staff, the Town Engineer and the Front Range Fire Rescue Fire Protection District prior to construction of any improvements;
2. The Owner shall create a second egress point to meet the Front Range Fire Rescue Fire Protection District's requirements prior to the issuance of building permits for the lots west of the 50' gas pipeline easement;
3. The Town and the Owner shall execute a Subdivision Development and Improvement Agreement prior to recordation of the Final Subdivision Plat;
4. The Town and the Owner shall execute a Water and Sewer Service Agreement;
5. Prior to the issuance of building permits, the Owner shall work with Town Staff to develop landscape guidelines within The Ridge at Johnstown that reduce water usage within the development, which landscape guidelines shall be integrated into an amendment to the approved performance standards;
6. Prior to constructing improvements, the Owner shall seek approval of the configuration and construction drawings for Larimer County Road 3E in accordance with comments from Town Staff, Town Engineer and Larimer County Engineering;
7. The Owner shall pay the use tax provided in Article V of Chapter 4 of the Johnstown Municipal Code prior to the commencement of construction; and
8. The Owner shall pay the stormwater system development fee to the Town pursuant to Section 13-136(1) of the Johnstown Municipal Code prior to recordation of the Final Plat.

Section 4. Recording: The Town Clerk is hereby directed to obtain the appropriate signatures for the Final Subdivision Plat for The Ridge Johnstown, Filing No. 2, and record the Final Subdivision Plat as provided herein at the Office of the Larimer County Clerk and Recorder.

PASSED, SIGNED, APPROVED, AND ADOPTED THIS ____ day of December, 2020.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: The Ridge at Johnstown Filing No. 2 - Subdivision Development and Improvement Agreement

ACTION PROPOSED: Consider Approving the Subdivision Development and Improvement Agreement for The Ridge at Johnstown Filing No. 2

ATTACHMENTS: 1. Subdivision Development and Improvement Agreement

PRESENTED BY: Kim Meyer, Director of Planning & Development

AGENDA ITEM DESCRIPTION:

Enclosed for Council's review and approval is a Subdivision Development and Improvement Agreement for The Ridge at Johnstown Filing No. 2, with J-25 Land Holdings, LLC, and the Villages at Johnstown Metropolitan District No. 1. The agreement follows the Town's standard template, with Special Provisions in Exhibit B-3.

These B-3 provisions include, highlights include:

- a. Ability to utilize a non-potable irrigation system in the future, and amend WSSA at that time.
- b. Pro-rata participation in a traffic signal at Freedom Parkway (CR 18), when warranted.
- c. Improvements to Larimer County Road 3E to Interim Minor Arterial cross section along frontage, as well as participate in the paving of the full length of this road from CR 18 to CR 16, including adding any necessary turn or auxiliary lanes that may be required due to the impact on intersections.
- d. Notation that the off-site sanitary sewer improvements required with Filing No 1 are a prerequisite for serving this Filing as well.
- e. Participation in a future Interchange Reimbursement Fee, which may be approved by the Town and would be due at building permit issuance.
- f. The Magellan Pipeline Easement and Encroachment agreement, which permits construction and use across this pipeline and easement within Filing No. 2 shall be

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amended to include the Town prior to acceptance of Public and Private Improvements by the Town.

- g. The Harry Lateral Ditch Company Irrigation Easement and Agreement must be executed in a form acceptable to the town, with final as-built drawings provided to the Town.

LEGAL ADVICE:

Town Attorney drafted this agreement.

FINANCIAL ADVICE:

Not applicable.

RECOMMENDED ACTION:

Approve The Ridge at Johnstown Filing No. 2, Subdivision Development and Improvement Agreement.

SUGGESTED MOTIONS:

For Approval

I move to approve The Ridge at Johnstown Filing No. 2, Subdivision Development and Improvement Agreement.

For Denial

I move to deny The Ridge at Johnstown Filing No. 2, Subdivision Development and Improvement Agreement.

Reviewed and Approved for Presentation,

Town Manager

ATTACHMENT 1**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT****FOR****TOWN OF JOHNSTOWN****(The Ridge at Johnstown, Filing No. 2)**

This Subdivision Development and Improvement Agreement (“Agreement”), made and entered into by and between the **Town of Johnstown, Colorado**, a Colorado home rule municipal corporation (the “Town”) and **J-25 Land Holdings, LLC**, a Delaware limited liability company (the “Developer”) and the **Villages at Johnstown Metropolitan District No. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (“District”).

WITNESSETH:

WHEREAS, Developer is the owner of a parcel of land situated in the Town of Johnstown, County of Larimer, State of Colorado, the description of which is set forth on **Exhibit A** attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, Developer seeks to develop the Property and to designate such development as The Ridge at Johnstown, Filing No. 2 (“Development”); and

WHEREAS, the Town and Developer recognize and agree that Developer owns additional real property near or adjacent to the Property referenced herein and that the Developer intends to develop such real property in phases of the overall development of The Ridge at Johnstown, which subsequent phases shall be subject to separate subdivision development and improvement agreements; and

WHEREAS, Developer has submitted a final plat depicting the Development, which final plat is attached hereto as **Exhibit B-1** and incorporated herein by this reference (“Final Plat”); and

WHEREAS, the Town Council approved, or will approve, the Final Plat by passage of Resolution No. 2020-____, containing terms and conditions of approval of the Final Plat, which Resolution is, or will be, attached hereto as **Exhibit B-2** and incorporated herein by this reference (“Resolution”); and

WHEREAS, Developer understands and agrees that, as a further condition of approval of the Final Plat, Developer is required to construct certain subdivision improvements to the Property, that Developer is responsible for the costs and expenses of those subdivision improvements unless otherwise provided herein, and that the subdivision improvements contemplated herein are reasonable, necessary, appropriate, and directly benefit the Development; and

WHEREAS, Developer agrees to undertake and complete the Development in accordance with this Agreement, the Final Plat, the Resolution, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations.

NOW, THEREFORE, in consideration of the premises cited above and the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the Town and Developer agree as follows:

RECITALS

The Recitals are incorporated as if fully set forth herein.

DEFINITIONS

For the purposes of this Agreement, the following words and terms shall be defined as follows:

1.1 **"Approved Plans"** shall mean: (1) with respect to the Public Improvements, the approved "Civil Engineering Construction Plans" related to the Development and on file with Town; and (2) with respect to the Private Improvements, the approved "the Site Development Plan" related to the Development and on file with Town.

1.2 **"Developer"** shall mean the owner(s) of the Property described in **Exhibit A** and any heirs, successors, assigns or transferees of any of the Property described in **Exhibit A**.

1.3 **"Civil Engineering Construction Plans"** shall mean the approved engineering plans for construction, installation and improvement of the Public Improvements.

1.4 **"Development"** shall mean all the Property, property rights and Subdivision Improvements within the legal description in **Exhibit A**.

1.5 **"Dry Utilities"** shall mean electricity, natural gas, cable and telephone.

1.6 **"Maintenance Guarantee"** shall mean a guarantee that the Public Improvements constructed shall be free from defects and failures as more fully described in Paragraphs 5.2 and 5.4 below.

1.7 **"Private Improvements"** shall mean, without limitation, the construction, installation and improvement of privately owned and maintained common improvements including, but not limited to, stormwater improvements, detention pond(s), landscaping, irrigation, fencing, entry signs, street signs and posts, street lighting, parks and open space, trails, postal service boxes and school bus stop shelters.

1.8 **“Public Improvements”** shall mean, without limitation, the construction, installation, improvement and dedication of public improvements, including, but not limited to public thoroughfares and streets, sanitary sewer facilities, water line facilities, drainage facilities in the public right of way, irrigation structures, if any, that are not exclusively for the benefit of the Development, and other public facilities and improvements to serve the Development.

1.9 **“Site Development Plan”** shall mean the approved plans for the construction, installation and improvement of the Private Improvements.

1.10 **“Subdivision Improvements”** shall mean the Public Improvements, Private Improvements and Dry-Utilities.

1.11 **“Town”** shall mean the Town of Johnstown, Colorado.

1.12 **“Town Engineer”** shall mean the professional engineer designated by the Town Manager to perform the obligations set forth in this Agreement.

1.13 **“Town Manager”** shall include the Town Manager and his authorized designees.

1.14 **“Town Official”** shall include the Town Manager, Town Attorney, Town Treasurer, Town Engineer, Town Planner and their authorized designees.

SUBDIVISION IMPROVEMENTS

2. Public Improvements

2.1 Pre- Construction

a. **Engineering Services:** Developer shall furnish, at its own expense, all engineering services in connection with construction, installation and improvement of the Public Improvements. Engineering services shall be performed by a professional engineer registered in the State of Colorado. Engineering services shall consist of, but not be limited to, survey, designs, plans and profiles, specifications, drawings, estimates, construction administration, and the furnishing of necessary documents in connection therewith, including but not limited to final engineering drawings, final sewer and water design plans and final drainage plans (the “Civil Engineering Construction Plans”).

b. **Civil Engineering Construction Plans:** Prior to commencing construction of the Public Improvements, Developer shall submit for review and approval the Civil Engineering Construction Plans to the Town Engineer for review. Construction of the Subdivision Improvements shall not commence until the Town provides written notice of approval of the Civil Engineering Construction Plans. Developer shall not thereafter modify the approved Civil Engineering Construction Plans without the written approval of the Town. The Town’s review and approval of the Civil Engineering Construction Plans shall not limit or affect Developer’s responsibility or liability for design, construction and installation of the Subdivision Improvements, and Developer

agrees to save and hold the Town harmless from any claims, fault or negligence attributable to such design, construction and installation, other than negligent designs which are required by the Town over Developer's written objection.

c. **Rights-of-Way, Easements, Permits and Use Tax:** Prior to commencing construction of the Subdivision Improvements, Developer shall acquire, at its own expense, good and sufficient rights-of-way or easements, clear of any encumbrances, on all lands and facilities, if any, traversed by the proposed Subdivision Improvements. All such rights-of-way and easements shall be conveyed to the Town and the documents of conveyance shall be furnished to the Town Manager for recording. At the Town's request, Developer shall provide at its sole expense a policy of title insurance insuring title in the Town, free and clear of all liens and encumbrances, for all land, property and easements dedicated or conveyed to the Town or for public use. Such title insurance shall be subject to "Permitted Exceptions" as the Town and Developer may mutually agree. In addition, Developer shall obtain all the requisite permits and licenses necessary for construction of the Subdivision Improvements. Developer shall also pay all applicable use tax due and owing to the Town.

2.2 ***Construction of Public Improvements:*** Upon satisfaction of the conditions set forth in Paragraph 2.1, Developer shall construct the Public Improvements at its own expense in accordance with this Agreement, the Final Plat, the Resolution, the Civil Engineering Construction Plans, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations. All Public Improvements shall be installed and constructed within the rights-of-way or easements dedicated to the Town. Unless otherwise approved by the Town in writing, all materials used for constructing the Public Improvements shall be new and both workmanship and materials shall be of good quality.

2.3 ***Construction Schedule:*** Developer shall construct the Subdivision Improvements in accordance with the schedule of improvements set forth on **Exhibit C**, attached hereto and incorporated herein by reference ("Schedule of Subdivision Improvements"). Once construction begins, Developer shall keep the Town Manager informed by routine status reports of the progress of the work and a projection of when the Subdivision Improvements will be completed as well as the cost of such Subdivision Improvements.

2.4 ***Testing and Inspection:*** Developer shall employ, at its own expense, a qualified independent testing company, approved by the Town Engineer, to perform all testing of materials or construction that may be reasonably required by the Town. Developer shall furnish certified copies of test results to the Town Engineer. At all times during construction of the Public Improvements, the Town shall have the right, but not the duty, to inspect materials and workmanship, at Developer's cost. All materials and work must conform to the Civil Engineering Construction Plans. Any material or work not conforming to the Civil Engineering Construction Plans shall be promptly removed, repaired or replaced, at Developer's expense and to the satisfaction of the Town Engineer.

2.5 **Completion of Construction:** Developer shall complete construction of the Subdivision Improvements no later than eighteen (18) months from the commencement of the construction, unless such completion date is extended for reasons beyond the reasonable control of Developer and Developer has obtained the Town Manager's written consent to the extension.

2.6 If Developer seeks, and the Town authorizes the issuance of, building permits prior to the completion of certain of the Subdivision Improvements, Developer shall furnish to the Town a cash escrow deposited with the Town or an irrevocable letter of credit in the form attached hereto as **Exhibit D** in which the Town is designated as the beneficiary ("Performance Guarantee") in an amount equal to 110% of the cost of such uncompleted improvements, which cost shall be certified by Developer's professional engineer, licensed in the State of Colorado and approved by the Town Engineer, to secure the installation, improvement and completion of the improvements. The Performance Guarantee shall be released after Initial Acceptance as defined in Paragraph 5.1 below of such improvements.

3. **Private Improvements**

3.1 **Pre- Construction:** Prior to commencing construction of the Private Improvements, Developer shall submit a Site Development Plan to the Town. The Site Development Plan shall contain the proposed Private Improvements for the Development, including a plan for stormwater improvements, an irrigation system, landscaping, fencing, entry-way signage, street signs and posts, street lighting, parks and open space, trails, postal service boxes and school bus stop shelters. Landscaping and fencing shall be designed in accordance with the Town's landscape guidelines. Construction of the Private Improvements shall not commence until the Town provides written notice of approval of the Site Development Plan, with the exception of approval of the school bus shelters, which must be approved by the school district. Developer shall not thereafter modify the approved Site Development Plan without the written approval of the Town. The Town's review and approval of the Site Development Plan shall not limit or affect Developer's responsibility or liability for design, construction and installation of the Private Improvements, and Developer agrees to save and hold the Town harmless from any claims, fault or negligence attributable to such design, construction and installation, other than negligent designs which are required by the Town over Developer's written objection. In addition, Developer shall obtain all the requisite permits and licenses necessary for construction of the Private Improvements. Developer shall also pay all applicable use tax due and owing to the Town.

3.2 **Construction of Private Improvements:** Upon satisfaction of the conditions set forth in Paragraph 3.1, Developer shall construct the Private Improvements at its own expense in accordance with the terms of this Agreement, the Final Plat, the Resolution, the Site Development Plan, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations. All landscaping services shall be performed by a professional landscape architect or engineer. Unless otherwise approved by the Town in writing, all materials used for constructing the Private Improvements shall be new and both workmanship and materials shall be of good quality.

3.3 **Inspection:** At all times during construction and installation of the Private Improvements, the Town shall have the right, but not the duty, to inspect materials and workmanship, at Developer's cost. All materials and work must conform to the Site Development Plan. Any material or work not conforming to the Site Development Plan shall be promptly removed, repaired or replaced, at Developer's expense and to the satisfaction of the Town.

3.4 **Completion of Private Improvements:** Unless otherwise agreed in writing by the Town Manager, the Private Improvements shall be completed no later than the date that the Public Improvements are completed, unless such completion date is extended for reasons beyond the reasonable control of Developer and Developer has obtained the Town Manager's written consent to the extension. The Town may, in its discretion, allow Developer to defer completion of the landscaping services between December 1 and March 1 of any given year provided that sufficient surety in the form of a cash escrow deposited with the Town or an irrevocable letter of credit in the form attached hereto as **Exhibit D** in which the Town is designated as the beneficiary is provided to the Town.

3.5 **Replacement of Private Improvements:** As replacement of the improvements is necessary and warranted over time, the Private Improvements shall be replaced by, as appropriate, the Developer, the homeowner's association or a metropolitan or special district. The Town shall not be responsible for replacement of the Private Improvements.

4. **Dry-Utilities**

4.1 **Utilities:** Developer shall obtain all proper conveyances and arrangements for the installation and provision of the Dry Utilities to serve the Development. Developer shall provide proof of such conveyances and arrangements to the Town, which proof may be in the form of contracts for such services, no later than the date that the Public Improvements are completed.

4.2 **Easements:** All easements approved by the utility companies shall be submitted to the Town.

ACCEPTANCE OF SUBDIVISION IMPROVEMENTS

5.1 **Initial Acceptance:** Developer shall make written application to the Town Manager for initial acceptance of the Public Improvements ("Initial Acceptance"), and for final review of the Private Improvements, within thirty (30) days of the completion date of the Subdivision Improvements, with the exception of the improvements for which the Town has authorized an extension of time to complete. With respect to the Public Improvements, the written application shall include one set of reproducible "as built" drawings and an affidavit executed by Developer affirming that the Public Improvements have been paid in full, certifying the final construction costs and including documentary evidence of the construction costs. If the Town Manager requests, Developer shall provide lien waivers, or other acceptable assurance, from all subcontractors, suppliers and materialmen who have furnished labor, material or services for the design, construction or installation of the Subdivision Improvements. The affidavit and lien waivers may be reviewed by

the Town, but the Town assumes no responsibility or liability to or for anyone regarding the veracity of the information so provided.

After the receipt of the written application, the Town shall use reasonable efforts to promptly inspect the Subdivision Improvements. If the Subdivision Improvements are satisfactory, Developer shall be entitled to Initial Acceptance of the Public Improvements upon receipt of the Maintenance Guarantee and written approval of the Private Improvements. If the Subdivision Improvements are not satisfactory, the Town shall prepare a detailed written description of all Subdivision Improvements which are not in compliance with the Approved Plans, subject to any changes that have been approved by the Town and any changes that have been required by the Town as a result of any unforeseen engineering design issues. Such report shall be delivered to Developer. After curing the defects, Developer shall make a renewed written application to the Town for re-inspection of the Subdivision Improvements, which written application shall contain the items set forth above. The Town shall thereafter use reasonable efforts to promptly re-inspect the Subdivision Improvements. If the Subdivision Improvements are satisfactory, Developer shall be entitled to Initial Acceptance of the Public Improvements upon receipt of the Maintenance Guarantee and written approval of the Private Improvements.

5.2 Maintenance Guarantee. Prior to Initial Acceptance of the Public Improvements, Developer shall provide the Town with a maintenance guarantee in the form of a cash escrow deposited with the Town or an irrevocable letter of credit in the form attached hereto as **Exhibit D** in which the Town is designated as the beneficiary ("Maintenance Guarantee"). The Maintenance Guarantee shall equal fifteen percent (15%) of the total cost of the Public Improvements. The Maintenance Guarantee shall warrant and guarantee all expenses and costs for maintenance, repairs and replacements of the Public Improvements until Final Acceptance. The Maintenance Guarantee shall be released after Final Acceptance of all of the Public Improvements. The Maintenance Guarantee may also be used to ensure that the installed landscaping is satisfactorily established during the period between Initial Acceptance and Final Acceptance of the Public Improvements.

5.3 Delivery of Initial Acceptance. Upon satisfaction of the conditions set forth above in Paragraphs 5.1 and 5.2, the Town shall provide written notice of Initial Acceptance of the Public Improvements and written approval of the Private Improvements to Developer. The Town may issue written notice of Initial Acceptance of the Public Improvements and written approval of the Private Improvements prior to completion of certain of the less critical improvements, as determined and agreed-upon by the Town in its sole discretion. In which case, the Developer may be entitled to obtain building permits prior to completion of all the Subdivision Improvements, assuming satisfaction of the remaining terms of this Agreement and based on conditions otherwise set forth herein.

5.4 Maintenance, Repair and Replacement: Until Final Acceptance of the Public Improvements, Developer shall promptly perform all maintenance and make all repairs and replacements of all defects or failures of the Public Improvements at Developer's expense and shall ensure that the installed landscaping is established. If, within thirty (30) days after Developer's receipt of written notice from the Town requesting such maintenance, repairs or replacements,

Developer shall not have undertaken with due diligence to make the same, the Town may make such maintenance, repairs or replacements at Developer's expense and shall be entitled to draw upon the Maintenance Guarantee, either before undertaking to make such repairs or at any time thereafter or the Town may charge Developer for the costs thereof. In case of emergency, as determined by the Town, such written notice shall be deemed waived and the Town may proceed as it deems necessary at the expense of Developer or the issuers of the Maintenance Guarantee. Notwithstanding the foregoing, upon Initial Acceptance, the Town shall be responsible for routine maintenance of the Public Improvements (street sweeping, snow removal, etc.) and the Developer shall be responsible for all maintenance, repairs and replacement of the Private Improvements.

5.5 Final Acceptance: Two (2) years after the Town's Initial Acceptance of the Public Improvements, which time period may be extended in the Town's reasonable discretion due to remedial or repair work that may be necessary in the first two (2) years by providing written notice to Developer, Developer shall make a written request to the Town Manager for a final inspection of the Public Improvements and the landscaping ("Final Acceptance"). If the Town Engineer determines that the Public Improvements are free of defects in materials and workmanship and have been repaired and maintained to the extent required and the landscaping is established, the Town Manager shall provide a written certification of completion and Final Acceptance. If the Town Engineer determines that the Public Improvements are not free of defects in materials and workmanship and have not been repaired and maintained to the extent required or that the landscaping is not properly established, the Town Manager shall issue a written notice of non-compliance specifying the defects.

Developer shall take such action as is necessary to cure the noncompliance and, upon curing the same, provide a new written request to the Town Manager for a final inspection of the Public Improvements and the landscaping. Failure of the Developer to make a timely request for Final Acceptance shall not limit the Town's rights hereunder nor shall it limit the Town's right to utilize or operate the Public Improvements as the Town deems appropriate.

5.6 Homeowners Association: Prior to Final Acceptance and prior to the sale of lots or homes in the Development, Developer shall establish a homeowners association for the Development. Developer shall provide the Town with proposed covenants, bylaws and articles of incorporation for the homeowners association. Upon written approval of the covenants, bylaws and articles of incorporation by the Town, the same shall be recorded with the appropriate County Clerk and Recorder and the homeowners association shall thereafter be deemed to be established.

5.7 Dedication and Maintenance of Subdivision Improvements: Upon Final Acceptance of the Subdivision Improvements: (1) the Public Improvements shall be owned, operated and maintained by the Town; (2) the Private Improvements shall be owned, operated and maintained, as appropriate by the Town, by the homeowner's association or the Villages at Johnstown Metropolitan District No. 1 (the "District"); and (3) the Dry-Utilities shall be owned, operated and maintained, as appropriate and otherwise authorized, by the homeowner's association, or the District, or the appropriate public utility company.

WATER AND SEWER SERVICE

6.1 The Town and Developer shall enter into a Water and Sewer Service Agreement setting forth their agreement concerning water rights dedication, preliminary projections of water and sewer demand and a commitment by the Town for water and sewer service to the Development. The Water and Sewer Service Agreement, whenever executed, shall be incorporated into this Agreement and made a part hereof.

BUILDING PERMITS

7.1 The Town shall not issue building permits or install water meters for the Development until: (1) the Final Plat has been recorded with the Larimer County Clerk and Recorder; (2) Developer has paid all applicable use tax due and owing to the Town and all other fees required by the Town, including but not limited to water and tap fees, impact fees, storm drainage fees and cash-in-lieu payments due, if any, to the Thompson School District R2-J; (3) Developer has received written notice of Initial Acceptance of the Public Improvements and written notice of approval of the Private Improvements, with the exception of the improvements for which the Town has authorized an extension of time to complete; (4) meter and curb stop pass inspection; (5) the parties have entered into a Water and Sewer Service Agreement; (6) Developer has established a homeowners association as set forth in Paragraph 5.6 above; and (7) all terms of this Agreement have been faithfully kept by Developer.

7.2 Notwithstanding the foregoing, the Town may, in its sole discretion, issue building permits prior to completion of certain of the less critical Subdivision Improvements, as determined by the Town in its sole discretion, on the condition that such improvements be completed prior to the issuance of certificates of occupancy.

7.3 If at any time the Town determines that Developer is not in compliance with this Agreement, the Final Plat, the Resolution or the Approved Plans, the Town may withhold the issuance of building permits. In the Town's discretion, the Town may provide written notice to the Developer and an opportunity to cure prior to withholding building permits. In any event, the Town and the Developer shall endeavor to work together to resolve the outstanding deficiencies in a timely manner.

CONSTRUCTION OPERATION STANDARDS

8.1 The operation of construction equipment outside an enclosed structure shall be prohibited between the hours of 8:00 p.m. or dusk, whichever is earlier, and 7:00 a.m. on weekdays and between the hours of 7:00 p.m. or dusk, whichever is earlier, and 8:00 a.m. on weekends and legal holidays. The Town Manager may, upon written application, alter the hours of operation for good cause by providing written notice to Developer.

8.2 Developer agrees to control all weeds growing within the Development. Developer further agrees to use the appropriate herbicide and undertake mowing of the property within the Development.

8.3 Developer shall, at all times, keep the public right-of-way free from accumulation of waste material, rubbish, dirt and mud caused by Developer's operation. Developer shall remove such waste material, rubbish, dirt and mud no less than weekly and, at the completion of the work, shall promptly remove all debris waste materials, rubbish, dirt, mud, tools, construction equipment, machinery, building materials, trash containers, and portable toilets from the public right-of-way.

8.5 When the Town Engineer provides written notice that erosion, by wind or water, is likely to be an issue, Developer shall install temporary or permanent erosion control into the Development at the earliest practicable time. By way of explanation and without limitation, said control may consist of seeding of approved grasses, temporary dikes, gabions or other similar devices.

8.6 In the event that Developer fails to perform the work specified in Paragraphs 8.3, 8.4 or 8.5 within a reasonable time period after receiving written notice from the Town, not to exceed ten (10) days for the work specified in Paragraphs 8.3 and 8.4, the Town may, in addition to other remedies, including those set forth in Paragraph 7.3, perform the work required and charge Developer for said cost. Developer shall pay the Town for all costs incurred by the Town in the performance of the above said service within ten (10) days of the Town submitting an invoice for said services. If Developer does not remit the costs, in addition to other remedies, the Town may draw on the Maintenance Guarantee, if there is such a guarantee.

8.7 Developer hereby ensures that Developer's subcontractors shall cooperate with the Town's construction inspectors in all manners, including, but not limited to, by ceasing operations when winds are of sufficient velocity to create blowing dust which the Town, in its discretion, determines is hazardous to the public health and welfare.

8.8 Developer shall take all steps necessary to prevent its construction activities from damaging adjacent properties.

DEVELOPMENT STANDARDS

9.1 Developer shall comply with the requirements contained in the Annexation Agreement related to the Property, except as specifically amended by this Agreement.

9.2 Except as otherwise provided in this Agreement, the Final Plat, the Resolution or Approved Plans, Developer shall comply with Johnstown's municipal code, zoning ordinances, subdivision regulations, landscape guidelines and the Performance Standards for the Ridge at Johnstown (also known as the Performance Standards for Villages at Johnstown), which were approved by Town Council on December 2, 2018. Be there a conflict with the Performance Standards and Johnstown's municipal code, zoning ordinances, subdivision regulations and landscape guidelines (collectively "Codes"), the Town shall decide the proper application of the Codes and the Performance Standards.

9.3 Unless otherwise set forth in the Code, the Performance Standards or the Approved Plans, the following design standards must be met including, but not limited to, the following:

- A. Developer shall submit detailed elevations showing architectural features of the proposed dwelling units. Architectural features, elevations and home sites shall have prior approval of the Town. Such approvals shall not be unreasonably withheld.

- B. In areas built with single family homes, no individual unit shall be built with the same elevation within three (3) units of itself on both sides of the street and all units shall have at least a two-car garage, except the multi-family homes.
- C. In areas built with single family homes, at least twenty-five percent (25%) of the facade of each dwelling unit, excluding windows, doors, and garage doors, shall be of masonry, stone, brick, or an equivalent. All roofs shall have thirty (30) year architectural style shingles. Any shingle type or style other than architectural style shingles shall be submitted to the Town for prior approval, but three-tab conventional asphalt shingle roofing shall not be permitted.

LIABILITY, INSURANCE AND COST REIMBURSEMENT

10.1 **Indemnification:** Developer hereby agrees to indemnify and hold the Town, Town Officials, its employees, agents, representatives, insurers and self insurance pool harmless from and against any and all suits, demands, actions, damages, liability, losses, claims, fees and expenses, including attorney's fees, resulting or arising in any way from any breach or default of this Agreement or any acts or omissions of Developer, its employees, agents, consultants, representatives or subcontractors, except to the extent caused by negligence or willful misconduct of the Town. Developer shall promptly investigate, handle, respond to, and provide defense for and defend against any such liability, claims or demands at the sole expense of Developer. Developer also agrees to bear all costs, expenses and attorney's fees related thereto whether or not such liability, claims or demands are groundless, false or fraudulent.

10.2 **Insurance:** Developer shall for itself and for its contractors, subcontractors, representatives and agents engaged in the design, construction or installation of the Subdivision Improvements maintain such liability insurance including general liability, contractors liability, professional liability, comprehensive automobile liability and sufficient public liability insurance as will protect the Town, Town Officials, its employees, agents and representatives against any and all potential liability, claims, damage, demands, losses, and expenses which may be incurred or asserted pursuant to Paragraph 10.1 above. Liability insurance shall be in the minimum amount of One Million Dollars (\$1,000,000.00), or such greater amounts as may be established by the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as may be amended. Whenever requested by the Town Manager, Developer agrees to promptly submit certificates of insurance evidencing sufficient amounts, types and duration of insurance and which show the Town, Town Officials, its employees, agents and representatives as additional insureds. Developer shall not be relieved of any liability, claims, demands or other obligations assumed or set forth in this Development Agreement by reason of its failure to procure or maintain such insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types. In addition to the insurance specified above, Developer shall maintain workers compensation insurance, if so required by law, and shall require its contractors, subcontractors, representatives and agents engaged

in the design, construction or installation of improvements to maintain workers compensation insurance in the amount required by law.

10.3 ***Drainage Liability:*** Developer shall indemnify and hold the Town harmless from any liability the Town may have on account of any change in the nature, direction, quantity, or quality of drainage flow resulting from the Development. In addition, Developer shall reimburse the Town for any and all costs, fees, and expenses, including attorney's fees, which the Town incurs in acquiring any rights-of-way or easements which the Town is required to acquire or condemn or which the Town is held to have acquired or condemned for drainage as a result of this Development. This provision shall survive Final Acceptance and the termination of this Agreement.

10.4 ***Tax Liability:*** Developer shall pay all outstanding taxes, encumbrances or obligations on any property dedicated or conveyed to the Town prior to or at the time of such dedication or conveyance, and shall indemnify and hold the Town harmless from any and all encumbrances, obligations or tax liability incurred prior to the dedication or conveyance to the Town. Any use tax due for construction materials shall be paid prior to construction of any improvements on the Property.

10.5 ***Cost Reimbursement to Town:*** Developer shall reimburse the Town for professional consultants, including, but not limited to engineers, testing companies and attorneys, engaged by the Town to process and complete the Development.

10.6 ***Colorado Governmental Immunity Act:*** 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.

DEFAULTS AND REMEDIES

11.1 A default by Developer shall exist if Developer fails to fulfill or perform any material obligation contained in this Agreement, the Final Plat, the Resolution, or the Approved Plans, or Developer fails to comply with the Town's ordinances, resolutions and regulations and all other applicable laws and regulations. Without limiting the Town's right to withhold building permits as set forth herein, in the event of a default, the Town shall deliver written notice to Developer of such default and Developer shall have thirty (30) days from receipt of such notice to cure the default. If the default is not of a type that may be cured within such thirty (30) day period, Developer may provide written notice to the Town within such period that it is actively and diligently pursuing such cure and Developer shall thereafter have a reasonable time to cure the default, provided that Developer is at all times within that extended period actively and diligently pursuing a cure. In case of emergency, as determined by the Town, such written notice shall be deemed waived and the Town may proceed as it deems necessary at the expense of Developer or the issuers of the Maintenance or Performance Guarantee.

11.2 If the default arises subsequent to Initial Acceptance and the default is not timely cured, the Town may draw on the Maintenance Guarantee. If the default relates to the improvement secured by the Performance Guarantee and the default is not timely cured, the Town may draw on the Performance Guarantee. In addition, and without limitation, if the default is not timely cured, the Town may withhold approval of any or all building permits, certificates of occupancy, water meters or tap hook-ups for any area within the Development. Notwithstanding these rights and remedies, the Town may pursue whatever additional remedies it may have against Developer or anyone, either at law, equity or pursuant to this Agreement. The Town's remedies shall be cumulative.

11.3 Should Developer default in any obligation under this Agreement, the Town may, in its discretion, after notice and opportunity to cure as set forth in Paragraph 11.1, complete such Subdivision Improvements at Developer's expense. The Town shall estimate the cost of such improvements and give notice to Developer to pay such cost estimate. The Town shall use such payment for said improvements and refund any money collected in excess of the actual cost of said improvements. Should payment not be made within thirty (30) days of such notice, the Town may assess the amount of the cost estimate, plus six percent (6%) to defray the cost of collection as provided by state law, to the Property and file a lien against the Property, such lien to have priority over all liens except general taxes and prior special assessments and to be placed upon the tax list for the current year to be collected in the same manner as taxes are collected. The Town may file such lien at any time after said thirty (30) days while Developer is in default of this Agreement.

SPECIAL PROVISIONS

12.1 The Additional Terms, Conditions or Provisions relating to this Development are set forth in **Exhibit B-3**, which is attached hereto, incorporated herein by this reference, and made a part of this Agreement.

12.2 As set forth in Paragraph 3.5 above, Developer, the homeowner's association or a metropolitan district, as appropriate, shall be responsible for replacement of decorative light fixtures, decorative street signs and all other decorative amenities in the Development when replacement is necessary and warranted over time.

12.3 Notwithstanding anything to the contrary, use tax is due and owing prior to construction of any and all Subdivision Improvements.

MISCELLANEOUS

13.1 **No Waiver:** Delays in enforcement or the waiver of any one or more breaches of this Agreement by the Town shall not constitute a waiver of any of the remaining terms or obligations.

13.2 **Severability:** If any provisions or parts of this Agreement are judged to be unenforceable or invalid, to the extent practicable, such judgment shall not affect, impair or invalidate the remaining parts of this Agreement, the intention being that the various parts and provisions hereof are severable.

13.3 **Recording of Agreement:** This Agreement substantially shall be recorded with the approved Final Plat and shall be a covenant running with and against all the Property, property rights and improvements contained within the Development described in **Exhibit A** in order to put prospective owners, purchasers, successors, assigns, and others acquiring any interest in the property on notice as to the terms and obligations herein. No lots, tracts or parcels may be separately conveyed prior to recording the Agreement and the Final Plat.

13.4 **Binding Effect:** Unless otherwise provided herein, this Agreement shall be binding upon Developer's heirs, successors, assigns, transferees and any other person or entity acquiring or purchasing any interest in any of the Property described in the attached **Exhibit A**, with the exception of a bona fide residential home buyer of a completed owner-occupied home.

13.5 **Transfer or Assignments:** In the event of a sale or transfer of any portion of the Development, except to a bona fide residential home buyer of a completed owner-occupied home, the seller or transferor and the purchaser or transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless, prior to the transfer or the sale, a written agreement satisfactory to the Town delineating and allocating the various rights and obligations for the Subdivision Improvements has been approved and executed by the Town Manager.

13.6 **Title and Authority:** Developer expressly warrants and represents to the Town that it is the record owner of the Property and further represents and warrants that the undersigned has full power and authority to enter into this Agreement. Developer understands that the Town is relying on the representations and warranties contained herein in approving in entering into this Agreement.

13.7 **Notice:** All notices, consents, applications or other instruments provided for under this Agreement shall be deemed properly given and received: (1) when personally delivered and received, when sent by messenger service, or when forwarded by facsimile or email-delivery, but only upon confirmation of receipt of such facsimile or email; (2) on the next day after deposit for delivery with a nationally-recognized overnight courier service; or (3) three business days after deposit in the United States mail, by certified mail with return receipt requested, postage prepaid and addressed as follows:

TO DEVELOPER:**J-25 LAND HOLDINGS, LLC**

Attention: ROY BADE
8901 E. Mountain View Rd, Ste 150
Scottsdale, AZ 85258
Email: Roy.Bade@calibercos.com

COPY TO:

Hunter & Goodhue, PLLC
Attention: Mark F. Hunter
4845 Pearl East Circle, Suite 101
Boulder, CO 80301
Email: mark@huntgoodlaw.com

TO TOWN:**TOWN OF JOHNSTOWN**

Attention: TOWN MANAGER
450 So. Parish
P. O. Box 609
Johnstown, CO 80534
Email: mlecerf@townofjohnstown.com

COPY TO:

Avi S. Rocklin, Esq.
Law Office of Avi S. Rocklin, LLC
1437 N. Denver Avenue, No. 330
Loveland, CO 80538
Email: avi@rocklinlaw.com

TO DISTRICT:

Hunter & Goodhue, PLLC
Attention: Mark F. Hunter
4845 Pearl East Circle, Suite 101
Boulder, CO 80301
Email: mark@huntgoodlaw.com

Notice may also be provided by electronic mail (“e-mail”) communication on the condition that the recipient acknowledges receipt of the e-mail and does not object.

13.8 ***Costs and Attorney Fees.*** If the Developer breaches this Agreement, the Developer 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 Agreement. Nothing herein shall be construed to prevent or interfere with the Town’s rights and remedies specified elsewhere in the Agreement.

13.9 ***Vested Right.*** The Final Plat shall have vested rights pursuant to §§ 24-68-101, *et seq.*, C.R.S. for a period of three (3) years from the date of this Agreement.

13.10 ***Warranty of Developer:*** Developer warrants that the Subdivision Improvements shall be installed in a good and workmanlike manner and in compliance with the Approved Plans, this Agreement, the Final Plat, the Resolution, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations and shall be substantially free of any defects in materials and workmanship.

13.11 ***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 County, Colorado.

13.12 ***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.

13.13 ***Entire Agreement.*** This Agreement constitutes the entire agreement and understanding between the parties and supersedes all prior agreements or understandings. Any amendment to this Agreement must be in writing and signed by the parties.

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

13.15 ***No Third Party Beneficiaries.*** Lenders, lot or home buyers and materialmen, laborers or others providing work, services or materials for the Subdivision Improvements shall not have any right of action under this Agreement.

13.16 ***Force Majeure.*** Neither party shall be liable for a failure to perform hereunder if such failure is the result of force majeure, which shall mean causes beyond the reasonable control of a party such as acts of God, labor strikes, war, terrorism, fire or action or inaction of government authorities.

13.17 ***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.

IN WITNESS WHEREOF, and agreeing to be fully bound by the terms of this Agreement, the parties have set their hands below on this ____ day of _____, 2020.

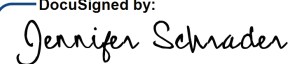
J-25 LAND HOLDINGS, LLC

By: J-25 Development Group, LLC, a Delaware limited liability company, as Manager

By: Caliber Services, LLC, an Arizona limited liability company, as its sole Member

By: Caliber Companies, LLC, an Arizona limited liability company, as Manager

By: Caliberco, Inc., a Delaware corporation, as its sole Member

DocuSigned by:

 55B0A4649A0A4A6
 Jennifer Schrader, Director

STATE OF ARIZONA)
)ss.
 COUNTY OF MARICOPA)

Original, notarized signature page en route to Town

SUBSCRIBED AND SWORN to before me this ____ day of December 2020 by Jennifer Schrader, Director, J-25 Land Holdings, LLC.

WITNESS my hand and official seal.

 Notary Public

My commission expires: _____

Villages at Johnstown Metropolitan District No. 1

By: _____

Mark F. Hunter, President

STATE OF COLORADO)

)ss.

COUNTY OF BOULDER)

SUBSCRIBED AND SWORN to before me this 15 day of December 2020, by Mark F. Hunter, President, Villages at Johnstown Metropolitan District No. 1.

WITNESS my hand and official seal.

Notary Public

My commission expires: 6/12/2024

TERRY RENEE BERGER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20204020644
MY COMMISSION EXPIRES JUNE 12, 2024

TOWN OF JOHNSTOWN, COLORADO
A Colorado Home Rule Municipal Corporation

By: _____
Gary Lebsack, Mayor

ATTEST:

By: _____
Diana Seele, Town Clerk

**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT
FOR
THE TOWN OF JOHNSTOWN
(The Ridge at Johnstown, Filing No. 2)**

EXHIBITS

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EXHIBIT B-2:	Town Resolution Approving Development
EXHIBIT B-3:	Additional Terms, Conditions or Provisions
EXHIBIT C:	Schedule of Public Improvements
EXHIBIT D:	Irrevocable Letter of Credit Form

EXHIBIT A

**LEGAL DESCRIPTION
(Property)**

PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 26,
TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PM, LARIMER COUNTY,
COLORADO, DESCRIBED AS FOLLOWS;

BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 26,
MONUMENTED WITH A 2 ½" ALUMINUM CAP IN RANGE BOX, STAMPED LS 38304,
2014.

THENCE N89°44'19"W, A DISTANCE OF 1315.85 FEET ON THE SOUTH LINE OF THE
SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER TO THE CENTER WEST
1/16TH CORNER, MONUMENTED WITH A NUMBER 6 REBAR WITH A 2 ½" ALUMINUM
CAP STAMPED 26512, 2018;

THENCE N89°43'42"W, A DISTANCE OF 235.59 FEET ON THE SOUTH LINE OF THE
SOUTHWEST QUARTER OF SAID NORTHWEST QUARTER;

THENCE N00°10'22"E, A DISTANCE OF 109.03 FEET TO A NON-TANGENT POINT OF
CURVATURE;

THENCE ON A SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 55.00 FEET, A
CENTRAL ANGLE OF 106°28'13", A DISTANCE OF 102.20 FEET, A CHORD BEARING
OF N03°17'04"W WITH A CHORD DISTANCE OF 88.12 FEET TO A REVERSE CURVE;

THENCE ON A SAID CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, A
CENTRAL ANGLE OF 49°46'41", A DISTANCE OF 13.03 FEET, A CHORD BEARING OF
N25°03'42"E WITH A CHORD DISTANCE OF 12.63 FEET;

THENCE N00°10'22"E, A DISTANCE OF 263.90 FEET;

THENCE N09°27'44"W, A DISTANCE OF 65.41 FEET;

THENCE N00°00'00"E, A DISTANCE OF 75.42 FEET;

THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 160.00 FEET, A
CENTRAL ANGLE OF 17°12'16", A DISTANCE OF 48.04 FEET, A CHORD BEARING OF
N08°36'08"W WITH A CHORD DISTANCE OF 47.86 FEET TO THE NORTH LINE OF
SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26;

THENCE S89°56'13"E, A DISTANCE OF 253.77 FEET ON SAID NORTH LINE TO THE
CENTER 1/16TH CORNER OF THE NORTHWEST QUARTER, MONUMENTED BY A 2"
IRON PIPE FILLED WITH CONCRETE AND A ¾" WASHER STAMPED LS 4845 SET IN
THE CONCRETE;

THENCE S89°49'38"E, A DISTANCE OF 1262.67 FEET ON THE NORTH LINE OF THE
SOUTH HALF OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER TO
THE WEST RIGHT OF WAY LINE OF COUNTY ROAD 3E, MONUMENTED WITH A
NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED "PLS 37067";

THENCE S00°18'18"W, A DISTANCE OF 288.21 FEET ON SAID WEST RIGHT OF WAY LINE, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED "PLS 37067";

THENCE S89°46'36"E, A DISTANCE OF 55.00 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED "PLS 37067";

THENCE S00°18'18"W, A DISTANCE OF 374.22 FEET ON SAID EAST LINE TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1,013,967 SQUARE FEET OR 23.777 ACRES.

BASIS OF BEARING:

BEARINGS ARE BASED ON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, IN WHICH THE SOUTH LINE OF SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, T5N, R68W, 6TH PM, LARIMER COUNTY, CO; BEARS N89°44'19"W, A DISTANCE OF 1,315.85 FEET BETWEEN THE CENTER QUARTER CORNER OF SECTION 26, MONUMENTED A 2 1/2" ALUMINUM CAP IN RANGE BOX, STAMPED LS 38304, 2014. AND THE CENTER WEST 1/16TH CORNER, MONUMENTED WITH A NUMBER 6 REBAR WITH A 2 1/2" ALUMINUM CAP STAMPED 26512, 2018; WITH ALL OTHER BEARINGS RELATIVE THERETO.

EXHIBIT B-1

PLAT OR PLAN

(SEE ATTACHED)

THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE)
PART OF THE SOUTH HALF OF THE NORTHWEST OF SECTION 26,
T. 5 N., R. 68 W. OF THE 6TH P.M.,
JOHNSTOWN, LARIMER COUNTY, COLORADO

DEDICATION

KNOW ALL PERSONS BY THESE PRESENTS THAT J-25 LAND HOLDINGS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, BEING OWNER OF THE FOLLOWING DESCRIBED PROPERTY:

PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., LARIMER COUNTY, COLORADO, DESCRIBED AS FOLLOWS:

TO WIT: THE COUNTY, COLORADO, BEING THE OWNER OF SAID SECTION 26, MONUMENTED WITH A 2 1/2" ALUMINUM CAP IN RANGE BOX, STAMPED 15.30X4.20X4.

THENCE N89°27'47"N, A DISTANCE OF 135.48 FEET ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID NORTHWEST QUARTER TO THE CENTER WEST 1/4TH CORNER, MONUMENTED WITH A NUMBER 6 REBAR WITH A 2 1/2" ALUMINUM CAP STAMPED 20512, 2018.

THENCE N89°24'47"N, A DISTANCE OF 235.59 FEET ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID NORTHWEST QUARTER;

THENCE N89°24'47"N, A DISTANCE OF 109.63 FEET TO A NON-TANGENT POINT OF CURVATURE;

THENCE N07°22'27"E, A DISTANCE OF 65.41 FEET;

THENCE N07°22'27"E, A DISTANCE OF 124.50 FEET;

THENCE N07°22'27"E, A DISTANCE OF 38.50 FEET;

THENCE N07°27'47"N, A DISTANCE OF 65.41 FEET;

THENCE N07°27'47"N, A DISTANCE OF 75.43 FEET;

THENCE S09°24'47"N, A DISTANCE OF 177.92 FEET, A CENTRAL ANGLE OF 49°44'47", A DISTANCE OF 47.08 FEET TO THE NORTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 26;

THENCE S09°24'47"N, A DISTANCE OF 233.7 FEET ON SAID NORTH LINE TO THE CENTER 1/4TH CORNER OF THE NORTHWEST QUARTER, MONUMENTED BY A 2" IRON PIPE FILLED WITH CONCRETE AND A 3/4" WASHER STAMPED 15.48X5 SET IN THE CONCRETE;

THENCE S09°24'47"N, A DISTANCE OF 182.67 FEET ON THE NORTH LINE OF THE SOUTH HALF OF SAID SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., LARIMER COUNTY, COLORADO, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1 1/4" PURPLE PLASTIC CAP STAMPED 715.37097;

THENCE S09°24'47"N, A DISTANCE OF 394.1 FEET ON SAID WEST RIGHT OF WAY LINE, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1 1/4" PURPLE PLASTIC CAP STAMPED 715.37097;

THENCE S09°24'47"N, A DISTANCE OF 50.00 FEET TO THE EAST LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1 1/4" PURPLE PLASTIC CAP STAMPED 715.37097;

THENCE S09°24'47"N, A DISTANCE OF 374.22 FEET ON SAID EAST LINE TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1,011,987 SQUARE FEET OR 23,777 ACRES.

*** NOTE: ALL CORNERS IN THIS LEGAL DESCRIPTION ARE MONUMENTED WITH A NUMBER 5 REBAR AND 1 1/4" PURPLE PLASTIC CAP STAMPED 715.37097 UNLESS STATED OTHERWISE.

AND TO HEREBY SHOWING THE SAME INTO LOTS, BLOCKS, OUTLOTS, RIGHT OF WAY AND EASEMENTS UNDER THE NAME OF THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE) AS SHOWN ON THIS MAP AND DO HEREBY RESIGNATE AND DEDICATE ALL RIGHT OF WAY AND EASEMENTS FOR PUBLIC USE, UNLESS OTHERWISE NOTED.

BASIS OF BEARINGS.

BEARINGS ARE BASED ON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, IN WHICH THE SOUTH LINE OF THE NORTHWEST QUARTER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., LARIMER COUNTY, COLORADO, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1 1/4" PURPLE PLASTIC CAP STAMPED 715.37097, 2018, WITH ALL OTHER BEARINGS RELATIVE THEREETO.

A NUMBER 6 REBAR WITH A 2 1/2" ALUMINUM CAP STAMPED 20512, 2018, WITH ALL OTHER BEARINGS RELATIVE THEREETO.

A NUMBER 5 REBAR WITH A 1 1/4" PURPLE PLASTIC CAP STAMPED 715.37097, 2018, WITH ALL OTHER BEARINGS RELATIVE THEREETO.

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A NUMBER 5 REBAR WITH A 1 1/4" PURPLE PLASTIC CAP STAMPED 715.37097, 2018, WITH ALL OTHER BEARINGS RELATIVE THEREETO.

Galloway
3555 Federal Highway Blvd., Suite 212
Johnstown, CO 80534
970.690.1300
www.galloway.com

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THIS PLAT, TO BE KNOWN AS THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE), IS APPROVED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY, COLORADO, ON THE _____ DAY OF _____, 2018.

BY: _____ MAYOR _____ ATTEST: _____ TOWN CLERK _____

BY: _____

BY: _____

BY: _____

BY: _____

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 CONSENT OF GALLOWAY.



THE RIDGE AT JOHNSTOWN
 FILING NO. 2 (CENTER VILLAGE)
 PART OF THE SOUTH HALF OF THE NORTHWEST
 QUARTER OF SECTION 26, TOWNSHIP 5 NORTH,
 RANGE 68 WEST OF THE 6TH P.M., JOHNSTOWN,
 LARIMER COUNTY, COLORADO

Item #13.

THE RIDGE AT JOHNSTOWN FILING NO. 2 (CENTER VILLAGE)
 PART OF THE SOUTH HALF OF THE NORTHWEST OF SECTION 26,
 T. 5 N., R. 68 W. OF THE 6TH P.M.,
 JOHNSTOWN, LARIMER COUNTY, COLORADO

PARCEL CURVE SEGMENT TABLE				
CURVE TAG #	DELTA	LENGTH (FT)	RADIUS (FT)	CHORD BEARING
C1	90°00'00"	6.00	18.00	N00°00'00"E
C2	90°00'00"	6.00	18.00	N00°00'00"E
C3	90°00'00"	6.00	18.00	N00°00'00"E
C4	90°00'00"	6.00	18.00	N00°00'00"E
C5	90°00'00"	6.00	18.00	N00°00'00"E
C6	90°00'00"	6.00	18.00	N00°00'00"E
C7	90°00'00"	6.00	18.00	N00°00'00"E
C8	90°00'00"	6.00	18.00	N00°00'00"E
C9	90°00'00"	6.00	18.00	N00°00'00"E
C10	90°00'00"	6.00	18.00	N00°00'00"E
C11	90°00'00"	6.00	18.00	N00°00'00"E
C12	90°00'00"	6.00	18.00	N00°00'00"E
C13	90°00'00"	6.00	18.00	N00°00'00"E
C14	90°00'00"	6.00	18.00	N00°00'00"E
C15	90°00'00"	6.00	18.00	N00°00'00"E
C16	90°00'00"	6.00	18.00	N00°00'00"E
C17	90°00'00"	6.00	18.00	N00°00'00"E
C18	90°00'00"	6.00	18.00	N00°00'00"E
C19	90°00'00"	6.00	18.00	N00°00'00"E
C20	90°00'00"	6.00	18.00	N00°00'00"E
C21	90°00'00"	6.00	18.00	N00°00'00"E
C22	90°00'00"	6.00	18.00	N00°00'00"E
C23	90°00'00"	6.00	18.00	N00°00'00"E
C24	90°00'00"	6.00	18.00	N00°00'00"E
C25	90°00'00"	6.00	18.00	N00°00'00"E
C26	90°00'00"	6.00	18.00	N00°00'00"E
C27	90°00'00"	6.00	18.00	N00°00'00"E
C28	90°00'00"	6.00	18.00	N00°00'00"E
C29	90°00'00"	6.00	18.00	N00°00'00"E
C30	90°00'00"	6.00	18.00	N00°00'00"E
C31	90°00'00"	6.00	18.00	N00°00'00"E
C32	90°00'00"	6.00	18.00	N00°00'00"E
C33	90°00'00"	6.00	18.00	N00°00'00"E
C34	90°00'00"	6.00	18.00	N00°00'00"E
C35	90°00'00"	6.00	18.00	N00°00'00"E
C36	90°00'00"	6.00	18.00	N00°00'00"E
C37	90°00'00"	6.00	18.00	N00°00'00"E
C38	90°00'00"	6.00	18.00	N00°00'00"E
C39	90°00'00"	6.00	18.00	N00°00'00"E
C40	90°00'00"	6.00	18.00	N00°00'00"E
C41	90°00'00"	6.00	18.00	N00°00'00"E
C42	90°00'00"	6.00	18.00	N00°00'00"E
C43	90°00'00"	6.00	18.00	N00°00'00"E
C44	90°00'00"	6.00	18.00	N00°00'00"E
C45	90°00'00"	6.00	18.00	N00°00'00"E
C46	90°00'00"	6.00	18.00	N00°00'00"E
C47	90°00'00"	6.00	18.00	N00°00'00"E
C48	90°00'00"	6.00	18.00	N00°00'00"E
C49	90°00'00"	6.00	18.00	N00°00'00"E
C50	90°00'00"	6.00	18.00	N00°00'00"E
C51	90°00'00"	6.00	18.00	N00°00'00"E
C52	90°00'00"	6.00	18.00	N00°00'00"E
C53	90°00'00"	6.00	18.00	N00°00'00"E
C54	90°00'00"	6.00	18.00	N00°00'00"E
C55	90°00'00"	6.00	18.00	N00°00'00"E
C56	90°00'00"	6.00	18.00	N00°00'00"E
C57	90°00'00"	6.00	18.00	N00°00'00"E
C58	90°00'00"	6.00	18.00	N00°00'00"E
C59	90°00'00"	6.00	18.00	N00°00'00"E
C60	90°00'00"	6.00	18.00	N00°00'00"E
C61	90°00'00"	6.00	18.00	N00°00'00"E
C62	90°00'00"	6.00	18.00	N00°00'00"E
C63	90°00'00"	6.00	18.00	N00°00'00"E
C64	90°00'00"	6.00	18.00	N00°00'00"E
C65	90°00'00"	6.00	18.00	N00°00'00"E
C66	90°00'00"	6.00	18.00	N00°00'00"E
C67	90°00'00"	6.00	18.00	N00°00'00"E
C68	90°00'00"	6.00	18.00	N00°00'00"E
C69	90°00'00"	6.00	18.00	N00°00'00"E
C70	90°00'00"	6.00	18.00	N00°00'00"E
C71	90°00'00"	6.00	18.00	N00°00'00"E
C72	90°00'00"	6.00	18.00	N00°00'00"E
C73	90°00'00"	6.00	18.00	N00°00'00"E
C74	90°00'00"	6.00	18.00	N00°00'00"E
C75	90°00'00"	6.00	18.00	N00°00'00"E
C76	90°00'00"	6.00	18.00	N00°00'00"E
C77	90°00'00"	6.00	18.00	N00°00'00"E
C78	90°00'00"	6.00	18.00	N00°00'00"E
C79	90°00'00"	6.00	18.00	N00°00'00"E
C80	90°00'00"	6.00	18.00	N00°00'00"E
C81	90°00'00"	6.00	18.00	N00°00'00"E
C82	90°00'00"	6.00	18.00	N00°00'00"E
C83	90°00'00"	6.00	18.00	N00°00'00"E
C84	90°00'00"	6.00	18.00	N00°00'00"E
C85	90°00'00"	6.00	18.00	N00°00'00"E
C86	90°00'00"	6.00	18.00	N00°00'00"E
C87	90°00'00"	6.00	18.00	N00°00'00"E
C88	90°00'00"	6.00	18.00	N00°00'00"E
C89	90°00'00"	6.00	18.00	N00°00'00"E
C90	90°00'00"	6.00	18.00	N00°00'00"E
C91	90°00'00"	6.00	18.00	N00°00'00"E
C92	90°00'00"	6.00	18.00	N00°00'00"E
C93	90°00'00"	6.00	18.00	N00°00'00"E
C94	90°00'00"	6.00	18.00	N00°00'00"E
C95	90°00'00"	6.00	18.00	N00°00'00"E
C96	90°00'00"	6.00	18.00	N00°00'00"E
C97	90°00'00"	6.00	18.00	N00°00'00"E
C98	90°00'00"	6.00	18.00	N00°00'00"E
C99	90°00'00"	6.00	18.00	N00°00'00"E
C100	90°00'00"	6.00	18.00	N00°00'00"E

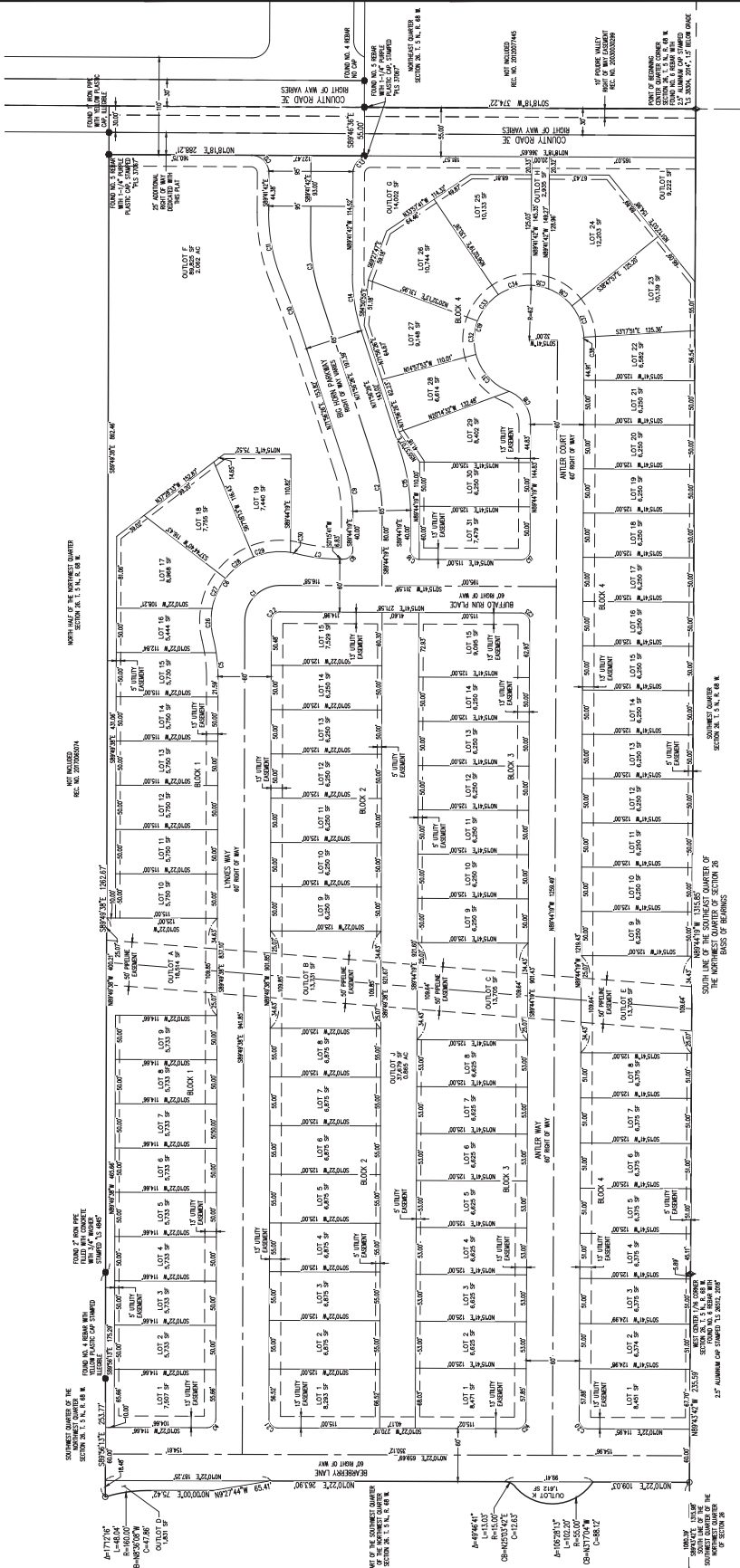


EXHIBIT B-2
(RESOLUTION APPROVING PLAT OR PLAN)
(SEE ATTACHED)

**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT
FOR
TOWN OF JOHNSTOWN
(The Ridge Johnstown, Filing No. 2)**

EXHIBIT B-3

ADDITIONAL TERMS, CONDITIONS OR PROVISIONS

1. Non-potable Water System. Concurrent with the execution of this Agreement, the Town and Developer are entering into a Water and Sewer Service Agreement. If the Developer hereinafter desires to utilize a non-potable water system to water common landscaped areas, the Town and Developer agree to enter into a subsequent agreement regarding such system and amend the WSSA to reflect the reduced potable water requirement.
2. County Road 18 (“CR18”) Traffic Signal. Because the Development will directly impact traffic on CR 18, when a traffic signal is warranted at the intersection of CR18 and High Plains Boulevard (LCR3), Developer or the Villages at Johnstown Metropolitan District No. 1 (“District”) shall pay a pro-rata share of the cost of the traffic signal based on a percentage to be determined by a traffic study completed at that time. Such amount shall be due and payable within thirty (30) days of written notice from the Town.
3. County Road 3e (CR3e) Transportation Improvements. In conjunction with The Ridge at Johnstown, Filing No. 1 (“Filing No. 1 Development”), and related agreements:
 - a. Developer agrees to construct improvements, including curb, gutter, sidewalk and tree lawn, to CR3e along the frontage of the Development (the north to south edge of Development being the frontage) to an Interim Minor Arterial Cross Section standard (two-lane) as described in the Town’s Transportation Plan. Such improvements shall be in place prior to the issuance of the first certificate of occupancy for a residential structure in the Development, except that, in Town staff’s discretion, completion of the tree lawn improvements may be extended until a reasonable date after issuance of the first certificate of occupancy.
 - b. Due to the traffic generated by the Development and by the Filing No. 1 Development, paving of the current two-lane LCR3e is required from County Road 18 to the northern boundary of the Development frontage, and from County Road 16 to the southern boundary of the Development frontage, as traffic is anticipated to exceed the 400 VPD Larimer County threshold for an unpaved road. Paving, turn lanes and interchange improvements as required by the master traffic study from County Road 18 to the northern boundary of the Development shall be completed by the Developer on or before the Town’s issuance of certificates of occupancy for a cumulative one hundred thirty (130) single family homes for Filings No. 1 and No. 2. Paving and any required turn lane improvements from the southern boundary of the Development to County Road 16 shall be completed by the Developer within one (1)

year following the issuance of the cumulative 130 certificates of occupancy. Subject to Larimer County's agreement and approval, paving from County Road 18 to the northern boundary of the Development may be subject to a reimbursement agreement among the Town, the Developer, and Larimer County.

- c. Prior to commencement of the CR3e improvements set forth in subparts (a) and (b), and in sufficient time to allow Developer to meet the required deadlines, Developer shall obtain the appropriate Larimer County approvals. If any updated associated traffic study shows that additional improvements to CR3e are warranted based on the generation of traffic arising from or related to Filings No. 1 and No. 2, Developer shall be obligated to construct those improvements in the form and manner required by the Town.
4. **Off-site Sanitary Sewer Line.** In connection with the Filing No. 1 Development, Developer is required to install an offsite sanitary sewer line ("Offsite Sanitary Sewer Line") extending a new main north from the Property within the future CR3 right-of-way alignment and then east to the Low Point Wastewater Treatment Plant ("LPWWTP"), in accordance with approved construction drawings and in compliance with Town standards, as more fully described in the Subdivision Improvement and Development Agreement for the Ridge at Johnstown, Filing No. 1, dated on or about August 3, 2020 ("Filing No. 1 Development Agreement"). Development of this Property is wholly contingent upon construction of the Offsite Sanitary Sewer Line, and completion of the Offsite Sanitary Sewer Line, in accordance with the Filing No. 1 Development Agreement, is a condition precedent to the right to obtain building permits in this Development.
 5. **Interchange Reimbursement Fee.** Developer recognizes and agrees that the Town intends to adopt a special fee to obtain reimbursement for the Town's costs related to the improvements to the Interstate 25 and State Highway 402 interchange ("Interchange") and that such fee shall be due and payable upon issuance of building permits in the Development. The Town recognizes that Developer incurred costs to improve the Interchange. Without waiving its rights, and specifically reserving the right to collect the special fee in full as adopted, the Town agrees, at a subsequent date, to consider the costs expended by the Developer that benefit the area generally, and not just the Development specifically, as an offset against the funds due and owing to the Town from the imposition of the special fee.
 6. **Construction drawings.** Civil construction drawings shall be approved by the Town Engineer and a pre-construction meeting with the Town Public Works Department shall be conducted prior to commencement of construction of the Public Improvements. Construction drawings for off-site improvements may also be subject to approval by the other governing entities with jurisdiction, including, but not necessarily limited to, Larimer County. Developer shall coordinate any such approvals and required license, permits and similar items directly with those entities.
 7. **Magellan Pipeline Easement and Encroachment Agreement.** In order to construct and use Public and Private Improvements, Developer is required to cross the existing 50-foot easement for the Magellan Pipeline Company, L.P., located on the Property. Magellan

Pipeline, the Town and Developer have executed; 1) a Partial Release and Grant of Right of Way, recorded in the records of the Larimer County Clerk and Recorder, on August 21, 2020, Reception No. 202000655510, and; 2) an Encroachment Agreement on September 11, 2020, Reception No. 20200073045 (collectively “Magellan Agreements”) for Developer to cross Magellan’s easement. Developer shall amend the Magellan Agreements with Magellan and the Town to include the District before the acceptance of the Public and Private Improvements by the Town.

8. Harry Lateral Ditch Company Irrigation Easement and Agreement. A Harry Lateral Ditch Company irrigation ditch currently bisects the Property, and must be diverted and piped through the Development while maintaining appropriate flows. An exclusive easement is granted on the plat. Developer shall provide the final as-built drawing to the Town prior to the Town’s initial acceptance of the improvement. Developer shall also execute an easement agreement with the Harry Lateral Ditch Company, in a form that it is acceptable to the Town.
9. Detention pond(s). The District shall own and maintain the detention pond(s) in the Development. Upon final construction and with Initial Acceptance of Public Improvements, Developer shall furnish to the Town final as-built plans and an approved Operation and Maintenance manual for the District-owned detention pond(s). The District shall maintain these facilities, with notice provided by the Town for any maintenance needed; if within a reasonable time period, at the sole discretion of the Director of Public Works, required maintenance remains outstanding, the Town may perform said maintenance and seek recovery of expenses for said work from the District, in accordance with all applicable laws. Developer must submit as built plans in hard copy and electronic format, as well as completed Mile High Flood District UD Detention Pond worksheet(s) with all necessary calculations, in electronic form (Excel spreadsheet, or as currently required).
10. Open Spaces, Parks and Trails. Developer shall dedicate all property containing open space, park areas and trails to the District no later than issuance of final Certificate of Occupancy. The open spaces, parks and trails shall be available for public use, subject to the Districts’ approved service plan.
11. Development Schedule. Developer, in cooperation with the Town, intends to deliver lots to builders in phases throughout the Development. Phased lot delivery will be coordinated with the Town, Front Range Fire Rescue Fire Protection District, and include coordination regarding emergency access, sewer phasing, and the issuance of building permit.
12. Fencing. Prior to installation, Developer and Town staff shall agree upon fencing for the Development
13. Landscaping. In Town staff’s discretion, landscaping may deviate from the approved Performance Standards for the Development including low-water xeriscape requirements for single family lots enforceable by the homeowners’ association for the Development, and to be included as a requirement in the Water and Sewer Service Agreement.

(SEE ATTACHED FOR REVIEW)

EXHIBIT C
SCHEDULE OF PUBLIC IMPROVEMENTS
(ATTACHED)

EXHIBIT C



5265 Ronald Reagan Blvd., Suite 210
Johnstown, CO 80534
970.800.3300 • GallowayUS.com

**The Ridge Filing 1 - ACTUAL
ENGINEER'S OPINION OF PROBABLE COST**

ITEM NO.	DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	COST
1	6" ABC Under 4" HBP	Square Yard	34,887	\$ 16.25	\$ 566,913.75
2	7" ABC Under 5" HBP	Square Yard	4,983	\$ 19.50	\$ 97,168.50
3	9.5" ABC Under 7" HBP (CR3E)	Square Yard	10,283	\$ 22.75	\$ 233,938.25
4	Town of Johnstown Crosspans (6-Foot)	Each	5	\$ 965.00	\$ 4,825.00
					\$ 902,845.50
5	18" Reinforced Concrete Pipe (Class III)	Linear Foot	1,588	\$ 40.00	\$ 63,502.80
6	24" Reinforced Concrete Pipe (Class III)	Linear Foot	2,711	\$ 52.00	\$ 140,994.88
7	30" Reinforced Concrete Pipe (Class III)	Linear Foot	684	\$ 65.00	\$ 44,473.65
8	36" Reinforced Concrete Pipe (Class III)	Linear Foot	1,288	\$ 85.00	\$ 109,500.40
9	42" Reinforced Concrete Pipe (Class III)	Linear Foot	547	\$ 115.00	\$ 62,921.10
10	48" Reinforced Concrete Pipe (Class III)	Linear Foot	330	\$ 128.75	\$ 42,487.50
11	54" Reinforced Concrete Pipe (Class III)	Linear Foot	182	\$ 150.00	\$ 27,319.50
12	4' Dia. Storm Sewer Manhole	Each	8	\$ 1,930.00	\$ 15,440.00
13	5' Dia. Storm Sewer Manhole	Each	8	\$ 2,500.00	\$ 20,000.00
14	6' Dia. Storm Sewer Manhole	Each	4	\$ 3,575.00	\$ 14,300.00
15	7' Dia. Storm Sewer Manhole	Each	2	\$ 6,865.00	\$ 13,730.00
16	8' Dia. Storm Sewer Manhole	Each	3	\$ 7,500.00	\$ 22,500.00
17	3' Concrete Cutoff Walls	Each	2	\$ 180.00	\$ 360.00
18	24" RCP Flared End Section	Each	1	\$ 550.00	\$ 550.00
19	Inlet, Type R (5')	Each	1	\$ 3,952.00	\$ 3,952.00

**The Ridge Filing 1 - ACTUAL
ENGINEER'S OPINION OF PROBABLE COST**

ITEM NO.	DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	COST
20	Inlet, Type R (10')	Each	2	\$ 5,935.00	\$ 11,870.00
21	Inlet, Type R (15')	Each	1	\$ 8,225.00	\$ 8,225.00
22	Inlet, Type R (20')	Each	7	\$ 10,350.00	\$ 72,450.00
23	Inlet, Type 16 (3')	Each	1	\$ 3,250.00	\$ 3,250.00
24	Inlet, Type 16 (12')	Each	1	\$ 6,250.00	\$ 6,250.00
25	Inlet, Type 16 (18')	Each	7	\$ 9,900.00	\$ 69,300.00
26	Inlet, Type C (35" x 35")	Each	4	\$ 2,535.00	\$ 10,140.00
27	Modified CDOT Box 10'x11' Box Base MH	Each	1	\$ 12,850.00	\$ 12,850.00
28	Pond Outlet Structure	Each	2	\$ 7,670.00	\$ 15,340.00
29	Forbay Structure	Each	3	\$ 3,575.00	\$ 10,725.00
30	Trickle Channel	Linear Feet	1,458	\$ 16.50	\$ 24,057.00
					\$ 826,488.83
31	6" Concrete Sidewalk (5')	Square Yard	11,768	\$ 9.00	\$ 105,912.00
32	6" Concrete Sidewalk (8')	Square Yard	3,576	\$ 9.00	\$ 32,184.00
33	6" Concrete Sidewalk (10')	Square Yard	2,184	\$ 9.00	\$ 19,656.00
33	Square Handicap Ramp	Each	16	\$ 940.00	\$ 15,040.00
34	Radius with Handicap Ramp	Each	24	\$ 1,105.00	\$ 26,520.00
34	Curb and Gutter, Mountable	Linear Foot	17,049	\$ 15.50	\$ 264,259.50
35	Curb and Gutter, Vertical	Linear Foot	3,150	\$ 15.50	\$ 48,825.00
35	Curb and Gutter, Island	Linear Foot	467	\$ 13.50	\$ 6,304.50
36	Speed Limit Signs	Each	5	\$ 410.00	\$ 2,050.00
37	Stop Signs	Each	13	\$ 320.00	\$ 4,160.00

**The Ridge Filing 1 - ACTUAL
ENGINEER'S OPINION OF PROBABLE COST**

ITEM NO.	DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	COST
38	Street Name Signs	Each	13	\$ 320.00	\$ 4,160.00
					\$ 529,071.00
39	8" Sanitary SDR 35 PVC Pipe, (Complete in place)	Linear Foot	9,622	\$ 30.00	\$ 288,660.00
40	Sanitary Services	Each	208	\$ 650.00	\$ 135,200.00
41	4' Dia. Sanitary Sewer Manhole	Each	32	\$ 2,795.00	\$ 89,440.00
42	6' Dia. Sanitary Sewer Manhole w/ Platform	Each	3	\$ 3,225.00	\$ 9,675.00
					\$ 522,975.00
43	Fire Hydrant Assembly with 6" Gate Valve	Each	16	\$ 3,120.00	\$ 49,920.00
44	6" Water C900 PVC PIPE (Complete in Place)	Linear Foot	280	\$ 30.00	\$ 8,400.00
45	8" Water C900 PVC PIPE (Complete in Place)	Linear Foot	10,557	\$ 32.50	\$ 343,102.50
46	20"x8" Tee and Gate Valve	Each	1	\$ 1,625.00	\$ 1,625.00
47	8" Gate Valve	Each	46	\$ 1,072.50	\$ 49,335.00
48	8"x8" Cross	Each	2	\$ 495.00	\$ 990.00
49	6"x8" Reducer	Each	2	\$ 133.00	\$ 266.00
50	8"x8" Tee	Each	7	\$ 330.00	\$ 2,310.00
50	8"x6" Swivel Tee	Each	15	\$ 285.00	\$ 4,275.00
52	6" Gate Valve	Each	16	\$ 590.00	\$ 9,440.00
53	Water Services	Each	208	\$ 1,075.00	\$ 223,600.00
54	8" Deflection	Each	6	\$ 405.00	\$ 2,430.00
55	11.25 Bend	Each	10	\$ 200.00	\$ 2,000.00
56	45 Bend	Each	2	\$ 200.00	\$ 400.00

**The Ridge Filing 1 - ACTUAL
ENGINEER'S OPINION OF PROBABLE COST**

ITEM NO.	DESCRIPTION	UNITS	QUANTITY	UNIT PRICE	COST
57	90 Bend	Each	2	\$ 215.00	\$ 430.00
58	Testing Chlorination	Each	10,557	\$ 2.00	\$ 21,114.00
					\$ 719,637.50
58	15" Sanitary PVC (Off-Site)	Each	4,174	\$ 50.00	\$ 208,700.00
58	12" Sanitary PVC (Off-Site)	Each	1,798	\$ 46.25	\$ 83,157.50
58	4' Sanitary Manhole (Off-Site)	Each	11	\$ 2,762.50	\$ 30,387.50
58	6' Sanitary Manhole (Off-Site)	Each	5	\$ 8,580.00	\$ 42,900.00
					\$ 365,145.00
Total					\$ 3,866,162.83

EXHIBIT D**FORM—IRREVOCABLE LETTER OF CREDIT****NAME OF ISSUING BANK** _____**ADDRESS OF ISSUING BANK** _____

Town of Johnstown
450 So. Parish
P. O. Box 609
Johnstown, CO 80534

ATTENTION: TOWN OF JOHNSTOWN ATTORNEY AND TOWN MANAGER

We hereby establish, at the request and for the account of this Irrevocable Letter of Credit in favor of the Town of Johnstown in the amount of \$ _____. The purpose of this Letter of Credit is to secure performance of a Development Agreement for _____, dated this day _____ of _____, 20____, between the Town of Johnstown and _____.

You are hereby authorized to draw by drafts or written demands up to the aggregate amount of \$ _____. The sole condition for payment of any demand made or draft drawn against this Irrevocable Letter of Credit is that the Town's demand or draft be accompanied by a letter, on the Town's stationery, signed by the Town Manager to the effect that "the Town of Johnstown has declared a default under the Development Agreement."

Partial and multiple drawings are permitted hereunder.

We hereby agree with the Town of Johnstown and its drawers, endorsers, and bona fide holders of demands made or drafts negotiated under this Letter of Credit that the same shall be duly honored upon presentation and delivery of the documents as specified above.

This Irrevocable Letter of Credit is not transferable.

This Letter of Credit shall be for a twelve (12) month term from the date of execution hereof. It is a condition of this Letter of Credit that it shall be automatically renewed, without amendment, for additional periods of one year each from the present or any future expiration date, unless, at least sixty (60) calendar days prior to the effective expiration date, the Town Manager notifies you in writing delivered by certified U.S. mail, return receipt requested, to your address set forth above that the Town of Johnstown elects not to renew this Letter of Credit for any further additional period. Upon your receipt of our written notification of impending expiration, you may draw the unused balance of this Irrevocable Credit upon your written demand or your sight draft.

With the exception of C.R.S. §4-5-108(b) concerning the period of time in which to honor or reject a draft, demand or credit, this Letter of Credit shall be governed and construed in accordance with the laws of the State of Colorado. In the event of a conflict between the provisions of the Colorado Uniform Commercial Code and the provisions hereof, the provisions hereof shall control.

Signed this _____ day of _____, 20_____.

Issuing Bank: _____

By: _____

Officer's Title: _____

Address: _____

STATE OF _____)
) ss.
COUNTY OF _____)

SUBSCRIBED AND SWORN to before me this _____ day of _____,
20_____, by _____ as the _____ of _____.

WITNESS my hand and official seal.

My commission expires:

Notary Public



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: The Ridge at Johnstown Filing No. 2 – Water and Sewer Service Agreement

ACTION PROPOSED: Consider Approving the Water and Sewer Service Agreement for The Ridge at Johnstown Filing No. 2

ATTACHMENTS: 1. Water and Sewer Service Agreement

PRESENTED BY: Kim Meyer, Director of Planning & Development

AGENDA ITEM DESCRIPTION:

Enclosed for Council's review and approval is a Water and Sewer Service Agreement for The Ridge at Johnstown Filing No. 2, with J-25 Land Holdings, LLC and the Villages at Johnstown Metropolitan District No. 1.

The agreement follows the Town's standard template and includes water allocation for 80 single family lots and homes, as well as 0.65 acres of irrigated common areas. This PUD is serving as a pilot project to employ strong water conservation measures throughout the development, including single family lot requirements that restrict turf areas to a rear yards only.

Water was dedicated in Fall 2020 for The Ridge at Johnstown, with the creation of a water bank to track application of that water to specific development. This agreement allocates 34.78 AF of water for this subdivision. The remaining balance is 14.60 AF that may be applied to future development within the PUD.

LEGAL ADVICE:

The Town Attorney drafted this agreement.

FINANCIAL ADVICE:

Not applicable.

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

RECOMMENDED ACTION:

Approve The Ridge at Johnstown Filing No. 2, Water and Sewer Service Agreement.

SUGGESTED MOTIONS:

For Approval

I move to approve The Ridge at Johnstown Filing No. 2, Water and Sewer Service Agreement.

For Denial

I move to deny The Ridge at Johnstown Filing No. 2, Water and Sewer Service Agreement.

Reviewed and Approved for Presentation,

Town Manager

ATTACHMENT 1

**WATER AND SEWER SERVICE AGREEMENT
(The Ridge at Johnstown, Filing No. 2)**

THIS WATER AND SEWER SERVICE AGREEMENT ("Agreement") is made and entered into this ____ day of December 2020, by, between and among **J-25 Land Holdings, LLC**, a Delaware Limited Liability Company ("Developer"), the **Town of Johnstown**, a Colorado municipal corporation ("Town") and the **Villages at Johnstown Metropolitan District No. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado ("District"), collectively sometimes referred to as the "Parties".

WITNESSETH:

WHEREAS, the Developer is the owner of land situated in a portion of the S1/2NW1/4 of Section 26, T.5N, R.68 W. of the 6th P.M., Town of Johnstown, County of Larimer, State of Colorado County, known as The at Ridge Johnstown Filing No. 2, more specifically described on Exhibit A attached hereto and incorporate herein by reference ("Subject Property"); and

WHEREAS, the Developer and the Town entered into an Agreement Concerning Water Rights Dedication Between Town of Johnstown and J-25 Land Holdings LLC, dated August 3, 2020 ("Water Bank Agreement"), which, upon the dedication of certain shares of the Consolidated Home Supply Ditch & Reservoir Company by the Developer, established The Ridge Water Bank; and

WHEREAS, the Subject Property is being developed to include: 80 single-family detached homes with irrigated landscape averaging 2,404.5 square feet per lot and totaling 4.41 irrigated acres ("Project"); and

WHEREAS, the Developer and the Town desire to set forth their agreement concerning water rights dedication and use of The Ridge Water Bank, 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, Chapter 13, Sections 13-61 through 13-72, inclusive, of the Johnstown Municipal Code, as amended, ("Ordinance"), the Developer has submitted to the Town a preliminary water and sewer demand analysis for the Project dated August 18, 2020. 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 August 20, 2020, is hereby accepted by the Town as to the potable water demands. The analysis provided by Developer addresses the projected water and sewer demands for the Project as follows:

Development Component (Potable)	Demand (AF/YR)	Consumption (AF/YR)
In-house water use	26.40	1.32
Residential landscaping	7.73	6.57
Common area irrigation	0.65	0.55
Total potable water use	34.78	8.44

2. Low Water Landscaping. This Agreement is expressly based and contingent upon compliance with the following requirements: (i) the residential homes shall only be entitled to use irrigated turf in the backyards with landscape plans providing that not more than fifty percent (50%) of the total landscaping be irrigated with moderate to high water use vegetation and that the remainder of the landscaping follow xeric design principles; (ii) the residential homes shall use xeric design principles in the front yards; and (iii) the common area shall include at least 0.65 acres of xeric design principles (collectively, “Low Water Landscaping Requirements”). The Developer recognizes and agrees that the Low Water Landscaping Requirements are material terms of this Agreement. Subsequent to development, the obligation to meet and maintain the Low Water Landscaping Requirements shall continue and shall be a covenant running with the land. If, at any time, the Low Water Landscaping Requirements are not met and maintained, then the Developer, District or homeowners’ association, as appropriate, shall be dedicate additional water to the Town as further described in Paragraph 6.

3. Water Rights Dedication. The Developer has previously dedicated to the Town eighteen (18) shares of stock in the Consolidated Home Supply Ditch & Reservoir Company pursuant to the Water Bank Agreement, resulting in a surplus dedication credit with the Town of approximately 144.00 acre-feet per year of potable water, of which 94.62 acre-feet has been allocated to the at Ridge Johnstown Filing No. 1. Pursuant to Paragraph 5 of the Water Bank Agreement, prior to the issuance of any building permits for the Subject Property, the Town and the Developer must enter into a water and sewer service agreement. The Town and the Developer agree that they will apply the water held in The Ridge Water Bank to supply the necessary water for the Project.

4. Water Bank Credit. Subsequent to the use of the water for the Project, the Developer will have a credit in The Ridge Water Bank of approximately 14.60 acre-feet. The credit is calculated as follows:

Credit for potable water dedicated:	49.38 acre-feet
LESS:	
Estimated potable demand:	<u>34.78 acre-feet</u>
Net current water bank credit:	14.60 acre-feet

5. 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 34.78 acre-feet per year of potable water supply together with the corresponding sewer service to include up to 26.40 acre-feet per year of potable water supply for in-home use together with the corresponding sewer service, 7.73 acre-feet of water supply for approximately 4.41 acres of

irrigated residential lawns and landscaping and 0.65 acre-feet of water supply for xeric irrigated common area.

6. Future review of water usage and dedication requirements. In accordance with Section 13-68(h) of 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. The additional water rights shall be dedicated from, and/or cash-in-lieu payments made by, the Developer or the District, as appropriate at the time. If the District has dissolved, then the additional water shall be dedicated by the metropolitan district providing covenant enforcement or by the operative homeowners' association. If, at a point in time after water usage has been established, the Town determines that the actual water usage is less than the water demand projection, upon written approval of the Town and execution of a subsequent agreement, the Developer may use the surplus water to satisfy the raw water demands associated with other phases of The Ridge at Johnstown development.

7. Payment of Water Court Transfer fees. The water court transfer fee for the water supply held in The Ridge Water Bank was previously paid to the Town. However, in accordance with the Ordinance, additional fees may be required in connection with future development of any property to which all or any portion of the surplus dedication credit is subsequently assigned pursuant to a subsequent mutual agreement of the Parties in accordance with the Town's Ordinance.

8. Notices. All notices required or permitted to be given hereunder shall be in writing and shall be deemed given: (a) upon hand delivery with receipt of delivery, (b) upon deposit with Federal Express, UPS or other nationally recognized overnight courier service, receipt required, or (c) when transmitted via email, provided the sending party receives a read-receipt for the email. All notices shall be addressed as follows:

TO DEVELOPER:
J-25 Land Holdings, LLC
Attn: Roy Bade
Copy: Courtney Bring
8901 E Mountain View Rd, Suite 150
Scottsdale, AZ 85258
Email: Roy.Bade@caliberco.com
Email: Courtney.Bring@Caliberco.com

WITH A COPY TO:
Hunter & Goodhue, PLLC
Attn: Mark F. Hunter
4845 Pearl East Circle, Ste 101
Boulder, CO 80302
Email: mark@huntgoodlaw.com

TO THE TOWN:
Town of Johnstown
c/o Town Clerk
450 S. Parish Ave.
Johnstown, CO 80534
Email: dseele@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, Esq.
Hill & Robbins, P.C.
1660 Lincoln Street, Suite 2720
Denver, CO 80264
Email: peterampe@hillandrobbins.com

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

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

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

16. 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 Larimer County, State of Colorado.

17. 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.

18. 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

19. Recordation. This Agreement may be recorded by the Town at the Developer's expense in the office of the Clerk and Recorder of Larimer 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.

(Remainder of page intentionally left blank.)

By: Caliberco, Inc., a Delaware corporation, as its sole Member

)

Notary Public

Villages at Johnstown Metropolitan District No. 1

By: _____

Mark F. Hunter, President

STATE OF COLORADO)

)ss.

COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 15 day of December by Mark F. Hunter, President, Villages at Johnstown Metropolitan District No. 1.

WITNESS my hand and official seal.


 Notary Public
My commission expires: 6/12/2024

TERRY RENEE BERGER NOTARY PUBLIC STATE OF COLORADO NOTARY ID 20204020644 MY COMMISSION EXPIRES JUNE 12, 2024
--

Town of Johnstown, Colorado
a municipal corporation

By: _____
Gary Lebsack, Mayor

ATTEST:

By: _____
Diana Seele, Town Clerk

EXHIBIT A
Subject Property

PART OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 26,
TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PM, LARIMER COUNTY,
COLORADO, DESCRIBED AS FOLLOWS;

BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 26,
MONUMENTED WITH A 2 ½" ALUMINUM CAP IN RANGE BOX, STAMPED LS 38304,
2014.

THENCE N89°44'19"W, A DISTANCE OF 1315.85 FEET ON THE SOUTH LINE OF THE
SOUTHEAST QUARTER OF SAID NORTHWEST QUARTER TO THE CENTER WEST
1/16TH CORNER, MONUMENTED WITH A NUMBER 6 REBAR WITH A 2 ½" ALUMINUM
CAP STAMPED 26512, 2018;

THENCE N89°43'42"W, A DISTANCE OF 235.59 FEET ON THE SOUTH LINE OF THE
SOUTHWEST QUARTER OF SAID NORTHWEST QUARTER;

THENCE N00°10'22"E, A DISTANCE OF 109.03 FEET TO A NON-TANGENT POINT OF
CURVATURE;

THENCE ON A SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 55.00 FEET, A
CENTRAL ANGLE OF 106°28'13", A DISTANCE OF 102.20 FEET, A CHORD BEARING
OF N03°17'04"W WITH A CHORD DISTANCE OF 88.12 FEET TO A REVERSE CURVE;

THENCE ON A SAID CURVE TO THE LEFT, HAVING A RADIUS OF 15.00 FEET, A
CENTRAL ANGLE OF 49°46'41", A DISTANCE OF 13.03 FEET, A CHORD BEARING OF
N25°03'42"E WITH A CHORD DISTANCE OF 12.63 FEET;

THENCE N00°10'22"E, A DISTANCE OF 263.90 FEET;

THENCE N09°27'44"W, A DISTANCE OF 65.41 FEET;

THENCE N00°00'00"E, A DISTANCE OF 75.42 FEET;

THENCE ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 160.00 FEET, A
CENTRAL ANGLE OF 17°12'16", A DISTANCE OF 48.04 FEET, A CHORD BEARING OF
N08°36'08"W WITH A CHORD DISTANCE OF 47.86 FEET TO THE NORTH LINE OF
SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26;

THENCE S89°56'13"E, A DISTANCE OF 253.77 FEET ON SAID NORTH LINE TO THE
CENTER 1/16TH CORNER OF THE NORTHWEST QUARTER, MONUMENTED BY A 2"
IRON PIPE FILLED WITH CONCRETE AND A ¾" WASHER STAMPED LS 4845 SET IN
THE CONCRETE;

THENCE S89°49'38"E, A DISTANCE OF 1262.67 FEET ON THE NORTH LINE OF THE
SOUTH HALF OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER TO
THE WEST RIGHT OF WAY LINE OF COUNTY ROAD 3E, MONUMENTED WITH A
NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED "PLS 37067";

THENCE S00°18'18"W, A DISTANCE OF 288.21 FEET ON SAID WEST RIGHT OF WAY LINE, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED "PLS 37067";

THENCE S89°46'36"E, A DISTANCE OF 55.00 FEET TO THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, MONUMENTED WITH A NUMBER 5 REBAR WITH A 1-1/4" PURPLE PLASTIC CAP STAMPED "PLS 37067";

THENCE S00°18'18"W, A DISTANCE OF 374.22 FEET ON SAID EAST LINE TO THE POINT OF BEGINNING.

PARCEL CONTAINS 1,013,967 SQUARE FEET OR 23.777 ACRES.

BASIS OF BEARING:

BEARINGS ARE BASED ON THE COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, IN WHICH THE SOUTH LINE OF SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 26, T5N, R68W, 6TH PM, LARIMER COUNTY, CO; BEARS N89°44'19"W, A DISTANCE OF 1,315.85 FEET BETWEEN THE CENTER QUARTER CORNER OF SECTION 26, MONUMENTED A 2 1/2" ALUMINUM CAP IN RANGE BOX, STAMPED LS 38304, 2014. AND THE CENTER WEST 1/16TH CORNER, MONUMENTED WITH A NUMBER 6 REBAR WITH A 2 1/2" ALUMINUM CAP STAMPED 26512, 2018; WITH ALL OTHER BEARINGS RELATIVE THERETO.



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 7, 2020

SUBJECT: **Resolution Number 2020-41**

ACTION PROPOSED: Consider Resolution No. 2020-41

ATTACHMENTS: 1. Resolution 2020-41
2. Copy of Cemetery Rules and Regulations

PRESENTED BY: Diana Seele, Town Clerk

AGENDA ITEM DESCRIPTION: In conjunction with Ordinance No. 2020-188, an ordinance repealing and readopting Article VI of Chapter 11 of the Johnstown Municipal Code concerning the Johnstown Cemetery (“Cemetery”), the Town Council may consider adopting revised rules and regulations governing the use of the Cemetery (“Rules and Regulations”).

The proposed Rules and Regulations address administration of the Cemetery operations, the purchase of grave spaces and columbarium niches, the transfer and assignment of burial spaces, the rights and responsibilities of the Town, which includes perpetual care, procedures related to interments and disinterments, decorations and memorial work in the Cemetery and conduct in the Cemetery. The Rules and Regulations provide that the Town Manager has the right of general control of the Cemetery in all matters and that the Town Manager delegates authority to the Public Works Director for the management and operation of the Cemetery grounds and to the Town Clerk for the day-to-day administration of the Cemetery.

While these initial Rules and Regulations are presented to the Town Council for review, consistent with Ordinance No. 2020-188, the Town Manager would have authority to modify, amend or supplement the Rules and Regulations going forward.

LEGAL ADVICE:

The Town Attorney prepared Resolution No. 2020-41.

FINANCIAL ADVICE:

The Community That Cares

www.TownofJohnstown.com

RECOMMENDED ACTION: Approve Resolution No. 2020-41

SUGGESTED MOTIONS:

For Approval: I move to approve Resolution No. 2020-41, Resolution Adopting Cemetery Rules and Regulations.

For Denial: I move to deny approval of Resolution No. 2020-41.

Reviewed and Approved for Presentation,

Town Manager

**TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2020-41**

RESOLUTION ADOPTING CEMETERY RULES AND REGULATIONS

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 Manager, Town Clerk and Town Public Works Director recommend that the Town adopt amended rules and regulations concerning the Johnstown Cemetery; and

WHEREAS, based on the recommendation, the Town Council desires to adopt amended rules and regulations; and

WHEREAS, the Town Council finds that 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:

1. The Town Council hereby adopts the Cemetery Rules and Regulations, attached hereto and incorporated herein by reference as Exhibit A.
2. The Cemetery Rules and Regulations adopted herein shall supersede and replace previously adopted rules and regulations.
3. All other Resolutions, or parts thereof, in conflict with this Resolution are hereby repealed, except that such repealer shall not repeal the repealer clauses of such Resolutions nor revive any Resolution thereby.
4. If any portion of this resolution is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions hereof.

PASSED, SIGNED, APPROVED, AND ADOPTED this ____ day of _____, 2020.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

CEMETERY RULES AND REGULATIONS

RULES AND REGULATIONS OF THE JOHNSTOWN MUNICIPAL CEMETERY

1.0 **PURPOSE**

1.1 **DECLARATION OF PURPOSE.**

These rules and regulations shall be the minimum requirements enacted for the mutual benefit and protection of the owners of burial spaces at the Johnstown Cemetery and the Town of Johnstown (“Town”) and are enacted to ensure the Johnstown Cemetery maintains a uniform and permanent beauty.

2.0 **DEFINITIONS**

As used in these rules and regulations, the following terms shall have the meanings set forth below:

BURIAL MEMORIAL - The term “burial memorial” shall mean any type of gravestone, tombstone, headstone, memorial, monument, or marker that commemorates the permanent disposition of the remains of a human body either below or above the surface of the ground.

BURIAL SPACE – The term “burial space” shall mean a grave space or a niche, as appropriate.

CEMETERY - The term “Cemetery” shall mean the Johnstown Cemetery, a burial park for earth and crypt interments.

COLUMBARIUM – The term “columbarium” shall mean a vault with niches for urns containing the ashes of cremated bodies.

DISINTERMENT - The term “disinterment” shall mean the removal of the remains or cremains of a deceased person, the casket, if any, the burial receptacle from the ground or urn from the columbarium.

GRAVE SPACE - The term “grave space” shall mean a single space within a platted lot designed for the interment of one body.

INTERMENT - The term “interment” shall mean the permanent disposition of the remains of a deceased person by earth or crypt burial.

INTERMENT AGREEMENT – The term “interment agreement” shall mean an agreement for the provisional right to interment for the sole use and purpose of receiving interment, entombment or inurnment within the Cemetery.

LOT - The term “lot” shall mean a platted lot within the Cemetery and may consist of more than one grave space.

NICHE - The term “niche” shall mean a location within the columbarium vault designed to hold an urn containing the ashes of up to two cremated bodies.

OWNER – The term “owner” shall mean, unless the context otherwise provides, the person with the right to interment in a burial space or the person who purchases a burial space.

RESIDENT – The term “resident” shall mean a person who resides in the Town of Johnstown, the Town of Milliken or within three miles of the municipal boundaries of the Town of Johnstown at the time of purchase of a burial space, the time of death or within six months prior to the time of death. In its sole discretion, the Town may consider other factors and circumstances in determining whether a person is a resident, including, for example, whether the person moved from the Town of Johnstown to reside in a nursing home shortly prior to the time of death.

TRANSFER – The term “transfer” shall mean any sale, assignment, grant, transfer, conveyance, pledge or encumbrance.

URN – The term “urn” shall mean a vase or other container used to hold the ashes of a cremated body.

3.0 APPLICATION OF REGULATIONS

3.1 COMPLIANCE WITH REGULATIONS.

All owners, visitors, employees, persons working directly or indirectly for owners and all burial spaces sold shall be subject to these rules and regulations, and subject further to such other rules and regulations, amendments or alterations as shall be adopted by the Town from time to time; and the reference to these rules and regulations in the interment agreement to burial spaces shall have the same force and effect as if set forth in full therein.

3.2 EXCEPTIONS AND MODIFICATIONS.

Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. In such an instance, the Town shall have the right, without notice, to make exceptions or modification to any of these rules and regulations.

3.3 AMENDMENTS.

The Town may, at any time, adopt new rules or regulations or amend, alter or repeal any rule or regulation contained herein. Such new or amended rules and regulations shall be binding on the owners of all burial spaces, regardless of when the burial the space was purchased.

3.4 FAILURE TO COMPLY.

Failure to comply with any rule or regulation promulgated herein may be deemed a violation subject to enforcement pursuant to the Johnstown Municipal Code.

4.0 ADMINISTRATION AND ENFORCEMENT

4.1 OWNED AND CONTROLLED BY THE TOWN OF JOHNSTOWN.

The Cemetery is owned by the Town. The Town Manager, or designee, has the right of general control of the Cemetery in all matters, regardless of whether such matters are specifically covered by these rules and regulations.

4.2 MANAGEMENT OF THE CEMETERY.

Except as otherwise provided herein, the Town Manager hereby delegates authority to the Public Works Director for the management and operation of the Cemetery grounds and to the Town Clerk for the day-to-day administration of the Cemetery. The Public Works Director or Town Clerk may designate qualified staff or contractors to undertake the obligations set forth herein.

4.3 BUSINESS OFFICE.

All applications for (i) purchase, transfer, assignment or repurchase of burial spaces, (ii) interment and disinterment orders, or (iii) annual care or special permits of any kind must be made through the Town Clerk at Town Hall, 450 S. Parish, Johnstown, between the hours of 8:00 a.m. and 5:00 p.m.

4.4 ADMISSION TO CEMETERY.

The Town reserves the right to refuse admission to the Cemetery and to refuse the use of any of the Cemetery facilities to any person or persons when, in the Town's discretion, such course of conduct is in the best interest of the Cemetery and the Town.

5.0 PURCHASE OF GRAVE SPACES AND COLUMBARIUM NICHES

5.1 LOCATION AND PRICE OF BURIAL SPACES.

The Town Clerk shall maintain documentation showing the size, location and description of grave spaces and columbarium niches and a schedule of the prices. The schedule of prices for grave spaces and columbarium niches are set by the Town Council by resolution and set forth in the Town Fee Schedule.

5.2 IMMEDIATE USE OF BURIAL SPACE.

In cases where a burial space has not been previously purchased, full payment prior to burial is required, unless the mortuary assumes full responsibility for payment.

5.3 INDIGENCY.

When a request is made by a mortuary to inter an individual with insufficient funds to cover expenses, the Town shall work within the expense allowance granted by the Department of Social Services if the deceased was a resident. The Town may require proof of residency. The Town shall not be prohibited from participating in any arrangement with other cemeteries or mortuaries to share expenses in cases not covered by Social Service allowances.

5.4 REMAINS IN BURIAL SPACE.

Burial spaces shall only be used for human remains.

5.5 APPLICATION FOR BURIAL SPACE TO BECOME CONTRACT WHEN EXECUTED.

Applications for the purchase of burial spaces shall contain a description of the burial space and the purchase price. When executed by the Town, the application shall become a binding contract of purchase and sale of a right of interment only.

5.6 INTERMENT AGREEMENT; NO TITLE TO REAL PROPERTY.

Upon payment of the full purchase price for the burial space to the Town, the Town shall issue an interment agreement, signed by the Town Manager or the Town Clerk, conveying the right of interment for the designated burial space, subject to the Johnstown Municipal Code and these rules and regulations. The interment agreement shall contain appropriate contact information. For burial spaces, the interment agreement shall contain the block and lot number and, for niches, the interment agreement shall contain the niche description and location.

Interment agreements issued prior to adoption of these rules and regulations, or other similar instruments issued by the Town for a burial space in the Cemetery, shall remain valid and binding obligations of the Town.

The interment agreement, or any instrument issued by the Town for a burial space in the Cemetery, of whatever form, grants interment rights only and does not convey title to real property.

6.0 TRANSFERS OR ASSIGNMENTS

6.1 CONSENT OF TOWN.

No transfer or assignment of any burial space, or interest therein, shall be valid without the written consent of the Town, which shall thereafter be recorded on the books of the Town. The Town shall have the right to refuse to consent to a transfer or an assignment if there is any indebtedness due the Town.

6.2 SELLING GRAVE SPACES FOR RESALE.

No burial space shall be sold to or purchased by a funeral director or other persons for the purpose of resale or speculation.

7.0 RIGHTS AND RESPONSIBILITIES OF TOWN

7.1 WORK TO BE DONE BY TOWN.

Except as otherwise provided herein, all grading, landscape work, care of the lots and improvements of any kind shall be done by the Town, all trees, shrubs and bushes of any kind shall be planted, trimmed, cut or removed by the Town, and all opening and closing of graves shall be done by the Town.

7.2 TOWN MUST DIRECT AND MAY REMOVE IMPROVEMENTS.

All improvements or alterations of lots or grave spaces in the Cemetery shall be under the direction of and subject to the consent, satisfaction and approval of the Public Works Director. If, in the Public Works Director's determination, the improvements or alterations become unsightly, the Public Works Director shall have the right to order such improvements or alterations removed, altered or changed without consent of the owner.

7.3 WHEN TOWN IS NOT RESPONSIBLE.

The Town shall take reasonable precautions to protect the property of owners within the Cemetery from loss or damage, but the Town expressly disclaims responsibility for loss or damage to any such property, except as may be caused by the negligent acts of the Town. Included therein, the Town disclaims damage from causes beyond its reasonable control and from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage may be direct or collateral.

7.4 LIABILITY FOR DAMAGES

Any person damaging or causing to be damaged any Cemetery property, whether owned by the Town or by an individual, shall be, in the Town's discretion, required to repair said damaged property or replace the property damaged to its former state, without delay, and in a manner satisfactory to the Public Works Director. The repair or replacement of the damaged property shall not preclude the Town from seeking other remedies. The Town shall not be liable for any act of owners, visitors, licensees or trespassers within the Cemetery, or for any damage to person or property while within the Cemetery.

8.0 PERPETUAL CARE

8.1 PERPETUAL CARE MANDATORY.

All burial spaces shall be sold with perpetual care.

8.2 PERPETUAL CARE FUNDS.

Fifteen percent (15%) of the monies and proceeds derived from the sale of burial spaces shall be deposited and carried in the Cemetery Perpetual Care Fund.

9.0 INTERMENTS

9.1 SUBJECT TO LAWS AND ORDERS.

In addition to these rules and regulations, all interments shall be subject to the orders and laws of the properly constituted authorities of the Town of Johnstown, County of Weld and the State of Colorado.

9.2 TIME OF INTERMENTS.

Unless otherwise approved by the Town for a legitimate purpose, as determined by the Town, an interment request must give 48 hours advance notice to the Town Clerk's office. No interments will be allowed between 12:00 noon Saturday and 8:00 a.m. Monday. No interments shall be allowed on the following Holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day.

9.3 DISASTER.

In the event of a disaster, which results in numerous burials in the Cemetery, the Town Manager may require the Cemetery crew to work additional hours. The Town Manager or the Public Works Director shall have the authority to make exceptions to any and all regulations necessary in order to handle the numerous burials as orderly and as quickly as possible.

9.4 CASKET NOT TO BE DISTURBED.

Once a casket containing a body is in the confines of the Cemetery, no person, including a funeral director or embalmer, shall be permitted to open a casket or to touch a body without the consent of the legal representatives of the deceased or a court order. The Town shall not be liable for the protection of the remains in the casket.

9.5 APPROVED GRAVE LINERS.

Every interment must be made in an approved outer liner of steel or concrete and shall be supplied by the funeral home.

9.6 NOT RESPONSIBLE FOR PERMITS, IDENTITY OR EMBALMING.

The Town shall not be responsible for: (i) obtaining permits required by a health department or another entity with jurisdiction over burials; (ii) the identity of any persons seeking to be interred; or (iii) the preparation of the body.

9.7 NUMBER OF INTERMENTS.

Not more than one body or the remains of more than one body may be interred in one burial space, except as provided below:

9.7.1 Each regular grave space may hold up to: (i) one body and three cremains or (ii) no bodies and four cremains. Only one burial memorial shall be allowed.

9.7.2 Each cremains grave space shall hold the remains of only one body.

9.7.3 Each niche may hold up to two urns.

9.8 BURIAL SET-UP.

Tents, artificial grass, lowering devices and other equipment used in making interments, disinterments and removals shall be the responsibility of the funeral home in charge of the burial or disinterment.

9.9 INTERMENT OF CREMAINS.

In order to intern cremains in the Cemetery, the applicable fee must be paid to the Town. The Town shall not be liable for the protection of any cremains. The person requesting interment of cremains may choose containers of hard plastic, wood, marble, metal or ceramic. Scattering of cremains is prohibited within the Cemetery.

9.10 LOCATION OF GRAVE SPACE.

When instructions regarding the location of a grave space on a lot cannot be obtained, or are indefinite, or when for any reason the grave space cannot be opened where specified, the Town may, in its discretion, open the space in such location on the lot as it deems best and proper, so as not to delay the funeral; and the Town shall not be liable for damages for any error or change made.

9.11 ORDERS GIVEN BY TELEPHONE.

The Town shall not be held responsible for any order given by telephone, or for any mistake occurring for want of precise and proper instructions as to the particular space, size or location in

a lot where an interment is desired.

9.12 ERRORS MAY BE CORRECTED.

The Town shall have the right to correct any errors that may be made by it either in making interments or disinterments, or in the description, transfer, or conveyance of any right of interment, either by cancelling such transfer and substituting and transferring in lieu thereof another burial space for interment of equal value and in similar location as far as possible or as may be selected by the Town; or, at the sole discretion of the Town, by refunding the amount of money paid on account for said purchases. In the event such error shall involve the interment of the remains of any person in a burial space, the Town reserves the right to remove or transfer such remains interred to another burial space of equal value and similar location.

9.13 DELAYS IN INTERMENT CAUSED BY PROTEST.

The Town shall not be liable for any delay in the interment of a body where a protest to the interment has been made or where there has not been compliance with these rules and regulations; and, further, the Town reserves the right under such circumstances to instruct a funeral home to place the body in a receiving vault until the full rights have been determined. The Town shall be under no duty to recognize any protests of interments unless they are made in writing and filed with the Town Clerk within two weeks of the interment.

10.0 DISINTERMENTS

10.1 SUBJECT TO LAWS AND ORDERS.

In addition to these rules and regulations, all disinterments shall be subject to the orders and laws of the properly constituted authorities of the Town, County of Weld, the State of Colorado, and the United States of America.

10.2 PERMISSION FOR DISINTERMENTS.

No disinterment of a body or cremains shall be made without a court order or a signed affidavit from the surviving spouse, next of kin or personal representative, on a form provided by the Town, stating that the disinterment is being requested for a valid reason, that the application is being made by a proper person, that there is no opposition to the disinterment by the surviving spouse, next of kin, or by the expressed wishes of the decedent, and that the affiant agrees to indemnify the Town and hold it harmless from any liability that might result from the disinterment and release it from any claims any person may have, then or in the future, by reason of the disinterment. The Town Clerk shall have the right to require a court order for disinterment at any time prior to the disinterment when circumstances exist or arise which indicate that there is a question as to the reason for the disinterment or as to whether there is opposition to the disinterment.

10.3 DISINTERMENT PROHIBITED UNDER CERTAIN CIRCUMSTANCES.

Disinterment of a body so that the burial space may be sold for profit to the heirs of the deceased or to any other persons or removal contrary to the expressed or implied wish of the original purchaser of the burial space is repugnant to the ordinary sense of decency and absolutely forbidden.

10.4 WRITTEN REQUEST FOR DISINTERMENT REQUIRED.

The Town reserves the right to require at least ten days' written notice prior to any disinterment. Disinterments must be conducted during the hours of 9:00 a.m. and 2:00 p.m. No disinterment will be made on a Saturday, Sunday or legal holiday or on the day upon which any holiday is legally observed.

10.5 PAYMENT OF FEES.

All fees assessed by the Town for disinterments shall be paid to the Town Clerk's office prior to the disinterment.

10.6 TOWN NOT RESPONSIBLE FOR DISINTERMENTS.

The Town will expose the vault or, in the case of burial without a vault, expose the casket, burial receptacle or urn. The Town shall not be required to provide either personnel or equipment to lift the vault, casket or burial receptacle from the ground. Disinterment of a body shall be the responsibility of the family or person with lawful right to the disinterment. Families, or persons with the lawful right, wishing to disinter a body shall procure the services of a competent funeral director or other authorized personnel who must first provide evidence of liability insurance satisfactory to the Town.

11.0 DECORATION OF GRAVE SPACES

11.1 PLANTS, TREES, SHRUBS, FLOWERS AND BORDERS.

11.1.1 The Public Works Director or designee has exclusive authority in the planting of all trees, shrubs, plants, flowers and grass for ornamentation of the Cemetery. Planting of trees, shrubs, plants, flowers, grass and any other similar item is prohibited.

11.1.2 Fences, railings, curbs, hedges and other bordering of spaces are not allowed. Nothing shall be placed upon lots and grave spaces other than flowers, vases containing flowers, wreaths, flags and other temporary decoration. Flowers, vases containing flowers, wreaths, flags or other temporary decoration may be placed on the ground in front of the columbarium niches but cannot be temporarily or permanently attached to the surface of the columbarium. All such items will be removed and disposed of by Cemetery crews, at their sole discretion, when they become dead, faded, broken or unsightly without prior notice to the owner.

11.1.3 Christmas blankets and wreaths shall be allowed from December 1st through March 1st. Sprays and wreaths made from fresh cut flowers will be allowed up to two weeks after burial, unless they become unsightly or detrimental based upon the Public Works Director's determination.

11.1.4 If trees, shrubs, bushes or flowers growing on any grave spaces, walkways or roads interferes with the general design of the Cemetery, such will be removed without notice.

11.2 OTHER ARTICLES.

The placing of boxes, shells, stones, boulders, toys, metal designs, ornaments, chairs, settees, unattached vases, glass, urns, fences, wood or metal cases and similar articles upon grave spaces shall not be permitted, except that the placement of small stones shall be permitted in a manner that is consistent with religious practice.

12.0 MEMORIAL WORK IN CEMETERY

12.1 PRODUCERS AND RETAIL DEALERS.

12.1.1 Producers of burial memorial materials, meaning thereby quarries, quarries who also manufacture memorials, and manufacturers of memorials who are not quarries must provide only first grade, clear stone for memorial purposes at the Cemetery, and must guarantee that such stone is free from sap or anything that will cause rust or other stains, and that it will not crack or split, and must agree that should such faults develop within five years from the date of setting, the memorial will be replaced without cost or delay to the Town or the owner.

12.1.2 Retail dealers must agree to use only first grade stone from producers approved as provided above and guarantee the burial memorial will be executed with first grade workmanship, and agree that, should faults develop within five years due to the setting, treatment or handling of the same by the dealer, such burial memorial will be replaced without cost or delay to the Town or the owner.

12.1.3 All persons or firms must secure permission from the Public Works Director or the Town Clerk before any work in the Cemetery is commenced. In order to procure such permission, such person or firm shall submit satisfactory evidence of ability to properly perform the work for which such person or firm has been engaged.

12.1.4 Retail dealers engaged in erecting or placing burial memorials or other structures are not agents or employees of the Town, but are independent contractors.

12.1.5 Persons engaged in erecting burial memorials or other structures are prohibited from attaching ropes or other devices to the memorials, trees or shrubs, and are prohibited from scattering their material or tools over adjoining lots, from blocking roadways or walks and from leaving their material or tools on the grounds longer than necessary. Such persons must do as little injury to the grounds, trees and shrubs as is possible and must remove all debris and restore the ground to its original condition.

12.1.6 While a funeral or an interment service is being conducted nearby, all work of any kind shall cease.

12.2 BURIAL MEMORIALS.

12.2.1 No burial memorials will be allowed on any burial space until the space has been fully paid for.

12.2.2 Only one burial memorial for each burial space shall be permitted.

12.2.3 While the Town will exercise due care to protect raised letters, carving or ornaments on any burial memorial in the Cemetery, the Town disclaims responsibility for damage thereto.

12.2.4 No copying, curbing, hedging, grave mounds, borders, enclosures of any kind, or walks of any kind shall be allowed to be built or placed on any grave space in the Cemetery. The Town reserves the right to remove the same without recourse and without prior notice.

12.2.5 The use of tiles, bricks, gravel, crushed rock, oyster shells, cinders or other material on any grave space in the Cemetery is strictly forbidden. Any of these used may be removed by the Town without prior notice.

12.2.6 Temporary markers, homemade markers, wooden markers or ornaments may be placed on or near a grave space for up to thirty (30) days after an interment. The Town may thereafter remove such items without prior notice.

12.2.7 Foot-stones and corner-stones are not allowed and may be removed by the Town without prior notice.

12.2.8 No person shall erect or place or cause to be erected or placed, on any lot or grave space in the Cemetery, any burial memorial of which the Public Works Director or Town Clerk disapproves and, if erected or placed, may be removed by the Town without prior notice to the lot owner.

12.3 FOUNDATIONS.

All foundations for burial memorials shall be the responsibility of the owner of the grave space or person responsible for the interment. A monument company shall prepare the foundation work for a burial memorial in the Cemetery and must, prior to undertaking the work, furnish evidence of liability insurance and a bond in an amount acceptable to the Town. Charges for such work will be paid directly by the purchaser of the burial memorial.

12.3.1 Burial memorials shall only be constructed of granite, standard bronze or marble will be allowed. Other materials are subject to deterioration and contribute to unsightliness.

12.3.2 Foundations must meet the following criteria:

SINGLE	DOUBLE
minimum of 4" deep	minimum of 4" deep
not to exceed 48" in width and 24" in length and a minimum 4" border must show after monument is placed	not to exceed 92" in width and 24" in length and a minimum 4" border must show after monument is placed

48" width	92" width
24" length	24" length
must be centered	must be centered

These foundation measurements assure a solid base for the memorial and will help to prevent settling and vandalism.

12.3.3 Cut-outs for flowers located on the foundation of the memorial are encouraged. These cut-outs shall not exceed 6" in diameter on the foundation.

12.3.4 Prior to placement of a foundation or burial memorial, an appointment must be made either with the Public Works Director or the Town Clerk to locate the grave space. Notice must be given at least one business day in advance prior to placement of a foundation or a burial memorial. The Town shall not assume responsibility for an incorrect placement of any foundation or burial memorial if placed prior to contacting the Public Works Director or Town Clerk or placed in an incorrect location.

12.4 MISCELLANEOUS.

12.4.1 Should any burial memorial become unsightly, dilapidated or a menace to the safety of visitors, the Town shall have the right to either correct the condition or remove the same, at the expense of the owner, or the family or estate of the owner, of the grave space.

12.4.2 No burial memorial shall be removed from the Cemetery, except by the Town, unless written notice, notarized, by a person with authority is presented to the Town and the Town, in its discretion, grants such request.

13.0 CONDUCT WITHIN THE CEMETERY.

13.1 CELEBRATIONS.

The Town allows for small gatherings of family and friends to celebrate their loved one's life, however, the gathering must be maintained within 20 feet of the subject grave and attendees should be considerate of others and respect the solitude and decorum of the environment. Lounging and refreshments will be allowed. All trash and debris must be gathered and thrown away after the celebration.

13.2 ENTRANCE TO THE CEMETERY.

Entrance into the Cemetery except through the main entrance is strictly forbidden.

13.3 VISITOR HOURS.

Visitors are welcome in the Cemetery during regular hours of 7:00 a.m. to sunset.

13.4 PROHIBITED CONDUCT.

No person in the Cemetery shall:

- (a) Loiter upon the grounds;
- (b) Be under the age of fifteen (15) unless accompanied by an adult or other proper caretaker;
- (c) Drive an automobile or other vehicle in excess of 10 miles per hour or in excess of such lesser speed as is prudent under the existing conditions and circumstances;
- (d) Except for authorized personnel with consent of the Public Works Director, drive or ride any automobile, motorcycle, all-terrain vehicle, machine or animal on lots, grass or walks within the Cemetery;
- (e) Except for authorized personnel with consent of the Public Works Director, drive any commercial truck or other commercial vehicle within the Cemetery grounds;
- (f) Discard trash, debris or other unsightly items, except in receptacles designated for such items;
- (g) Direct or cause Town employees to perform work without an order from the Town Manager or the Town Manager's designee;
- (h) Perform work on the grounds, except by permission of the Town Manager or the Town Manager's designee;
- (i) Take any animal or permit any animal to be taken into the Cemetery except service animals;
- (j) Deface, damage, destroy or injure any burial memorials or property in the Cemetery;
- (k) Peddle flowers or plants or any other commodity; or
- (l) Except for authorized persons, make a change to the inscription on a burial memorial.

14.0 VIOLATION- PENALTY

Any person who violates or resists the enforcement of any of the provisions of Article VI of Chapter 11 of the Johnstown Municipal Code or these rules and regulations shall be guilty of a municipal violation and subject to the enforcement provisions of the Johnstown Municipal Code.



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE:	December 21, 2020
SUBJECT:	Contract Award to IMEG for Design and Engineering Services for the Central Phase 2 Sanitary Sewer Interceptor
ACTION PROPOSED:	Contract Award to IMEG for Design and Engineering Services for the Central Phase 2 Sanitary Sewer Interceptor
ATTACHMENTS:	1. Engineering Services Agreement
PRESENTED BY:	Marco Carani, Public Works Director

AGENDA ITEM DESCRIPTION:

Enclosed for your review and consideration is a request to approve selection of IMEG for the Phase 2 design of the Sanitary Sewer Interceptor Capacity Improvements Project.

As you may recall, Staff advised Council in 2019, that in order for the Town of Johnstown to continue with the ability to serve new growth, the Town would need to plan for expansion of our Sanitary Sewer by constructing new interceptors to meet capacity. Phase 1 of this project was designed as part of a CMaR (Construction Manager at Risk) with IMEG and Connell Resources. Phase 1 is in the final stages of the bid process and we are waiting for final approval from CDPHE for the improvements of the new lift station to begin construction following Council authorization.

Staff is recommending with Council approval to continue with IMEG as the Design Engineer. Phase 2 is defined as the section from the New Johnstown Farms lift station in Phase 1 west to the Clearview lift station (see attached exhibit in the contract). This phase changes the size of the current line from 15 inches to a proposed 18- or 21-inch line to help with future demands of our system. The existing Clearview lift station will be removed and service will be gravity fed to the New Johnstown Farms Lift Station.

A full scope of work is described in the service agreement attached. The cost for design services is a not to exceed of \$252,000. Full Project design and construction is to be completed by end of 2021.

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

LEGAL ADVICE:

The same template and agreement in this contact was also used in the initial agreement for Phase 1 scoping with IMEG.

FINANCIAL ADVICE:

Funds were budgeted and approved for the 2021 fiscal year.

RECOMMENDED ACTION:

Approve Selection of IMEG as the Design Engineer for the Phase 2 Central Sanitary Sewer Interceptor expansion project as presented.

SUGGESTED MOTIONS:**For Approval**

I move to approve the agreement as presented and award IMEG as the Design Engineer for the Phase 2 Sanitary Sewer Central Interceptor.

For Denial

I move that we deny IMEG as the Design Engineer for the phase 2 Sanitary Sewer Central Interceptor expansion and solicit bids for these services.

Reviewed and Approved for Presentation,

Town Manager

**AGREEMENT FOR ENGINEERING SERVICES
BETWEEN TOWN OF JOHNSTOWN AND IMEG
CORPORATION
CONCERNING WASTEWATER COLLECTION PLANNING
AND DESIGN**

THIS AGREEMENT FOR ENGINEERING SERVICES CONCERNING WASTEWATER COLLECTION PLANNING AND DESIGN (the “Agreement”) is made and entered into this _____ day of _____ 2020 (“Effective Date”) by and between the Town of Johnstown, Colorado, a Colorado home-rule municipal corporation (the “Town”) and IMEG Corporation, a Delaware corporation (“IMEG”) (collectively, the “Parties”).

WHEREAS, the Town requires professional consulting services in connection with sanitary sewer collection system master planning and specific engineering design services related thereto; and

WHEREAS, IMEG has held itself out to the Town as having the requisite expertise and experience to provide such professional consulting services; and

WHEREAS, the Town desires to engage the services of IMEG and IMEG wishes to provide the services more fully described on Exhibit A, attached hereto, and incorporated herein by reference (“Services”), for the Town; and

WHEREAS, the Parties wish to memorialize their contractual relationship.

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:

SECTION 1: OBLIGATIONS, CONFIDENTIALITY AND WORK PRODUCT

1.01 Town Obligations; Confidentiality. The Town shall provide IMEG with information, reports and such other data as may be available to Town and reasonably required by IMEG to perform hereunder. No information identified or provided by the Town shall be disclosed by IMEG to third parties without the prior consent of the Town or pursuant to a lawful court order directing such disclosure. All original documents provided by Town to IMEG shall be returned to Town. IMEG is authorized by Town to retain copies of such data and materials for use by IMEG for Town related engineering services.

1.02 IMEG. IMEG has the background, expertise and education to provide the Services and warrants that it is qualified to assume the responsibilities and render the Services and has all requisite corporate authority and professional licenses in good standing, as required

by law. IMEG shall be responsible for the proper performance of this Agreement in accordance with the terms hereof and any and all applicable federal, state, and municipal laws, regulations and orders and in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community.

1.03 Ownership of Work Product. Upon payment to IMEG pursuant to this Agreement, all work, data, drawings, designs, plans, reports, computer programs (nonproprietary), computer input and output, analyses, tests, maps, surveys and any other materials developed for the Town are and shall be the property of the Town, and shall be provided by IMEG to the Town in due course during the term of this Agreement or as requested by the Town, and, in any event, prior to termination of the Agreement. However, any reuse of the documents by the Town without prior written authorization by IMEG other than for the specific intended purpose of this Agreement will be at the Town's sole risk.

SECTION 2: SERVICES, TERM AND COMPENSATION

2.01 Services. IMEG agrees to perform the Services for the Town. If additional services are desired, the Parties shall enter into a written amendment to this Agreement.

2.02 Term. This term of this Agreement shall continue until terminated by written notice from either party to the other in accordance with Section 5.

2.03 Compensation. In consideration of the completion of the services specified herein by IMEG, the Town shall pay IMEG on an hourly time and materials basis with a not-to-exceed amount as set forth on Exhibit B, attached hereto and incorporated herein by reference. If additional services are authorized as set forth herein, unless otherwise agreed, the Town shall pay IMEG in accordance with the schedule of rates and charges set out on Exhibit B. Detailed monthly invoices shall be rendered by IMEG and shall be due and payable thirty (30) days after date of receipt. Invoices shall be itemized and include hourly breakdowns for all personnel and other charges. The fee identified on Exhibit B for a specific requested service shall include all fees and expenses incurred by IMEG in performing all services hereunder.

2.04 Expenses: IMEG shall not incur any expense or debt over and above those identified in this Agreement on behalf of the Town without the Town's prior written authorization.

SECTION 3: SCHEDULE

3.01 Schedule. Unless otherwise agreed, IMEG shall provide the Services in accordance with the timeline set forth on Exhibit C, attached hereto and incorporated herein by reference.

SECTION 4: INSURANCE AND INDEMNITY PROVISIONS

4.01 Insurance.

- A. IMEG shall maintain and keep in force during the term of this Agreement one or more policies of liability insurance written by one or more responsible insurance carrier(s) authorized to do business in the State of Colorado, which will include protecting and indemnifying the Town in the following amounts:
 1. Workers' Compensation insurance as required by law;
 2. Commercial General or Business Liability Insurance with minimum combined single limits of TWO MILLION DOLLARS (\$2,000,000.00) each occurrence and FOUR MILLION DOLLARS (\$4,000,000.00) general aggregate;
 3. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) for any one occurrence, with respect to each of the IMEG's owned, hired or non-owned vehicles assigned to or used in performance of the services. In the event that the IMEG's insurance does not cover non-owned automobiles, the requirements of this paragraph shall be met by each employee of IMEG who utilizes an automobile in providing services to Town under this Agreement; and
 4. Professional Liability Insurance with minimum limits of ONE MILLION dollars (\$1,000,000.00) each claim and TWO MILLION dollars (\$2,000,000.00) general aggregate.
- B. IMEG shall procure and maintain and shall cause any subcontractor of IMEG to procure and maintain, the minimum insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to Town. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the IMEG pursuant to this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. The Town shall have the right to request and receive a certified copy of any policy and any endorsement thereto.
- C. A certificate of insurance shall be completed by IMEG's insurance agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by Town prior to commencement of any of the services under this Agreement. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be canceled, terminated, or materially changed until at least 30 days prior written notice has been given to Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be

stricken from the certificate by the agent(s) completing the certificate. The completed certificate of insurance shall be sent to:

Town of Johnstown
P.O. Box 609
Johnstown, CO 80534
Attention: Town Manager

4.02 Damage and Indemnity. IMEG assumes full responsibility for any and all damages caused by IMEG's willful or negligent exercise of its activities under by this Agreement. IMEG agrees that it will at all times indemnify and hold harmless the Town, its officers, agents, employees, tenants and their successors and assigns from and against all liabilities, losses, claims, demands, actions and court costs (including reasonable attorneys' fees), arising from or related to loss or damage to property or injury to or death to any persons to the extent such injury, loss, or damage is caused by the willful or negligent act of IMEG, or any subcontractor of IMEG pursuant to this Agreement.

SECTION 5: TERMINATION

5.01 Termination. Either party may terminate this Agreement, with or without cause, by providing thirty (30) days prior written notice to the other. Notwithstanding the foregoing, if the Town terminates this Agreement for cause and determines that a notice period is not in the best interests of the Town, the Town may terminate this Agreement by providing written notice to IMEG effective immediately. In the event the Agreement is terminated by Town's issuance of said written notice of termination, Town shall pay IMEG for all work previously authorized and performed prior to the date of termination. Notwithstanding the foregoing, if IMEG has not provided all the documents to the Town described in Section 1.03, the Town may, in its discretion, withhold final payment until the documents are provided.

SECTION 6: INDEPENDENT CONTRACTOR

6.01 Independent Contractor. IMEG understands and agrees that IMEG is an independent contractor and not an employee of the Town. The Town shall not provide benefits of any kind to IMEG. The Town shall not be responsible for withholding any portion of IMEG's compensation for the payment of Federal Insurance Contributions Act (FICA) tax, workers' compensation, or other taxes or benefits. IMEG IS NOT ENTITLED TO UNEMPLOYMENT COMPENSATION COVERAGE FROM THE TOWN. IMEG IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THIS AGREEMENT. As long as there is not a conflict of interest with the Town, IMEG may engage in any other lawful business activities during the term of this Agreement.

SECTION 7: NOTICE

7.01 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 THE TOWN:
 Town of Johnstown
 Attn: Town Manager
 P.O. Box 609
 Johnstown, CO 80534

TO IMEG:
 IMEG Corporation
 Attn: Taylor C. Goertz, PE
 7600 E. Orchard Road, Suite 250-S
 Greenwood Village, CO 80111

The addresses for notices may be changed by written notice given to the other party in the manner provided above. Notice may also be sent via electronic mail (“e-mail”) delivery and shall be effective upon confirmation of receipt of the e-mail.

SECTION 8: MISCELLANEOUS

8.01 Time. Time is of the essence of this Agreement and of each covenant hereof.

8.02 Non-Appropriation of Funds. 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 appropriated, budgeted, and otherwise made available. This Agreement shall be terminated effective January 1 of the first fiscal year for which funds are not appropriated.

8.03 Illegal Aliens. IMEG shall comply with the statutory provisions prohibiting employment of illegal aliens, as set forth on Exhibit D, attached hereto and incorporated herein by such reference.

8.04 Assignment; Third Party Rights. IMEG may not assign, delegate or subcontract any part of its rights, duties or obligations under this Agreement, other than subcontract services as identified in this Agreement, without prior Town written approval. The Parties do not intend to confer any benefit hereunder on any person or entity other than the Parties hereto.

8.05 Amendment. This Agreement may not be amended or modified except by a subsequent written instrument signed by both Parties.

8.06 Severability. If any part, term or provision of this Agreement is declared unlawful or unenforceable, the remainder of this Agreement shall remain in full force and effect.

8.07 Waiver. No consent or waiver, express or implied, by a party to or of any breach or default by the other party in the performance by the other party 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 non-defaulting party. Failure on the part of any party to complain of any act or failure to act or to declare any other party in default, irrespective of how long such failure

continues, shall not constitute a waiver by such party of its rights hereunder.

8.08 Governmental Immunity. The Parties agree that the Town is relying on, and does not waive or intend to waive by any provision of the Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 et seq., 10 C.R.S., as from time to time amended, or otherwise available to the Town, its officers, or its employees.

8.09 Applicable Law and Venue. This Agreement shall be construed according to the laws of the State of Colorado. Venue for any claim, proceeding or action arising out of this Agreement shall be in Weld County, State of Colorado.

8.10 Mediation. In the event of any dispute arising under this Agreement, except in the case of injunctive relief as set forth in Paragraph 8.11, the Parties shall submit the matter to mediation prior to commencing legal action in a location that does not exceed sixty (60) miles from the Town and shall equally share the cost of the mediation.

8.11 Right to Injunction. The Parties hereto acknowledge that the services to be rendered by IMEG under this Agreement and the rights and privileges granted to the Town under the Agreement are of a special, unique, unusual and extraordinary character which gives them a peculiar value, the loss of which may not be reasonably or adequately compensated by damages in any action at law, and the breach by IMEG of any of the provisions of this Agreement may cause the Town irreparable injury and damage. IMEG agrees that the Town, in addition to other relief at law, shall be entitled to injunctive and other equitable relief in the event of, or to prevent, a breach of any provision of this Agreement by IMEG.

8.12 Costs and Attorney's Fees. If any judicial proceedings may hereafter be brought to enforce any of the provisions of this Agreement, the prevailing party, to the extent permitted by law, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

8.13 Entire Agreement. The provisions of this Agreement represent the entire and integrated agreement between the Town and IMEG and supersede all prior negotiations, representations and agreements, whether written or oral.

8.14 Public Official Personal Liability. Nothing herein shall be construed as creating any personal liability on the part of any elected official, officer, employee or agent of the Town.

8.15 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.

8.16 Headings. The headings in this agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

TOWN OF JOHNSTOWN, COLORADO
ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

IMEG CORPORATION

By: _____
Name: Taylor C. Goertz
Title: Associate Principal

STATE OF COLORADO)) ss
COUNTY OF _____)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2020, by Taylor C. Goertz as the Associate Principal of IMEG Corporation.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A SERVICES

IMEG shall provide the following services:

IMEG shall provide final design and engineering services for the Central Phase 2 Sewer Interceptor as defined in Exhibit 'E', Wastewater System Proposed Interceptor Alignments — Priorities. This alignment is further defined as beginning at the proposed Johnstown Farms Lift Station and ending at the existing Clearview Lift Station. It is recognized and agreed upon by the Town and the IMEG that the proposed alignment may change due to certain physical or political barriers beyond either Party's control. Both the Town and the IMEG shall review any such changes and determine if an Amendment to this Contract may be required.

Final Design and Engineering Services for this phase shall include the following assessment(s) and evaluation(s):

- A. Easements/Right-of-Way - IMEG shall coordinate directly and with Town and other Town contracted consultants to further determine feasible property to construct and operate sanitary sewer interceptor improvements. Processes included within this assessment may include: 1) Initial contact and discussion with land owners who may be impacted by the proposed sanitary sewer interceptor improvements; 2) Title search , by a Title Insurance Company, for each parcel impacted by the proposed alignments (it is estimated there are up to 25 parcels along this alignment for which obtaining Title information binders and performing associated research will be required); 3) Determination of locations of land encumbrances that may preclude a proposed alignment within each subject parcel; 4) Preparation of temporary construction easement legal descriptions and exhibits by a Professional Land Surveyor to be utilized for construction easement agreements between the Town and impacted land owners; and, 5) Preparation of permanent utility easement legal descriptions and exhibits by a Professional Land Surveyor to be utilized for permanent easement agreements between the Town and impacted land owners.
- B. Environmental Assessment - IMEG shall provide a final assessment of the proposed alignment with regards to environmental services including a Phase I Environmental Site Assessment (Phase I ESA), natural resource assessment, wetland delineation, habitat assessment, and cultural resource inventory. These environmental services will provide the Town with data to assist in determination of final proposed alignment of the interceptor in addition to determining if there are any environmental concerns that may impact construction scheduling and/or construction costs.
- C. Subsurface Utility Engineering (SUE) - IMEG shall provide Level A/B SUE services to determine locations of existing utilities within the proposed alignment. By Colorado State Law, IMEG is required to provide these

services as part of this Contract upon completion of final design of improvements.

- D. Geotechnical Engineering - IMEG shall provide soil borings at critical design points along the proposed alignment at depths varying between 20 to 30 feet below the ground surface to evaluate subsurface geological conditions and to obtain samples for laboratory testing. The laboratory testing will be completed to evaluate relevant engineering characteristics, such as, but not limited to, in-place moisture and density, particle size analysis, Atterberg limit, strength, water-soluble sulfates, and soil corrosivity. This evaluation will assist IMEG in determining feasibility and requirements for installation of the sanitary sewer interceptor at the proposed alignment or if a more suitable alignment should be reviewed.

This information will be utilized in conjunction with our previously completed initial geotechnical study completed in 2020. Any soil borings completed in this scope will be as a result of a change in the proposed alignment and/or in location(s) in which it is determined that there is insufficient geotechnical data available.

- E. Field Surveying - IMEG shall provide land surveying services in coordination with final design of this alignment including existing conditions at minimum 100-foot intervals for the length of the proposed alignment.
- F. State and Local Permitting - IMEG will prepare a capacity analysis of the proposed interceptor to determine an appropriate size for the proposed interceptor for this alignment. However, it is anticipated the required interceptor size will not require a CDPHE Permit, and as such, budget is NOT included herein for IMEG to prepare a State of Colorado required Site Application for the proposed alignment. Should a CDPHE Permit become necessary, additional budget may need to be negotiated at that time.
- G. Final design - IMEG will prepare construction plans and project specifications for the final design of the proposed Central Interceptor — Second Priority alignment, which is estimated at 7,200 +/- lineal feet in length. The construction plans will consist of a cover sheet, applicable construction notes, an overall alignment plan, plan and profile of the sanitary sewer alignment (horizontal/vertical), construction details, temporary erosion control considerations, demolition/decommissioning of the existing Clearview Lift Station, and estimated plan quantities. In conjunction with the construction plans, IMEG will prepare project specifications specifically outlining required materials, workmanship, and processes for constructing the proposed sanitary sewer interceptor. The project specifications will be integrated into a Project Manual that will contain the Town contract documents including agreement and conditions. It is assumed that the Engineering Joint Contract Documents Committee (EJCDC) format will be utilized for the Contract and

Specifications that comprise the Project Manual.

- H. CMaR Assistance - IMEG will assist the Town and the Town's selected CMaR Contractor during pre-construction services to evaluate construction and design alternatives. Weekly CMaR team meetings will be held in which IMEG will prepare meeting agendas and meeting minutes. IMEG estimates these weekly meetings to be held for twenty (20) weeks during the design phase.

EXHIBIT B
Schedule of Fees
November 2020

The estimated schedule of fees, on time and material basis in an amount not to exceed without additional Town authorization is as follows (consistent with the Scope of Work described in Exhibit A):

Final Design Phase (Central - Priority 2)

A.	Easements/ROW *	\$25,000
B.	Environmental Assessment *	\$10,000
C.	Subsurface Utility Engineering *	\$42,000
D.	Geotechnical Engineering *	\$15,000
E.	Field Surveying *	\$15,000
F.	State Permitting	\$25,000
G.	Final Design	\$79,000
H.	CMaR Assistance	\$ 40,000
I.	Project Expenses (Allowance)	\$ 1,000
Total - Central Phase 2 (Not to Exceed)		\$252,000

* Includes sub-consultant fees

Typical current staff rates for the Town are presented below for consideration. IMEG will hold the rates for a two-year period. If the Agreement continues beyond two years, IMEG may update the rates.

Staff	Title	IMEG Current Hourly Rates
Gregory A. Weeks, P.E.	Project Manager	\$150
Taylor C. Goertz, P.E.	Project Executive	\$190
Glendon W. Berrett, P.E.	Project Executive	\$190
Rick A. Rome, P.E.	Senior Engineer	\$150
Greg D. Jeppesen, P.E.	Senior Engineer	\$150
Ryan K. Vevang, P.E.	Project Engineer	\$130
Shelley E. Cobau	Senior Civil Technician	\$120
Michael C. Cregger, P.L.S.	Senior Land Surveyor	\$140
Paige R. Coufal	Project Engineer	\$100
Zach W. Pauser	Project Designer	\$100
Julie Campos	Administrative Assistant	\$65
Survey Crew (PWSI)	Subconsultant	\$160
Other Staff General Rates		
Project Engineer		\$90-\$110
Senior Engineer		\$110-\$150
CAD/GIS Technician		\$85-\$125
Professional Land Surveyor		\$130-\$150
Inspection Staff		\$85-\$130
Administrative Staff		\$60-\$90

- Automobile travel will be charged at current Federal Government rate.
- Outside Consultants and/or independent laboratory tests which IMEG administers will be charged at cost plus 10%
- Other expenses charged at cost plus 10%.

EXHIBIT C

Timeline

Unless otherwise agreed in writing, the following timeline and major milestones for the proposed Scope of Work defined in Exhibit A shall apply:

Design Schedule

Milestone	Start Date	Duration (Weeks)	Completion Date
Notice to Proceed	1/1/2021	0	1/1/2021
Field Surveying*, **	1/3/2021	2*	1/17/2021*
Environmental Assessment	1/3/2021	4	1/31/2021
Preliminary Design	2/1/2021	4	2/28/2021
Easement/ROW Determination	3/1/2021	2	3/15/2021
Subsurface Utility Engineering**	3/15/2021	4	4/15/2021
Geotechnical Engineering**	3/15/2021	4	4/15/2021
Final Design	4/15/2021	4	5/15/2021
CMAA Pricing/Evaluation	5/15/2021	8	7/15/2021
Begin Construction***	7/15/2021	10	9/30/2021

* Subject to weather impacts/snow cover.

** Authorization to enter properties must be secured before field investigation can be completed.

*** For informational purposes only (not a part of this Agreement).

EXHIBIT D
REQUIRED PROVISIONS FOR CONTRACT FOR SERVICES
PROHIBITING EMPLOYMENT OF ILLEGAL ALIENS

Item #16.

IMEG shall not:

1. Knowingly employ or contract with an illegal alien to perform work under this public contract for services; or
2. Enter into a contract with a subcontractor that fails to certify to IMEG that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

IMEG has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the e-verify program or the Department of Labor and Employment program.

IMEG is prohibited from using either the e-verify program or the Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

If IMEG obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, IMEG shall be required to:

1. Notify the subcontractor and the contracting state agency or political subdivision within three days that IMEG has actual knowledge that the subcontractor is employing or contracting with an illegal alien: and
2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph 1 of this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that IMEG shall not terminate the contract with the subcontractor if during such three days that subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

IMEG shall comply with any reasonable request by the Department made in the course of an investigation that the Department of Labor and Employment is undertaking pursuant to the authority established in subsection (5) of Section 8-17.5-102 of the Colorado Revised Statutes.

IF IMEG VIOLATES ANY OF THE AFOREMENTIONED REQUIREMENTS, THE TOWN MAY TERMINATE THE CONTRACT FOR BREACH OF CONTRACT. IF THIS CONTRACT IS SO TERMINATED, IMEG SHALL BE LIABLE FOR ACTUAL AND CONSEQUENTIAL DAMAGES TO THE TOWN OF JOHNSTOWN.

Item #16.





Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE:	December 21, 2020
SUBJECT:	Contract Award to IMEG for Design and Engineering Services for the North Phase 3 Sanitary Sewer Interceptor
ACTION PROPOSED:	Consider Award and Agreement for Design and Engineering Services for the North Phase 3 Sewer Interceptor with IMEG, Inc.
ATTACHMENTS:	1. Engineering Services Agreement
PRESENTED BY:	Marco Carani, Public Works Director

AGENDA ITEM DESCRIPTION:

Enclosed for your review and consideration is a request to approve selection of IMEG for the Phase 3 Design of the Sanitary Sewer Interceptor Capacity Improvements Project.

As you may recall, Staff advised Council in 2019, that in order for the Town of Johnstown to continue with the ability to serve new growth, the Town would need to plan for expansion of our Sanitary Sewer by constructing new interceptors to meet capacity. Phase 1 of this project was designed as part of a CMaR (Construction Manager at Risk) with IMEG and Connell Resources. Phase 1 is in the final stages of the bid process and we are waiting for final approval from CDPHE for the improvements of the new lift station to begin construction following Council authorization.

Staff is recommending with Council approval to continue with IMEG as the Design Engineer for Phase 3 of the North Interceptor Expansion project. Phase 3 is defined as the section from the Central Wastewater Treatment Plant to the NW corner of the Gateway Center Subdivision (see attached exhibit in the contract agreement). As part of this design, it will also include the review of two (2) options for the North Interceptor final design and an alternate project if necessary for the Town to consider.

- Option A, upsizes the existing pipeline final size to be determined in its original location until it reaches the boundary of the future Johnstown regional park property. At that point it will follow the drainage ditch to CR 50 at that point it then follows the Hillsboro ditch around the various property back to CR 50.
- Option B, builds a lift station at the beginning of the hill on CR 50 and pumps straight east on CR 50 avoiding following the ditch around various property.

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

- Option Additional Service, builds a line from the Corbet Glen lift station, eliminating that lift station and gravity feeds to new line on CR 50. Final alignment will happen during the design phase with Town Staff and CMaR contractor.

The full scope of work is described in the service agreement and if the Town elects to perform Option B and the Additional Service, the cost for design services will not to exceed of \$1,735,000. Full Project design is to be completed by end of 2021 with construction to start in January of 2022 and a project completion date of December of 2022.

LEGAL ADVICE:

The same template and agreement in this contact was also used in the initial agreement for Phase 1 scoping with IMEG.

FINANCIAL ADVICE:

Funds were budgeted and approved for the 2021 fiscal year.

RECOMMENDED ACTION: Approve Selection of IMEG as the Design Engineer for the Phase 3 Sanitary Sewer North Interceptor expansion project as presented and providing for the Town Manager to make the additional and final cost decisions with a not to exceed of \$1,735,000.

SUGGESTED MOTIONS:

For Approval:

I move to approve the agreement as presented and award IMEG as the Design Engineer for the Phase 3 Sanitary Sewer Interceptor expansion project and allow the Town Manager to make additional and final cost decisions, not to exceed of \$1,735,000.

For Denial:

I move that we deny IMEG as the Design Engineer for the Phase 3 Sanitary Sewer Interceptor expansion and solicit bids for these services.

Reviewed and Approved for Presentation:

Town Manager

**AGREEMENT FOR ENGINEERING SERVICES
BETWEEN TOWN OF JOHNSTOWN AND IMEG
CORPORATION
CONCERNING WASTEWATER COLLECTION PLANNING
AND DESIGN**

THIS AGREEMENT FOR ENGINEERING SERVICES CONCERNING WASTEWATER COLLECTION PLANNING AND DESIGN (the “Agreement”) is made and entered into this _____ day of _____ 2020 (“Effective Date”) by and between the Town of Johnstown, Colorado, a Colorado home-rule municipal corporation (the “Town”) and IMEG Corporation, a Delaware corporation (“IMEG”) (collectively, the “Parties”).

WHEREAS, the Town requires professional consulting services in connection with sanitary sewer collection system master planning and specific engineering design services related thereto; and

WHEREAS, IMEG has held itself out to the Town as having the requisite expertise and experience to provide such professional consulting services; and

WHEREAS, the Town desires to engage the services of IMEG and IMEG wishes to provide the services more fully described on Exhibit A, attached hereto, and incorporated herein by reference (“Services”), for the Town; and

WHEREAS, the Parties wish to memorialize their contractual relationship.

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:

SECTION 1: OBLIGATIONS, CONFIDENTIALITY AND WORK PRODUCT

1.01 Town Obligations; Confidentiality. The Town shall provide IMEG with information, reports and such other data as may be available to Town and reasonably required by IMEG to perform hereunder. No information identified or provided by the Town shall be disclosed by IMEG to third parties without the prior consent of the Town or pursuant to a lawful court order directing such disclosure. All original documents provided by Town to IMEG shall be returned to Town. IMEG is authorized by Town to retain copies of such data and materials for use by IMEG for Town related engineering services.

1.02 IMEG. IMEG has the background, expertise and education to provide the Services and warrants that it is qualified to assume the responsibilities and render the Services and has all requisite corporate authority and professional licenses in good standing, as required

by law. IMEG shall be responsible for the proper performance of this Agreement in accordance with the terms hereof and any and all applicable federal, state, and municipal laws, regulations and orders and in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community.

1.03 Ownership of Work Product. Upon payment to IMEG pursuant to this Agreement, all work, data, drawings, designs, plans, reports, computer programs (nonproprietary), computer input and output, analyses, tests, maps, surveys and any other materials developed for the Town are and shall be the property of the Town, and shall be provided by IMEG to the Town in due course during the term of this Agreement or as requested by the Town, and, in any event, prior to termination of the Agreement. However, any reuse of the documents by the Town without prior written authorization by IMEG other than for the specific intended purpose of this Agreement will be at the Town's sole risk.

SECTION 2: SERVICES, TERM AND COMPENSATION

2.01 Services. IMEG agrees to perform the Services for the Town. If additional services are desired, the Parties shall enter into a written amendment to this Agreement.

2.02 Term. This term of this Agreement shall continue until terminated by written notice from either party to the other in accordance with Section 5.

2.03 Compensation. In consideration of the completion of the services specified herein by IMEG, the Town shall pay IMEG on an hourly time and materials basis with a not-to-exceed amount as set forth on Exhibit B, attached hereto and incorporated herein by reference. If additional services are authorized as set forth herein, unless otherwise agreed, the Town shall pay IMEG in accordance with the schedule of rates and charges set out on Exhibit B. Detailed monthly invoices shall be rendered by IMEG and shall be due and payable thirty (30) days after date of receipt. Invoices shall be itemized and include hourly breakdowns for all personnel and other charges. The fee identified on Exhibit B for a specific requested service shall include all fees and expenses incurred by IMEG in performing all services hereunder.

2.04 Expenses: IMEG shall not incur any expense or debt over and above those identified in this Agreement on behalf of the Town without the Town's prior written authorization.

SECTION 3: SCHEDULE

3.01 Schedule. Unless otherwise agreed, IMEG shall provide the Services in accordance with the timeline set forth on Exhibit C, attached hereto and incorporated herein by reference.

SECTION 4: INSURANCE AND INDEMNITY PROVISIONS

4.01 Insurance.

- A. IMEG shall maintain and keep in force during the term of this Agreement one or more policies of liability insurance written by one or more responsible insurance carrier(s) authorized to do business in the State of Colorado, which will include protecting and indemnifying the Town in the following amounts:
 1. Workers' Compensation insurance as required by law;
 2. Commercial General or Business Liability Insurance with minimum combined single limits of TWO MILLION DOLLARS (\$2,000,000.00) each occurrence and FOUR MILLION DOLLARS (\$4,000,000.00) general aggregate;
 3. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) for any one occurrence, with respect to each of the IMEG's owned, hired or non-owned vehicles assigned to or used in performance of the services. In the event that the IMEG's insurance does not cover non-owned automobiles, the requirements of this paragraph shall be met by each employee of IMEG who utilizes an automobile in providing services to Town under this Agreement; and
 4. Professional Liability Insurance with minimum limits of ONE MILLION dollars (\$1,000,000.00) each claim and TWO MILLION dollars (\$2,000,000.00) general aggregate.
- B. IMEG shall procure and maintain and shall cause any subcontractor of IMEG to procure and maintain, the minimum insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to Town. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the IMEG pursuant to this Agreement. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. The Town shall have the right to request and receive a certified copy of any policy and any endorsement thereto.
- C. A certificate of insurance shall be completed by IMEG's insurance agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by Town prior to commencement of any of the services under this Agreement. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be canceled, terminated, or materially changed until at least 30 days prior written notice has been given to Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be

stricken from the certificate by the agent(s) completing the certificate. The completed certificate of insurance shall be sent to:

Town of Johnstown
P.O. Box 609
Johnstown, CO 80534
Attention: Town Manager

4.02 Damage and Indemnity. IMEG assumes full responsibility for any and all damages caused by IMEG's willful or negligent exercise of its activities under by this Agreement. IMEG agrees that it will at all times indemnify and hold harmless the Town, its officers, agents, employees, tenants and their successors and assigns from and against all liabilities, losses, claims, demands, actions and court costs (including reasonable attorneys' fees), arising from or related to loss or damage to property or injury to or death to any persons to the extent such injury, loss, or damage is caused by the willful or negligent act of IMEG, or any subcontractor of IMEG pursuant to this Agreement.

SECTION 5: TERMINATION

5.01 Termination. Either party may terminate this Agreement, with or without cause, by providing thirty (30) days prior written notice to the other. Notwithstanding the foregoing, if the Town terminates this Agreement for cause and determines that a notice period is not in the best interests of the Town, the Town may terminate this Agreement by providing written notice to IMEG effective immediately. In the event the Agreement is terminated by Town's issuance of said written notice of termination, Town shall pay IMEG for all work previously authorized and performed prior to the date of termination. Notwithstanding the foregoing, if IMEG has not provided all the documents to the Town described in Section 1.03, the Town may, in its discretion, withhold final payment until the documents are provided.

SECTION 6: INDEPENDENT CONTRACTOR

6.01 Independent Contractor. IMEG understands and agrees that IMEG is an independent contractor and not an employee of the Town. The Town shall not provide benefits of any kind to IMEG. The Town shall not be responsible for withholding any portion of IMEG's compensation for the payment of Federal Insurance Contributions Act (FICA) tax, workers' compensation, or other taxes or benefits. IMEG IS NOT ENTITLED TO UNEMPLOYMENT COMPENSATION COVERAGE FROM THE TOWN. IMEG IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THIS AGREEMENT. As long as there is not a conflict of interest with the Town, IMEG may engage in any other lawful business activities during the term of this Agreement.

SECTION 7: NOTICE

7.01 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 THE TOWN:
 Town of Johnstown
 Attn: Town Manager
 P.O. Box 609
 Johnstown, CO 80534

TO IMEG:
 IMEG Corporation
 Attn: Taylor C. Goertz, PE
 7600 E. Orchard Road, Suite 250-S
 Greenwood Village, CO 80111

The addresses for notices may be changed by written notice given to the other party in the manner provided above. Notice may also be sent via electronic mail (“e-mail”) delivery and shall be effective upon confirmation of receipt of the e-mail.

SECTION 8: MISCELLANEOUS

8.01 Time. Time is of the essence of this Agreement and of each covenant hereof.

8.02 Non-Appropriation of Funds. 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 appropriated, budgeted, and otherwise made available. This Agreement shall be terminated effective January 1 of the first fiscal year for which funds are not appropriated.

8.03 Illegal Aliens. IMEG shall comply with the statutory provisions prohibiting employment of illegal aliens, as set forth on Exhibit D, attached hereto and incorporated herein by such reference.

8.04 Assignment; Third Party Rights. IMEG may not assign, delegate or subcontract any part of its rights, duties, or obligations under this Agreement, other than subcontract services as identified in this Agreement, without prior Town written approval. The Parties do not intend to confer any benefit hereunder on any person or entity other than the Parties hereto.

8.05 Amendment. This Agreement may not be amended or modified except by a subsequent written instrument signed by both Parties.

8.06 Severability. If any part, term, or provision of this Agreement is declared unlawful or unenforceable, the remainder of this Agreement shall remain in full force and effect.

8.07 Waiver. No consent or waiver, express or implied, by a party to or of any breach or default by the other party in the performance by the other party 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 non-defaulting party. Failure on the part of any party to complain of any act or failure to act or to declare any other party in default, irrespective of how long such failure

continues, shall not constitute a waiver by such party of its rights hereunder.

8.08 Governmental Immunity. The Parties agree that the Town is relying on, and does not waive or intend to waive by any provision of the Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 et seq. 10 C.R.S., as from time to time amended, or otherwise available to the Town, its officers, or its employees.

8.09 Applicable Law and Venue. This Agreement shall be construed according to the laws of the State of Colorado. Venue for any claim, proceeding or action arising out of this Agreement shall be in Weld County, State of Colorado.

8.10 Mediation. In the event of any dispute arising under this Agreement, except in the case of injunctive relief as set forth in Paragraph 8.11, the Parties shall submit the matter to mediation prior to commencing legal action in a location that does not exceed sixty (60) miles from the Town and shall equally share the cost of the mediation.

8.11 Right to Injunction. The Parties hereto acknowledge that the services to be rendered by IMEG under this Agreement and the rights and privileges granted to the Town under the Agreement are of a special, unique, unusual and extraordinary character which gives them a peculiar value, the loss of which may not be reasonably or adequately compensated by damages in any action at law, and the breach by IMEG of any of the provisions of this Agreement may cause the Town irreparable injury and damage. IMEG agrees that the Town, in addition to other relief at law, shall be entitled to injunctive and other equitable relief in the event of, or to prevent, a breach of any provision of this Agreement by IMEG.

8.12 Costs and Attorney's Fees. If any judicial proceedings may hereafter be brought to enforce any of the provisions of this Agreement, the prevailing party, to the extent permitted by law, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

8.13 Entire Agreement. The provisions of this Agreement represent the entire and integrated agreement between the Town and IMEG and supersede all prior negotiations, representations, and agreements, whether written or oral.

8.14 Public Official Personal Liability. Nothing herein shall be construed as creating any personal liability on the part of any elected official, officer, employee, or agent of the Town.

8.15 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.

8.16 Headings. The headings in this agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

TOWN OF JOHNSTOWN, COLORADO
ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

IMEG CORPORATION

By: _____
Name: Taylor C. Goertz
Title: Associate Principal

STATE OF COLORADO))
) ss
COUNTY OF _____)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 2020, by Taylor C. Goertz as the Associate Principal of IMEG Corporation.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A SERVICES

IMEG shall provide the following three (3) schedules of services:

Option A (Original North Alignment) - IMEG shall provide final design and engineering services for the North Phase One Sewer Interceptor as defined as NORTH Option A in Exhibit 'E', Wastewater System Proposed Interceptor Alignments —Priorities. This alignment is further defined as beginning at the existing Town of Johnstown Central Wastewater Treatment Plant and ending at the northwest corner of the Gateway Center Subdivision, all within the Town of Johnstown, Colorado. It is recognized and agreed upon by the Town and IMEG that the proposed alignment may change due to certain physical or political barriers beyond either Party's control. Both the Town and IMEG shall review any such changes and determine if an Amendment to this Contract may be required.

Final Design and Engineering Services for this schedule shall include the following assessment(s) and evaluation(s):

- A. Easements/Right-of-Way - IMEG shall coordinate directly and with Town and other Town contracted consultants to further determine feasible property to construct and operate sanitary sewer interceptor improvements. Processes included within this assessment may include: 1) Initial contact and discussion with land owners who may be impacted by the proposed sanitary sewer interceptor improvements; 2) Title search , by a Title Insurance Company, for each parcel impacted by the proposed alignments (it is estimated there are up to 60 parcels along this alignment for which obtaining Title information binders and performing associated research will be required); 3) Determination of locations of land encumbrances that may preclude a proposed alignment within each subject parcel; 4) Preparation of temporary construction easement legal descriptions and exhibits by a Professional Land Surveyor to be utilized for construction easement agreements between the Town and impacted land owners; and, 5) Preparation of permanent utility easement legal descriptions and exhibits by a Professional Land Surveyor to be utilized for permanent easement agreements between the Town and impacted land owners.

- B. Environmental Assessment - IMEG shall provide a final assessment of the proposed alignment with regards to environmental services including a Phase I Environmental Site Assessment (Phase I ESA), natural resource assessment, wetland delineation, habitat assessment, and cultural resource inventory. These environmental services will provide the Town with data to assist in determination of final proposed alignment of the interceptor in addition to determining if there are any environmental concerns that may impact construction scheduling and/or construction costs.

- C. Subsurface Utility Engineering (SUE) - IMEG shall provide Level A/B SUE services to determine locations of existing utilities within the proposed alignment. By Colorado State Law, IMEG is required to provide these services as part of this Contract upon completion of final design of improvements.
- D. Geotechnical Engineering - IMEG shall provide soil borings at critical design points along the proposed alignment at depths varying between 20 to 30 feet below the ground surface to evaluate subsurface geological conditions and to obtain samples for laboratory testing. The laboratory testing will be completed to evaluate relevant engineering characteristics, such as, but not limited to, in-place moisture and density, particle size analysis, Atterberg limit, strength, water-soluble sulfates, and soil corrosivity. This evaluation will assist IMEG in determining feasibility and requirements for installation of the sanitary sewer interceptor at the proposed alignment or if a more suitable alignment should be reviewed.

This information will be utilized in conjunction with our previously completed initial geotechnical study completed in 2020. Any soil borings completed in this scope will be as a result of a change in the proposed alignment and/or in location(s) in which it is determined that there is insufficient geotechnical data available.

- E. Field Surveying - IMEG shall provide land surveying services in coordination with final design of this alignment including existing conditions at minimum 100-foot intervals for the length of the proposed alignment.
- F. State and Local Permitting/Sizing -
1. It is anticipated that required sewer sizing will require obtaining a State of Colorado Site Application for the proposed alignment. IMEG will prepare the Site Application and associated Preliminary Engineering Report. that will be reviewed for approval by the Colorado Department of Public Health and Environment (CDPHE). This report will define the basis of design including horizontal/vertical alignment, sizing of sewer interceptor segments, and other engineering factors. Approval of the proposed sewer improvements from CDPHE will require additional improvements increasing capacity of the Central Wastewater Treatment Plant are planned and/or approved. The Town will make these documents available to IMEG for coordination purposes in pursuing approval from CDPHE.
 2. Concurrently, IMEG will submit for review and approval the final construction plans and specifications for the engineering design of this alignment to CDPHE.

3. Both of these submittals are required to procure the State issued construction permit for sanitary sewer piping at 24-inches in diameter or larger.
4. IMEG will complete a capacity analysis of the proposed interceptor to determine an appropriate size for the proposed interceptor for this alignment.

- G. Final Design - IMEG will prepare construction plans and project specifications for the final design of the proposed North Phase One Sewer Interceptor as defined as NORTH Option A alignment, which is estimated at 41,000 +/- lineal feet in length. The construction plans will consist of a cover sheet, applicable construction notes, an overall alignment plan, plan and profile of the sanitary sewer alignment (horizontal/vertical), construction details, temporary erosion control considerations, and estimated plan quantities. In conjunction with the construction plans, IMEG will prepare project specifications specifically outlining required materials, workmanship, and processes for constructing the proposed sanitary sewer interceptor. The project specifications will be integrated into a Project Manual that will contain the Town contract documents including agreement and conditions. It is assumed that the Engineering Joint Contract Documents Committee (EJCDC) format will be utilized for the Contract and Specifications that comprise the Project Manual.
- H. CMaR Assistance - IMEG will assist the Town and the Town's selected CMaR Contractor during pre-construction services to evaluate construction and design alternatives. Weekly CMaR team meetings will be held in which IMEG will prepare meeting agendas and meeting minutes. IMEG estimates these weekly meetings to be held for forty (40) weeks during the design phase.

Option B (Lift Station Alternative) – If the Town elects to pursue the Option B (Lift Station) Alternative, IMEG will provide final design and engineering services for the North Phase One Lift Station/Force Main as defined as NORTH Option B in Exhibit 'E', Wastewater System Proposed Interceptor Alignments — Priorities. This alignment will include a segment of gravity interceptor in addition to the lift station and force main improvements. (Selection of Option B would negate the necessity for design of the approximately 7000+/- feet gravity sanitary sewer loop north around portions of Sections SE31 and SW32 (as included in the Base Option A design.)

It is recognized and agreed upon by the Town and IMEG that the proposed Option B alignment may change due to certain physical or political barriers beyond either Party's control. Both the Town and IMEG shall review any such changes and determine if an Amendment to this Contract may be required.

Final Design and Engineering Services for Option B will include the final design services identified for Option A base project, with the following additions/modifications:

- A. Easements/Right-of-Way - Title search, by a Title Insurance Company, of up to 6 additional parcels along this alignment for which obtaining Title information binders and performing associated research will be required.
- B. Geotechnical Engineering - IMEG shall provide additional soil borings at critical design points along the proposed Option B alignment, including the potential lift station location, at depths varying between 20 to 30 feet below the ground surface along the sewer alignment, and up to 40 feet below ground at the lift station site.
- C. State and Local Permitting/Sizing - IMEG will augment the State of Colorado required Site Application and preliminary engineering report proposed for Option A to include the Option B lift station/force main.
- D. Final design - IMEG will prepare construction plans and project specifications for the final design of the proposed Option B lift station and the associated force main/gravity sewer - which is estimated at 7,000 +/- lineal feet in length - and will integrate this design into the Option A plans and specifications.
- E. CMaR Assistance - IMEG will assist the Town and the Town's selected CMaR Contractor during pre-construction services to evaluate construction and design alternatives associated with the Option B design.

Option Additive Alternate (North CGLS) - If the Town elects to include the North Phase One Corbett Glen Interceptor (defined as the NORTH CGLS Option Additive Alternative in Exhibit 'E', Wastewater System Proposed Interceptor Alignments), IMEG will provide final design and engineering services for the addition. This alignment is further defined as beginning at the existing Corbett Glen Lift Station, traversing north along Colorado Boulevard (CR 13), and terminating at the proposed North Interceptor Alignment within County Road 50, all within the Town of Johnstown, Colorado. This alignment will include a segment of gravity interceptor in addition to demolition and decommissioning of the Corbett Glen Lift Station.

It is recognized and agreed upon by the Town and IMEG that the proposed NORTH CGLS Option alignment may change due to certain physical or political barriers beyond either Party's control. Both the Town and IMEG shall review any such changes and determine if an Amendment to this Contract may be required.

Final Design and Engineering Services for NORTH CGLS Option will include the final design services identified for Option A base project, with the following additions/modifications:

- A. Easements/Right-of-Way - Title search, by a Title Insurance Company, for each parcel impacted by the proposed alignments. It is estimated there are up to 2 additional parcels along this alignment for which obtaining Title information binders and performing associated research will be required.
- B. Environmental Assessment - IMEG shall provide an assessment of the proposed alignment with regards to environmental services including a Phase I Environmental Site Assessment (Phase I ESA), natural resource assessment, wetland delineation, habitat assessment, and cultural resource inventory. (This alignment was not included in the prior preliminary evaluations.)
- C. Geotechnical Engineering - IMEG shall provide soil borings at critical design points along the proposed NORTH CGLS Option alignment at depths varying between 15 to 20 feet below the ground surface. (This alignment was not included in the prior preliminary evaluations.)
- D. State and Local Permitting/Sizing - IMEG will augment the State of Colorado required Site Application and preliminary engineering report proposed for Option A to include the proposed NORTH CGLS Option.
- E. Final Design - IMEG will prepare construction plans and project specifications for the final design of the proposed NORTH CGLS Option - which is estimated at 2,300 +/- lineal feet in length - and will integrate this design into the Option A plans and specifications.
- F. CMAr Assistance - IMEG will assist the Town and the Town's selected CMAr Contractor during pre-construction services to evaluate construction and design alternatives associated with the NORTH CGLS Option design.

EXHIBIT B
Schedule of Fees
November 2020

The estimated schedule of fees, on time and material basis in an amount not to exceed without additional Town authorization is as follows (consistent with the Scope of Work described in Exhibit A):

Option A - Original North Alignment

A.	Easements/ROW *	\$ 50,000
B.	Environmental Assessment *	\$ 51,000
C.	Subsurface Utility Engineering *	\$ 300,000
D.	Geotechnical Engineering *	\$ 75,000
E.	Field Surveying *	\$ 80,000
F.	State Permitting/Sizing	\$ 95,000
G.	Final Design	\$ 605,000
H.	CMAA Assistance	\$ 65,000
I.	Project Expenses (Allowance)	\$ 1,000

Total - Option A (Not to Exceed Amount) \$1,322,000

* Includes sub-consultant fees

Option B - Lift Station Alternative

A.	Easements/ROW *	\$ 15,000
B.	Environmental Assessment *	\$ 10,000
C.	Subsurface Utility Engineering *	\$ 60,000
D.	Geotechnical Engineering *	\$ 27,000
E.	Field Surveying *	\$ 26,000
F.	State Permitting/Sizing	\$ 10,000
G.	Final Design *	\$ 185,000
H.	CMAA Assistance	\$ 3,000
I.	Project Expenses (Allowance)	\$ 1,000
J.	Reduction of Overlap from Option B	(\$ 85,000)

Total - Option B (Not to Exceed Amount) \$ 252,000

* Includes sub-consultant fees

Option Additive - Corbett Glen Alignment

A.	Easements/ROW *	\$ 15,000
B.	Environmental Assessment *	\$ 8,000
C.	Subsurface Utility Engineering *	\$ 45,000
D.	Geotechnical Engineering *	\$ 22,000
E.	Field Surveying *	\$ 21,000
F.	State Permitting/Sizing	\$ 5,000
G.	Final Design *	\$ 42,500
H.	CMAA Assistance	\$ 1,500
I.	Project Expenses (Allowance)	\$ 1,000

Total - Option Additive (Not to Exceed Amount) \$ 161,000

* Includes sub-consultant fees

Total Estimated Fees (Option A, B, and Additive – Not to Exceed) \$1,735,000

Typical current staff rates for the Town are presented below for consideration. IMEG will hold the rates for a two-year period. If the Agreement continues beyond two years, IMEG may update the rates.

Staff	Title	IMEG Current Hourly Rates
Gregory A. Weeks, P.E.	Project Manager	\$150
Taylor C. Goertz, P.E.	Project Executive	\$190
Glendon W. Berrett, P.E.	Project Executive	\$190
Rick A. Rome, P.E.	Senior Engineer	\$150
Greg D. Jeppesen, P.E.	Senior Engineer	\$150
Ryan K. Vevang, P.E.	Project Engineer	\$130
Shelley E. Cobau	Senior Civil Technician	\$120
Michael C. Cregger, P.L.S.	Senior Land Surveyor	\$140
Paige R. Coufal	Project Designer	\$100
Zach W. Pauser	Project Designer	\$100
Julie Campos	Administrative Assistant	\$65
Survey Crew (PWSI)	Subconsultant	\$160
Other Staff General Rates		
Project Engineer		\$90-\$110
Senior Engineer		\$110-\$150
CAD/GIS Technician		\$85-\$125
Professional Land Surveyor		\$130-\$150
Inspection Staff		\$85-\$130
Administrative Staff		\$60-\$90

- Automobile travel will be charged at current Federal Government rate.
- Outside Consultants and/or independent laboratory tests which IMEG administers will be charged at cost plus 10%
- Other expenses charged at cost plus 10%.

EXHIBIT C

Timeline

Unless otherwise agreed in writing, the following timeline and major milestones for the proposed Scope of Work defined in Exhibit A shall apply:

Milestone	Start Date	Duration (Weeks)	Completion Date
Notice to Proceed	1/1/2021	0	1/1/2021
Field Surveying *, **	1/3/2021	12*	4/1/2021*
Environmental Assessment**	1/3/2021	12	4/1/2021
Preliminary Design	4/1/2021	12	7/1/2021
Easement/ROW Determination	5/1/2021	8	7/1/2021
State Permitting	7/1/2021	8	9/1/2021
Subsurface Utility Engineering**	7/1/2021	12	10/1/2021
Geotechnical Engineering**	7/1/2021	8	9/1/2021
Final Design	10/1/2021	8	12/1/2021
CMaR Pricing/Evaluation	12/1/2021	4	1/1/2022
Begin Construction**	1/1/2022	52	12/31/2022

* Subject to weather impacts/snow cover.

** Authorization to enter properties must be secured before field investigation can be completed.

*** For informational purposes only (not a part of this Agreement).

EXHIBIT D
REQUIRED PROVISIONS FOR CONTRACT FOR SERVICES
PROHIBITING EMPLOYMENT OF ILLEGAL ALIENS

IMEG shall not:

1. Knowingly employ or contract with an illegal alien to perform work under this public contract for services; or
2. Enter into a contract with a subcontractor that fails to certify to IMEG that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

IMEG has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the e-verify program or the Department of Labor and Employment program.

IMEG is prohibited from using either the e-verify program or the Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

If IMEG obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, IMEG shall be required to:

1. Notify the subcontractor and the contracting state agency or political subdivision within three days that IMEG has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph 1 of this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that IMEG shall not terminate the contract with the subcontractor if during such three days that subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

IMEG shall comply with any reasonable request by the Department made in the course of an investigation that the Department of Labor and Employment is undertaking pursuant to the authority established in subsection (5) of Section 8-17.5-102 of the Colorado Revised Statutes.

IF IMEG VIOLATES ANY OF THE AFOREMENTIONED REQUIREMENTS, THE TOWN MAY TERMINATE THE CONTRACT FOR BREACH OF CONTRACT. IF THIS CONTRACT IS SO TERMINATED, IMEG SHALL BE LIABLE FOR ACTUAL AND CONSEQUENTIAL DAMAGES TO THE TOWN OF JOHNSTOWN.

Item #17.





Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: Creating a Town of Johnstown Water Bank

ACTION PROPOSED: Consider Approval of Resolution No. 2020-42

ATTACHMENTS: 1. Resolution No. 2020-42

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

Presented for your review and consideration is Resolution No. 2020-42 that would create a Town of Johnstown Water Bank. Recently, the Town has been acquiring shares of Home Supply that have become available on the market and it was suggested during a recent Town Council Meeting to provide this water for economic development purposes as a possible incentive.

The Town will close on two (2) shares of Home Supply water on Tuesday December 22, 2020, and these shares have been adjudicated. Based on the Town's recognized yield for an adjudicated water share from Home Supply, this nets 16 acre-feet. The Resolution presented would establish the Water Bank and begin its creation with 16 acre-feet of water. This water is non-specific, meaning the actual water in the bank is not identified by a share certificate, only by volume and the 16 acre-feet of water in the Town's portfolio. Any use of this water within the Water Bank shall be exclusively determined and approved by Council. Council will also have full discretion as to what the amount of cash-in-lieu payment they want to receive based on the project and/or market rate for water at the time of dedication for a project through the bank.

LEGAL ADVICE:

The Resolution was drafted by the Town Attorney.

FINANCIAL ADVICE:

Not Applicable.

RECOMMENDED ACTION:

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

Approve Resolution 2020-42 as presented.

SUGGESTED MOTIONS:

For Approval

I move to adopt Resolution 2020-42 as presented.

For Denial

I move to deny Resolution 2020-42 as presented.

Reviewed and Approved for Presentation,

Town Manager

TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2021-42

CREATING TOWN OF JOHNSTOWN WATER BANK

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, pursuant to the Johnstown Municipal Code, persons who seek an extension of water service or a change in land use that requires an increased demand for Town water service are required to dedicate a sufficient amount of acceptable raw water to the Town to satisfy the anticipated water needs of the proposed project; and

WHEREAS, the Town Council recognizes the challenges of obtaining raw water, particularly when the amount of raw water that a person is required to dedicate is relatively small, such as, for illustrative purposes only, one single family equivalent or less; and

WHEREAS, the Town Council desires to create a water bank to assist persons who are required to dedicate a relatively small amount of raw water to the Town and allow such persons to pay cash-in-lieu of the required raw water dedication; and

WHEREAS, the Town Council hereby finds that adoption of an economic development incentive policy is in the best interest of the Town and the citizens of the Town.

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

1. The Town Council hereby creates a water bank, to be known as the Town of Johnstown Water Bank. The Town Council hereby directs that the following water owned by the Town shall be deposited into the Town of Johnstown Water Bank: 16 acre-feet of raw water from the Consolidated Home Supply Ditch & Reservoir Company.

2. The Town of Johnstown Water Bank shall be available to persons who are required to dedicate a relatively small amount of raw water to the Town. “Persons” shall be deemed to include associations, corporations, firms, partnerships and bodies politic and corporate as well as individuals.

3. Persons authorized to use the raw water held in the Town of Johnstown Water Bank shall pay cash-in-lieu of the required raw water dedication in an amount that is at least equal to the fair market value of the water as of the date of actual cash-in-lieu payment.

4. The Town Council shall retain discretion to administer the Town of Johnstown Water Bank, which discretion shall include, among other aspects of the administration,

determining whether a person is entitled to purchase raw water from the Town of Johnstown Water Bank and, if so, the amount of the cash-in-lieu payment.

5. The Town Manager, or his designee, is hereby directed to create an application wherein a person may apply to use the water in the Town of Johnstown Water Bank.

PASSED, SIGNED, APPROVED, AND ADOPTED this ____ day of December, 2020.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: December 21, 2020

SUBJECT: Creation of a Second Round of Micro Grants for Small Businesses in Johnstown

ACTION PROPOSED: Consider Approval of Resolution No. 2020-44

ATTACHMENTS: 1. Resolution No. 2020-44

PRESENTED BY: Matt LeCerf, Town Manager

AGENDA ITEM DESCRIPTION:

Presented for your review and consideration is Resolution No. 2020-44 that would establish the Second Round of Micro Grants for small businesses. The COVID-19 pandemic continues to create economic challenges, especially for our businesses in the community. In an effort to help support those businesses, Council requested at the December 14, 2020 Special Called Meeting for the creation of a second round of micro grants. Enclosed for your review and consideration is a resolution that would establish the program and the associated criteria that would be required for consideration of a grant award. If approved, Staff will roll out this program immediately and begin receiving application based on need. The hope is this provides that final push necessary for businesses to remain open after the end of the pandemic.

Staff continues to work on the actual application, but the criteria is the most critical to ensure a balanced evaluation of each application as it is received. The maximum amount permitted on this second round of grants, is \$15,000. Our hope is to issue a portion of these grants before the end of FY 2020 and use the appropriated funds in FY 2021 in the amount of \$200,000 for businesses that submit applications after the new calendar year. If necessary, Staff will come back to Council for an additional appropriation if awards exceed the \$200,000 mark in 2021.

LEGAL ADVICE:

The Resolution was drafted by the Town Attorney.

FINANCIAL ADVICE:

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

Funds for this program have been appropriated in both FY 2020 and FY 2021.

RECOMMENDED ACTION:

Approve Resolution 2020-44 as presented.

SUGGESTED MOTIONS:

For Approval

I move to adopt Resolution 2020-44 as presented.

For Denial

I move to deny Resolution 2020-44 as presented.

Reviewed and Approved for Presentation,

Town Manager

TOWN OF JOHNSTOWN, COLORADO

RESOLUTION NO. 2020-44

**RESOLUTION ADOPTING TOWN OF JOHNSTOWN
SECOND SMALL BUSINESS MICRO GRANT PROGRAM**

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 January 30, 2020, the World Health Organization declared the worldwide outbreak of COVID-19 a public health emergency of international concern, and, on January 31, 2020, the United States Department of Health and Human Services declared the virus a public health emergency; and

WHEREAS, on March 10, 2020, Governor Polis declared a state of emergency for the State of Colorado due to COVID-19; and

WHEREAS, on March 11, 2020, the World Health Organization declared the outbreak of COVID-19 a pandemic; and

WHEREAS, on March 13, 2020, President Trump issued a proclamation that the COVID-19 outbreak in the United States constitutes a national emergency; and

WHEREAS, on March 16, 2020, by Resolution 2020-07, the Town Council declared a local disaster emergency; and

WHEREAS, on April 20, 2020, by Resolution No. 2020-11, the Town Council adopted the Town of Johnstown Small Business Micro Grant Program (“Grant Program”), to provide funding and assistance to the Town’s small business community due to the COVID-19 pandemic; and

WHEREAS, on August 3, 2020, by Resolution No. 2020-21, the Town Council expanded the Grant Program to provide funding to and accommodate the needs of additional businesses in the Town; and

WHEREAS, since the inception of the Grant Program, the Town has awarded grants to 35 businesses in the Town, totaling \$296,790.21; and

WHEREAS, the COVID-19 pandemic continues to remain a public health emergency; and

WHEREAS, on October 27, 2020, Jill Hunsaker Ryan, Executive Director of the Colorado Department of Public Health and Environment (“CDPHE”), issued the Fourth Amended Public

Health Order 20-35, Safer at Home Dial, implementing levels of restrictions for individuals, businesses and activities to prevent the spread of COVID-19; and

WHEREAS, on December 7, 2020, the CDPHE issued the Third Amended Public Health Order 20-36, COVID-19 Dial, further defining the levels of restrictions; and

WHEREAS, pursuant to the public health orders and criteria contained therein, the CDPHE has categorized Larimer County and Weld County as “Level Red” representing “Severe Risk;” and

WHEREAS, based on the Level Red categorization, and due to the ongoing threat to public health, the Town’s business community, or a good portion thereof, continues to be significantly impacted and financially disadvantaged by the orders to cease, or severely restrict, business operations because, despite the cessation or limitation of business operations and the resultant complete loss or significant decrease in revenues, the businesses continue to incur expenses; and

WHEREAS, the Town Council values and appreciates the Town’s small business community and recognizes that it is a core facet of the Town, helping to make Johnstown a great place to live; and

WHEREAS, in addition to the value to the private citizens, the Town’s small business community provides substantial public benefits to the Town in the form of, among others, commerce, taxes, fees, employment and sustainability, which contribute to the generation of municipal revenue and the ability to provide municipal services; and

WHEREAS, the retention, success and longevity of the small business community is vital to the Town’s interests, the Town’s economic vitality and the Town’s prosperity; and

WHEREAS, to safeguard the success of the Town’s small business community, the Town Council desires to terminate the Grant Program adopted on April 20, 2020, and replace it with a new and revised Town of Johnstown Second Small Business Micro Grant Program (“Second Grant Program”), a summary of which is attached to this resolution as Exhibit A; and

WHEREAS, the Town Council authorizes businesses that applied for and obtained funding under the original Grant Program to, if they so desire, apply for and receive additional funding under the Second Grant Program; and

WHEREAS, the Town Council finds, determines and declares that: (i) adoption of the Second Grant Program will promote the public interest and protect and preserve the economic vitality of the Town; (ii) the public benefits to be derived from the Second Grant Program are significant and substantial and justify the expenditure of the public funds necessary to establish, fund and administer the Second Grant Program; and (iii) the Town will receive adequate consideration for its financial contribution to the Second Grant Program in the form of the preservation of the public benefits described herein; and

WHEREAS, the Town Council finds, determines, and declares that the Second Grant Program will provide a public benefit and further a public purpose within the meaning of Article 11, Section 2 of the Colorado Constitution; and

WHEREAS, the Town Council finds, determines, and declares that it has the power to adopt the Second Grant Program based on the authority granted to home rule municipalities by Article XX of the Colorado Constitution and the powers contained in the Johnstown Home Rule Charter; and

WHEREAS, the Town Council finds, determines and declares that adoption of the Second Grant Program is in the best interests of the citizens of the Town and advances and preserves the public peace, health, safety and welfare.

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

Section 1. Adoption of Second Grant Program. Based on the reasons set forth in the recitals above, the Town Council hereby adopts the Town of Johnstown Second Small Business Micro Grant Program. A summary of the guidelines is attached hereto and incorporated herein by reference as Exhibit A.

Section 2. Funding. The Town Council budgeted funds in fiscal year 2020 and appropriated an additional \$200,000.00 in funds in fiscal year 2021 to fund the Town of Johnstown Second Small Business Micro Grant Program. The Town Council may amend this amount in their discretion based on a determination of additional need.

Section 3. Administration. The Town Manager, or his designee, is hereby authorized to administer the Town of Johnstown Second Small Business Micro Grant Program and award grants based on factors that promote the public benefits and serve the municipal purposes set forth in this Resolution.

Section 4. Termination. The Town Council or the Town Manager may terminate the Town of Johnstown Second Small Business Micro Grant Program at any time by publishing a notice of termination on the Town's website, <https://johnstown.colorado.gov>.

Section 5. Effective Date. This resolution shall be effective upon the date of its adoption.

PASSED, SIGNED, APPROVED, AND ADOPTED this ____ day of December, 2020.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor



Town of Johnstown

TOWN OF JOHNSTOWN SECOND SMALL BUSINESS MICRO GRANT PROGRAM

Purpose:

The Second Small Business Micro Grant Program (the “Second Grant Program”) is designed to help small businesses in the Town of Johnstown (“Town”) during the COVID-19 pandemic.

Introduction:

The Town recognizes and understands the value the small businesses bring to the community. To help support the small businesses, the Town created the Second Grant Program to provide grants to help small businesses immediately offset some of the economic impacts arising from the pandemic.

The Second Grant Program is open to small businesses physically located and operating within the Town’s boundaries, including locally-owned franchises. To be eligible for the Program, the business must have had 1-50 full-time employees on October 1, 2020, the date Governor Polis issued a statewide disaster declaration, or, in the Town Manager’s discretion based on good faith considerations, have had more than 50 employees on October 1, 2020. A business owner shall be considered an employee for the purpose of satisfying the eligibility requirements of the Second Grant Program. Micro grants up to \$15,000 will be available for small businesses in the Town.

The Town will review applications submitted on a first-come, first-serve basis. An applicant may submit more than one application, but shall not be entitled to a total grant award exceeding \$15,000. Grants will awarded in the sole discretion of the Town based on the submission of the required documentation, the responses provided in the application and any other factors the Town deems to be relevant. The Town may, but is not required to, provide a reason for the denial of an application or for the determination of the amount of the grant award. Submitting an application is not a guarantee of a grant award, and the Town may terminate the Second Grant Program at any time, for any reason, or when available funds are depleted.

Fund Availability:

Funds are currently available in FY 2020 if the program is available before the end of the fiscal year (December 31, 2020). An additional \$200,000 has been appropriated by the Town to fund the Second Grant Program which based on review by Council may be considered for . In the discretion of the Town, grants may be awarded in an amount up to, but not exceeding, \$15,000.

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

How To Apply:

To apply, an applicant shall submit an application. Upon receipt of the application, the Town will contact the applicant to verify information and provide instructions on how to upload sensitive information.

New Applicants:**Required Documents:**

An applicant shall submit the following documentation with the application:

- Complete grant application;
- 2019 tax return/K-1;
- 2019 financial statements;
- 2020 Profits and Loss Statement and/or Cash Flow Statement;
- Itemized budget for fund request in format prescribed by the Town; and
- Other information and documentation as may be requested by the Town subsequent to submission of the application.

Returning Applicants (Those receiving a Grant Award in Round 1):

An applicant shall submit the following documentation with the application:

- Complete grant application;
- 2020 Profits and Loss Statement and/or Cash Flow Statement;
- Itemized budget for fund request in format prescribed by the Town; and
- Other information and documentation as may be requested by the Town subsequent to submission of the application.

All Applicants:**Eligibility Guidelines:**

To be eligible, an applicant must:

- Have an active Town Business License ;
- Have at least one physical location within the Town, with no more than three total locations;
- Have had 1-50 employees on October 1, 2020, or, in the Town Manager's discretion, have had more than 50 employees on December 21, 2020;
- Not be, or not have been, engaged in any illegal activity;
- Show that historical profits would have been sufficient for the business to stay in operation and that COVID-19 outbreak has had a negative impact; and
- Be registered and in good standing with Colorado Secretary of State.

Review Process:

Applications will be reviewed first by Town staff for completeness and eligibility. Following a determination of eligibility, applications will be reviewed and recommended by a Review Committee of up to three individuals selected by the Town. The Review Committee will make recommendations regarding grant awards to the Town Manager, who will consider the Review Committee's recommendation and make the final determination to approve, defer or deny a grant

award. The Town Manager may be a member of the Review Committee and qualify as one of the three committee members as described above. The review period may take up to three business days following submittal of a complete application. Incomplete applications will not be considered.

Disclosure Information:

The Town of Johnstown understands and supports the public's right to access public records. Information submitted through the Program is a public record and may be subject to disclosure under the Colorado Public Records Act, Section 24-72-200.1, *et seq.*, C.R.S.