



450 S. Parish Avenue
Johnstown, CO 80534
970-587-4664
JohnstownCO.gov

Town Council Regular Meeting
450 S. Parish, Johnstown, CO
Monday, June 2, 2025 @ 7:00PM

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

Agenda

Call to Order

Pledge of Allegiance

Roll Call

Agenda Approval

Special Presentations

1. New Employee Introductions

Public Comment

Consent Agenda

2. May 5, 2025 Town Council Meeting Minutes
3. List of Bills
4. April 2025 Financials and Sales Tax Summaries Q1 2025
5. Resolution 2025-16 Approving an Annual Amendment to the 2024 Asphalt Patching Project Agreement for the 2025 Asphalt Patching Project.

Town Manager's Report

6. Town Manager's Report

Old Business

New Business

7. Resolution 2025-14 Amending the Rules and Regulations and Amended Fees for the Johnstown Cemetery
8. Resolution 2025-15: Resolution Extending the Moratorium on the Town of Johnstown's Acceptance of the Dedication of Consolidated Home Supply Ditch & Reservoir Company Water Shares Adjudicated for Municipal Use In District Court, Water Division No. 1, Case No. 20CW3011, and the Dedication of Water Shares That Have Not Been

Adjudicated for Municipal Use to July 21, 2025

9. Memorandum of Understanding Between the Town of Johnstown and the Thompson Rivers Park and Recreation District
10. Intersection Agreement Concerning Roundabout At Roosevelt Parkway and Colorado Boulevard
11. Award Contract for Construction of the Town of Johnstown Development Services Building

Public Hearing

Council Reports and Comments

Mayor's Comments

Informational Items

12. Informational Items

Executive Session

Adjournment

Americans with Disabilities Act Notice

In accordance with the Americans with Disabilities Act and other applicable laws, persons who need accommodation in order to attend or participate in this meeting should contact Town Hall at 970-587-4664 no later than 48 hours before the meeting in order to request such assistance. De conformidad con la Ley de Discapacitados Estadounidenses y otras leyes vigentes, los individuos que necesitan adaptaciones funcionales para asistir o participar en esta reunión deberán comunicarse con la Municipalidad marcando el 970 587- 4664 a lo más tardar 48 horas antes de dicha reunión para solicitarla.

THE COMMUNITY THAT CARES





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TOWN COUNCIL REGULAR MEETING

450 S. Parish, Johnstown, CO

Monday, May 5, 2025

MINUTES

CALL TO ORDER

At 7:00 Mayor Duncan called the meeting to order.

PLEDGE OF ALLEGIANCE

Mayor Duncan invited attendees to join in the Pledge of Allegiance.

ROLL CALL

Present:

Councilmember Menzies
Councilmember Morris
Councilmember Berg
Mayor Duncan
Mayor Pro Tem Young
Councilmember Molinar
Councilmember Paranto

AGENDA APPROVAL

Mayor Duncan noted that Business of the Month would be removed from the agenda.

Motion by Councilmember Berg and seconded by Councilmember Paranto to approve the amended agenda.

Upon vote, the motion passed unanimously.

SPECIAL PRESENTATIONS

New Employee Introductions:

The Community that Cares

Planning and Development Director Jeremy Gleim introduced Cody Yager, the Town's new Senior GIS Analyst.

Human Resources Director Laura Stephens introduced Monica Albright, the Town's new Talent & Acquisition Specialist.

Town Manager Matt LeCerf introduced Tim Hoos, the Town's new Public Works Director.

Proclamation for Foster Care Month:

Councilmember Menzies read a proclamation proclaiming May as Foster Care Month in Johnstown.

Proclamation for Mental Health Awareness Month:

Councilmember Menzies read a proclamation proclaiming May as Mental Health Awareness Month in Johnstown.

PUBLIC COMMENT

David Burke, 556 Columbia Street, asked about the walkway at 46.5. He asked about crosswalk signs and indicated it is impossible to get across the street. He also inquired about maintenance of the trail section.

CONSENT AGENDA

Motion by Mayor Pro Tem Young and seconded by Councilmember Berg to approve the consent agenda which contained the following items:

- List of Bills
- April 14, 2025 Town Council Special Meeting Minutes
- April 21, 2025 Town Council Meeting Minutes

Upon vote, motion passed unanimously.

TOWN MANAGER REPORT

Town Manager Matt LeCerf provided a report.

COUNCIL REPORTS AND COMMENTS

Councilmember Molinar: The Housing Authority is working with a company to gather investors to build a second building, they are targeting 2027.

Councilmember Berg: He thanked staff who attended and helped with the Cinco de Mayo event. On Memorial Day the POST will be honoring the veterans at the cemetery and then will host a Friendship and Fellowship event at the POST. He thanked Town staff for all their work on the construction project.

Councilmember Menzies: She reminded everyone about the Shred Event on May 17th and asked about the LED sign for downtown.

Councilmember Paranto: He mentioned how great it was to hear that we were awarded the Safe Routes to School Grant.

Councilmember Morris: She attended the recent Y meeting and encouraged the Council to take a tour of the YMCA. She also inquired about other Town representatives in that group.

Mayor Pro Tem Young: He mentioned that the former Town Attorney had passed away and he took a moment to reflect on his years of service to Johnstown.

MAYOR'S COMMENTS

Mayor Duncan: He thanked everyone for their hard work. He also thanked Council for taking on roles within community groups in Johnstown.

ADJOURNMENT

There being no further business for the Town Council, Mayor Duncan adjourned the meeting at 7:42 p.m.

Approved by Town Council:

Michael P. Duncan, Mayor

Attest:

Meghan C. Martinez, MMC, Town Clerk

Town of Johnstown
List of Bills - April 19, 2025 - May 19, 2025

<u>Vendor</u>	<u>Description</u>	<u>Dept</u>	<u>Amount</u>
AC/DC Electric	Building maintenance	PW	4,232.37
Aclara Technologies	Water meter software	UTIL	809.50
Adamson Police Products	Uniforms	PD	734.63
All American Glass and Screen Co.	Building maintenance	UTIL	235.00
Aqua Engineering	Central expansion project	UTIL	43,373.02
Autoplex Restyling Center	Truck upfits	PD	4,399.98
Benesch	Co Blvd & Hwy 60/CO & Roosevelt	PW	69,877.94
BHA Design Incorporated	Alley project	PW	1,040.00
Bludot Technologies Inc.	CRM software	ADM	195.00
Bluebeam, Inc.	Project software	PW	2,430.00
Browns Hill Engineering & Controls	SCADA	UTIL	23,675.36
Burns & McDonnell Engineering Co Inc.	Water Treatment Plant expansion	UTIL	139,219.68
Card Services	Training/travel/supplies	ALL	19,446.64
Cedar Supply	Fence supplies	PW	873.60
Central Weld County Water District	Interconnect	UTIL	703.20
CenturyLink	Phone/internet	PW/UTIL	1,639.10
Chief Logistics Solution LLC	Chemicals - water treatment	UTIL	4,500.00
Cintas	Mat supplies/service	PW	838.86
City of Fort Collins	Lab testing	UTIL	1,440.00
Civil Resources	Raw water line project	UTIL	28,616.50
CMC Tire	Vehicle maintenance	PD	915.32
Colorado Analytical Labs	Lab testing	UTIL	1,918.00
Colorado Demolition, Inc.	Sandra Drive house demolition	PW	78,912.18
Colorado Department of Transportation	I-25 project	PW	226.08
Colorado Greenbelt Management	Landscaping services	PW	1,400.00
Colorado Municipal Clerks Association	Training	ADM	1,480.00
Community Center Refund	Community Center refunds	ADM	1,220.00
Consolidated Home Supply Ditch	Water legal	UTIL	1,064.00
Core & Main	Water meters	UTIL	6,852.13
Costar Realty	Realty software	ADM	449.35
Coulson Excavating Co Inc	Supplies	PW	3,324.22
Court Refund	Court refund	ADM	725.00
Coyote Ridge Construction	SH60 waterline project	PW	652,973.49
CTIO Safety & Toll Enforcement Program	Travel	PD	75.00
Cummins Sales and Service	Generator maintenance	UTIL	3,054.67
Curtis Blue Line	Equipment	PD	7,376.50
D2C Architects	Development services building	ADM	7,262.61
DBC Irrigation Supply	Irrigation supplies	PW	9,333.82
Denali Water Solutions LLC	Sludge removal	UTIL	3,268.86
Denver Industrial Sales & Services Co	Patching materials	PW	5,160.00
DES Pipeline Maintenance, LLC	Line cleaning	UTIL	3,375.00
Desotec	Chemicals - GAC water treatment	UTIL	208,060.00
Diversified Communications	Training	PW	199.00
Dodge Media Group	Community marketing	ADM	1,400.00
Donna J Schmidt	Easement	UTIL	9,862.75
Water Permit Fee Refund	Water permit fee refund	UTIL	50.00
Employee Reimbursement	Supplies/training	ADM/PD	1,626.63
Equidox Software Company	Accessibility software	ADM	3,000.00
Felsburg Holt & Ullevig Inc	Billback - Engineering services	ADM	3,935.00
Felsburg Holt & Ullevig Inc	Engineering services	ADM	1,752.50
Ferguson Waterworks #1116	Water meters/supplies	UTIL	19,484.27
First Class Security Systems	Fire system monitoring	PW	148.80
First National Bank	Custodial services	ADM	803.07
Permit Refund	Refund for solar permit	ADM	612.21
Front Range Community College	Training academy	PD	34,519.30

Frontier Fertilizer & Chemical	Chemicals	PW	93.03
Frontier Self Storage	Storage	PW	280.00
Galloway & Company, Inc.	Survey services	PW	5,478.75
Glenn A. Jones Library	Monthly support	ADM	168,593.68
Grainger, Inc.	Supplies	UTIL	2,666.46
Graves Consulting	Compensation study	ADM	4,200.00
Greeley Monument Works Inc	Headstone work	PW	400.00
Ground Engineering Consultants, Inc.	SH60 waterline replacement	UTIL	11,078.00
H.D. Fowler Company	Water meters	UTIL	53,070.00
Hach Company	Lab supplies	UTIL	814.20
Helton & Williamsen, P.C.	Billback - Engineering services	ADM	120.00
Helton & Williamsen, P.C.	Water legal	UTIL	8,165.10
Hill & Robbins, PC	Legal services	UTIL	799.00
Hydrant Meter Deposit Refund	Hydrant Meter deposit refunds	ADM	9,375.00
IMEG Corp	Billback - Engineering services	ADM	7,790.00
Insight North America LLC	Investment services	ADM	2,494.03
Intermill Land Surveying	Land survey	ADM	2,200.00
Interstate Battery of the Rockies	Supplies	PW	311.90
John Deere Financial	Supplies	PW	742.00
2024 BBQ Days Winner	2024 Car show winners	ADM	200.00
Johnson Water Solutions, LLC	Tank inspections	UTIL	1,415.00
Johnstown Breeze	Publications	ADM	2,095.20
Johnstown Senior Center	Donation	ADM	5,000.00
J-U-B Engineers, Inc.	SH60 waterline replacement	ADM	362.00
J-U-B Engineers, Inc.	Billback - Engineering services	UTIL	23,192.17
Kelly Supply Co	Supplies	UTIL	229.09
Kimball Midwest	Supplies	PW	854.12
Knapp Productions	Band for BBQ Days	ADM	9,600.00
L G Everist Inc	Paving materials	PW	11,698.19
Larimer County Sales Tax Administrator	Use Tax - Reimbursement	ADM	87,723.14
Law Office of Avi Rocklin LLC	Billback - Legal services	ADM	7,254.50
Law Office of Avi Rocklin LLC	Legal services	ADM	16,875.00
Little Thompson Water District	Interconnect	UTIL	941.02
Loveland Barricade LLC	Supplies	PW	226.80
Mac Equipment, Inc	Equipment maintenance	PW	2,324.58
Matrix Design Group, Inc.	Maestes St. Drainage/Stormwater	PW	103,220.70
McGeady Becher P.C.	Billback - Legal services	ADM	1,035.25
Medicine for Business and Industry	Lab testing	ADM	306.00
Michael Lazar	Municipal Court Judge	ADM	2,625.00
Mile High Elevator LLC	Elevator maintenance	PW	234.74
Milliken Johnstown Electric	Building maintenance	UTIL	893.44
Moltz Construction Inc.	Central wastewater treatment plant	UTIL	1,663,269.27
Mountain States Pipe & Supply	Water meters	PW	80,640.00
Mountain West Vegetation Management	Weed control	UTIL	7,885.00
MWH Constructors	Water treatment plant expansion	UTIL	1,651,169.46
Napa Auto Parts, Inc	Supplies	ALL	971.80
NeoTrek, Inc	Plow Ops software	PW	1,440.00
NOCO Humane	Contract billing	PD	3,960.00
North Dakota Office of Attorney General	Background check	ADM	15.00
Northwest Parkway	Travel	PD	8.00
Original Equipment Auto Glass	Vehicle maintenance	PW	427.15
Otak	Little Thompson Trail bridge	PW	1,046.75
Parallel Custom Audio	BBQ Days DJ	ADM	2,900.00
Parkland USA Corp	Fuel	ALL	11,861.77
Patriot Petroleum Solutions LLC	Equipment maintenance	PW	2,499.83
Paul's Plumbing & Heating	Jetting services/sewer emergency	UTIL	31,546.60
Pear Project Services	Furniture	ADM	15,435.29
Pioneer Press of Greeley Inc	Printed supplies	PD/ADM	833.00

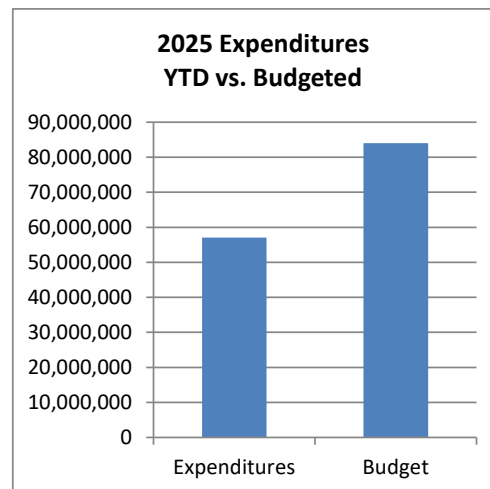
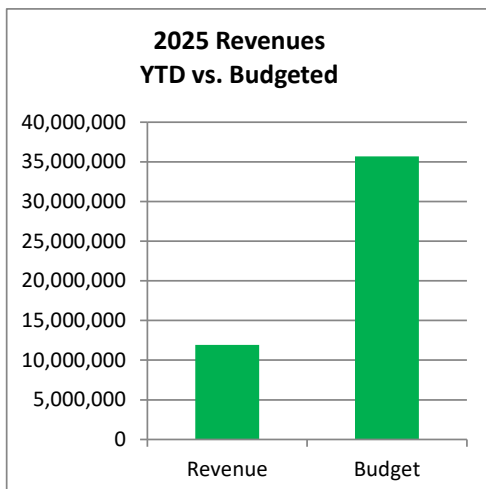
Poudre Valley REA	Utilities	PW	23,231.88
Proforma One Solution	Supplies	ADM	539.95
PVS DX, INC	Chemicals - water/sewer treatment	UTIL	24,142.57
Quality of Life & Safety Designs LLC	Fire system monitoring	PW	25.00
Ramaker & Associates, Inc.	Cemetery software	ADM	472.50
Ricoh USA	Supplies	ADM	158.53
Rise Broadband	Phone/internet	UTIL	112.67
Rocksbury Ridge HOA	Easement	UTIL	12,337.52
SAFEBuilt LLC	Inspection services	ADM	35,000.00
Sam's Club MC/SYNCB	Supplies	ALL	488.19
Sendas Communications LLC	Translation services	ADM	310.28
SG Window Tint	Building maintenance	ADM	592.80
Siteimprove	ADA compliance software	ADM	6,283.78
SiteOne Landscape Supply	Supplies	PW	1,435.02
Smith Valuation Consultants LLC	Appraisal services	ADM	1,500.00
Southwest JCB Inc	Shipping	PW	600.00
Striglos	Software	ADM	87.00
TDS	Phone/internet	ALL	2,871.68
Terminix	Building maintenance	PW	138.44
The Jamar Company	HVAC maintenance	PW	7,750.00
The Tree Guys LLC	Tree maintenance	PW	3,600.00
Tier One Networking, LLC	Computer equipment	ADM	2,199.00
TimberLAN	IT services	ALL	2,916.00
TopShelf Printers	Printed supplies	ADM	1,723.42
Town & Country Fence Co.	Fence supplies	PW	3,946.00
Town of Berthoud	Training	ADM	150.00
Town of Johnstown	Utilities	PW/UTIL	3,659.01
Treatment Technology Holding	Chemicals - water treatment	UTIL	14,246.50
Trinity SCS, Inc.	Supplies	PW	300.00
TruGreen Chemlawn	Chemicals	PW	9,077.81
UC Health Medical Group	Lab testing	PD	669.14
United Power, Inc	Utilities	PW/UTIL	835.13
Upper Case Printing Ink	Newsletter/utility bill printing	ADM/UTIL	7,574.00
Utility Notification Center of Colorado	Locates	PW	1,189.39
Utility Refund	Utility Refunds	ADM	180.11
Vector Disease Control	Mosquito spraying	PW	11,303.64
Veolia WTS Analytical Instruments, INC	Lab supplies	PW	505.00
Verizon Connect	Phone/internet	PW	239.25
Verizon Wireless	Phone/internet	ALL	5,789.09
Waste Connections of Colorado Inc.	Trash services	PW	99,065.02
Weld County Dept of Public Health	Lab services	UTIL	1,125.00
Weld County Information Technology	Supplies	PD	192.36
Weld County Sheriff	Jail fees	PD	38.58
Wenk Associates, Inc	Park Master Plan project	PW	12,500.00
Western States Land Services LLC	Raw water line project	UTIL	5,563.59
Whiteside's Greeley	Uniforms	ADM	199.99
Whiteside's Loveland	Uniforms	ADM	599.97
Working Spaces	Furniture	PD	24,371.70
Xcel Energy	Utilities	ALL	73,427.53
Yost Cleaning	Monthly cleaning service	ADM	3,362.66
			5,865,612.85

Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - General Fund
Period Ending April 30, 2025
Unaudited

General Fund	2025 Actuals April	2025 Adopted Budget	% Complete
Beginning Fund Balance*	84,695,137	84,695,137	
<u>Revenues:</u>			
Taxes & Fees	8,357,396	31,531,138	26.5%
Licenses & Permits	1,466,678	2,541,100	57.7%
Fines & Forfeitures	78,534	275,000	28.6%
Intergovernmental	102,852	50,000	205.7%
Earnings on Investment	1,217,096	900,000	135.2%
Miscellaneous Revenue	698,684	400,000	174.7%
<i>Transfers In</i>	-	-	
Total Operating Revenues	11,921,241	35,697,238	33.4%
<u>Expenditures:</u>			
Legislative	223,483	3,426,660	6.5%
Town Manager	508,055	3,074,535	16.5%
Town Clerk	198,168	671,200	29.5%
Events	3,930	326,120	1.2%
Finance	246,854	997,330	24.8%
Planning	315,248	1,217,345	25.9%
Reimbursements	79,090	350,000	22.6%
Engineering	286,562	1,238,540	23.1%
Police	3,409,266	10,441,960	32.6%
Public Works	203,215	885,100	23.0%
Buildings	248,387	5,394,200	4.6%
<i>Transfers Out</i>	51,345,843	55,978,124	91.7%
Total Expenditures	57,068,100	84,001,114	67.9%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	(45,146,859)	(48,303,876)	
Prior Period Adjustment			
Ending Fund Balance*	39,548,278	36,391,261	

* - Unaudited

33% of the fiscal year has elapsed

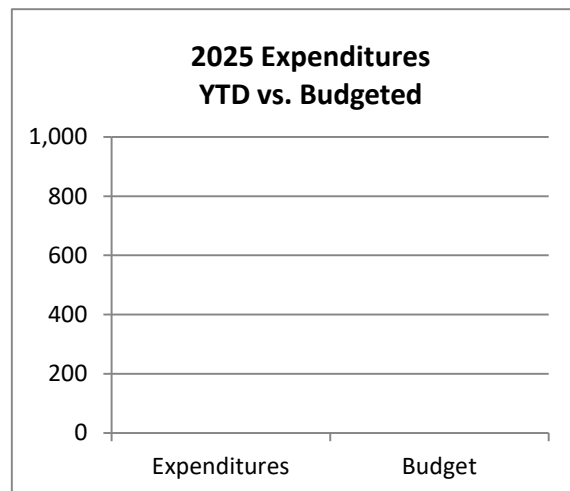
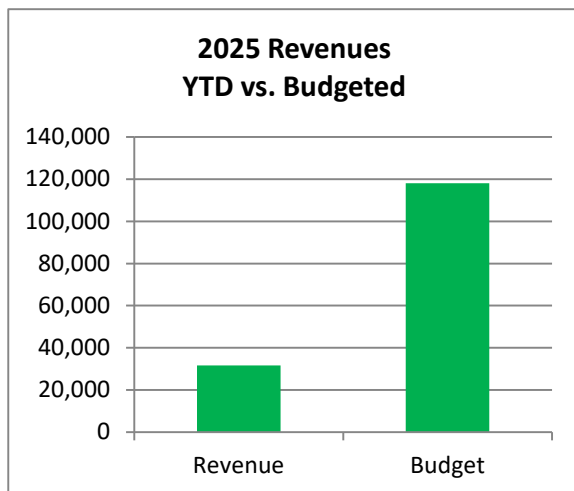


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Conservation Trust Fund
Period Ending April 30, 2025
Unaudited

Conservation Trust Fund	2025 Actuals April	2025 Adopted Budget	%
			Complete
Beginning Fund Balance*	25,540	25,540	
<u>Revenues:</u>			
Intergovernmental	29,199	115,000	25.4%
Earnings on Investment	2,419	3,000	80.6%
Transfers In	-	-	
Total Operating Revenues	31,617	118,000	26.8%
<u>Expenditures:</u>			
Operations	-	-	
Capital Outlay	-	-	
Transfers Out	-	-	
Total Expenditures	-	-	
Excess (Deficiency) of Revenues and Other Sources over Expenditures			
	31,617	118,000	
Ending Fund Balance*			
	57,157	143,540	

* - Unaudited

33% of the fiscal year has elapsed

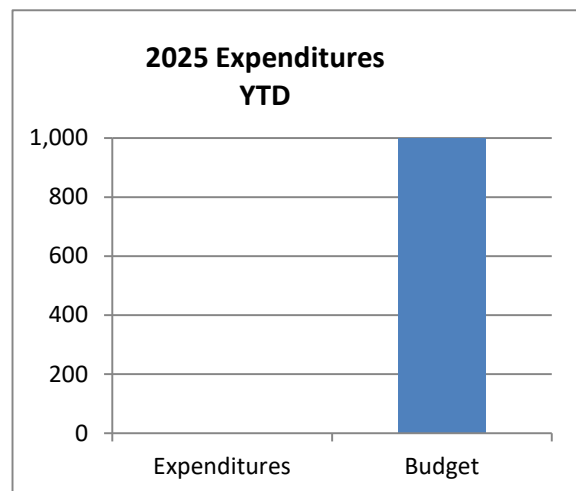
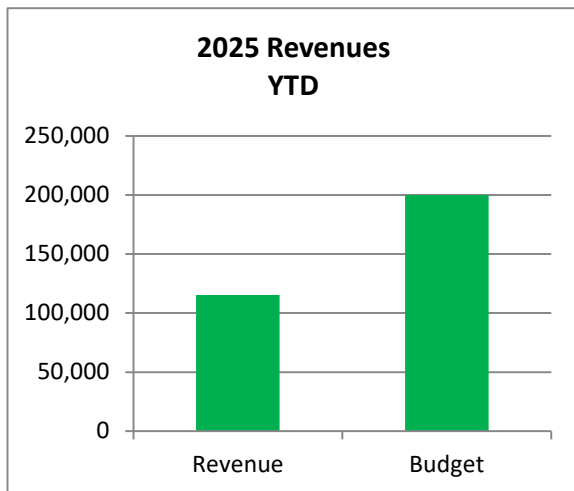


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Arts and Culture Fund
Period Ending April 30, 2025
Unaudited

	2025 Actuals April	2025 Adopted Budget	% Complete
Arts & Culture Fund			
Beginning Fund Balance*	430,126	430,126	
<u>Revenues:</u>			
Intergovernmental	114,128	200,000	57.1%
Earnings on Investment	1,138		
Total Operating Revenues	115,266	200,000	
<u>Expenditures:</u>			
Operations	-	-	
Capital Outlay	-	150,000	0.0%
Total Expenditures	-	150,000	
Excess (Deficiency) of Revenues and Other Sources over Expenditures	115,266	50,000	
Ending Fund Balance*	545,392	480,126	

* - Unaudited

33% of the fiscal year has elapsed

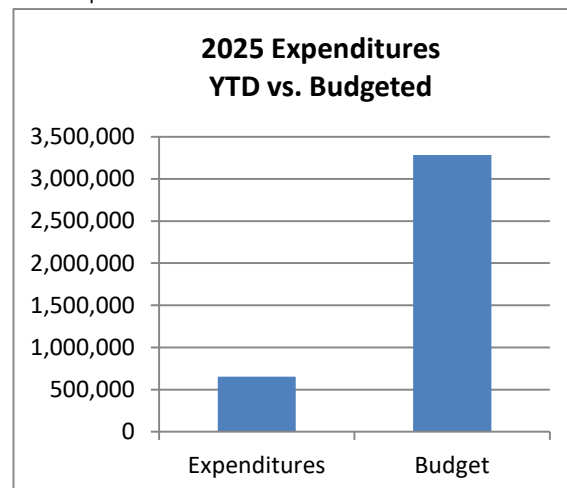
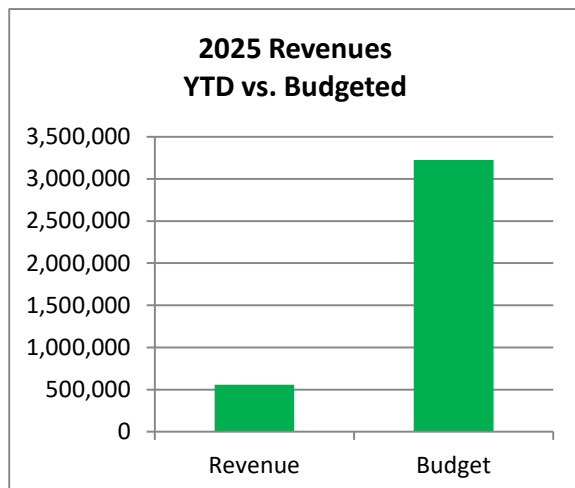


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Parks and Open Space Fund
Period Ending April 30, 2025
Unaudited

	2025 Actuals April	2025 Adopted Budget	% Complete
Parks and Open Space Fund			
Beginning Fund Balance*	8,760,894	8,760,894	
<u>Revenues:</u>			
Taxes & Fees	470,063	968,482	48.5%
License & Permit	335	500	67.0%
Earnings on Investment	46,863	75,000	62.5%
Miscellaneous Revenue	39,398	40,000	98.5%
<i>Transfers In</i>	0	2,140,000	0.0%
Total Operating Revenues	556,659	3,223,982	17.3%
<u>Expenditures:</u>			
Operations	341,847	1,272,140	26.9%
Capital Outlay	312,839	2,011,600	15.6%
<i>Transfers Out</i>	-	-	
Total Expenditures	654,686	3,283,740	19.9%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	(98,027)	(59,758)	
Ending Fund Balance*	8,662,867	8,701,136	

* - Unaudited

33% of the fiscal year has elapsed

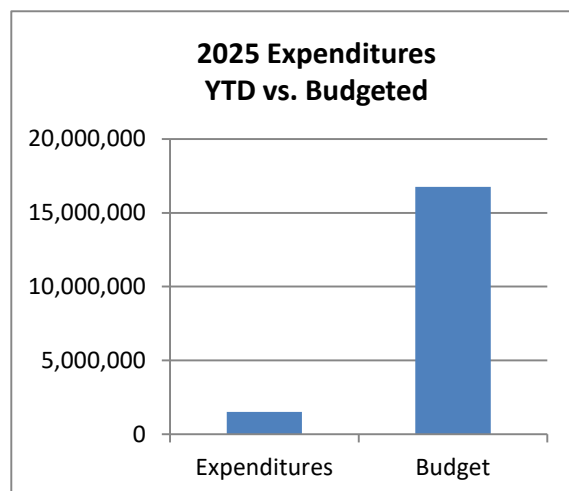
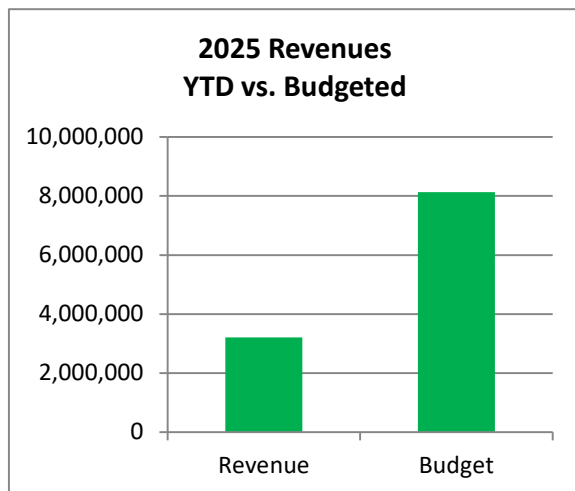


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Street and Alley Fund
Period Ending April 30, 2025
Unaudited

Street and Alley Fund	2025 Actuals April	2025 Adopted Budget	% Complete
Beginning Fund Balance*	26,672,762	26,672,762	
<u>Revenues:</u>			
Taxes & Fees	1,646,452	5,603,000	29.4%
Intergovernmental	59,754	130,000	46.0%
Charges for Services	387,190	1,050,000	36.9%
Capital Investment Fees	737,976	1,020,940	72.3%
Earnings on Investment	362,532	100,000	362.5%
Miscellaneous Revenues	10,628	225,000	4.7%
Tranfers In	-	-	
Total Operating Revenues	<u>3,204,531</u>	<u>8,128,940</u>	39.4%
<u>Expenditures:</u>			
Operations & Maintenance	908,753	5,875,260	15.5%
Capital	<u>613,432</u>	<u>10,889,500</u>	5.6%
Total Expenditures	<u>1,522,186</u>	<u>16,764,760</u>	9.1%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	<u>1,682,346</u>	<u>(8,635,820)</u>	
Ending Fund Balance*	<u><u>28,355,108</u></u>	<u><u>18,036,942</u></u>	

* - Unaudited

33% of the fiscal year has elapsed

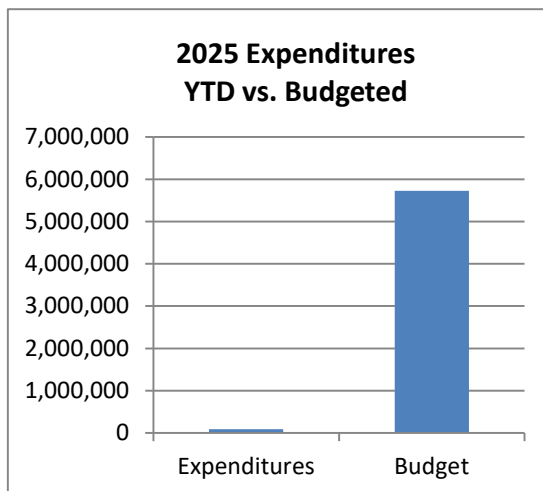
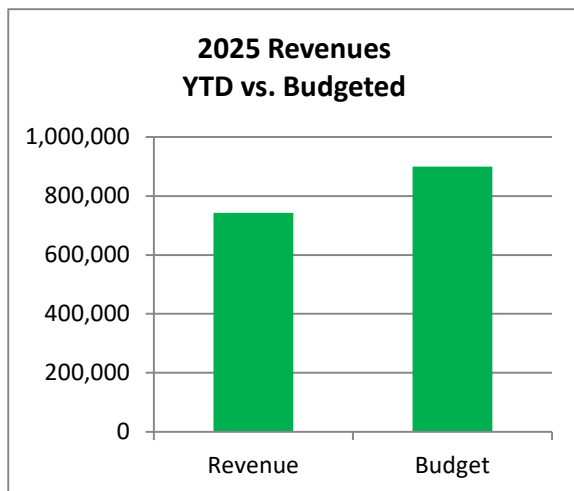


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Capital Projects Fund
Period Ending April 30, 2025
Unaudited

	2025 Actuals April	2025 Adopted Budget	% Complete
Capital Projects Fund			
Beginning Fund Balance*	13,154,908	13,154,908	
<u>Revenues:</u>			
Taxes and Fees	635,560	850,000	74.8%
Miscellaneous Revenue	-	-	
Interest	107,244	100,000	107.2%
<i>Transfers In</i>	-	(50,000)	0.0%
Total Operating Revenues	742,804	900,000	82.5%
<u>Expenditures:</u>			
Capital Outlay	89,510	5,723,000	
<i>Transfers Out</i>	-	-	
Total Expenditures	89,510	5,723,000	1.6%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	653,295	(4,823,000)	
Ending Fund Balance*	13,808,203	8,331,908	

* - Unaudited

33% of the fiscal year has elapsed

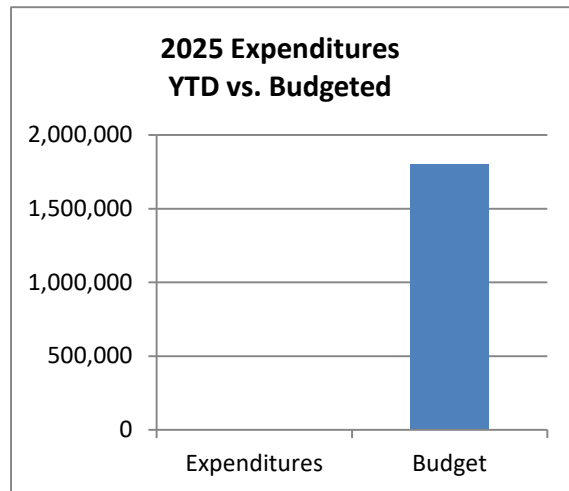
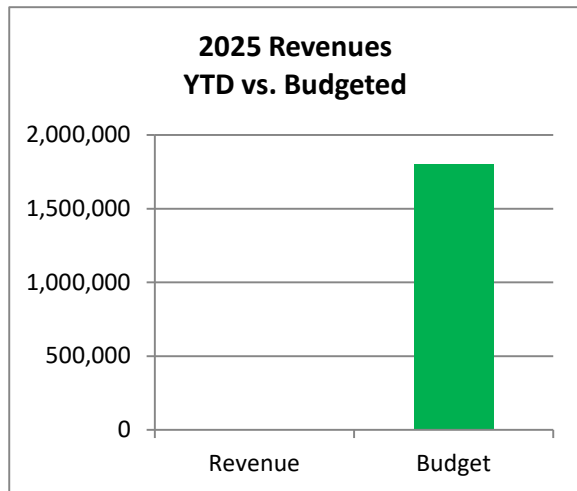


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Tax Allocation Fund
Period Ending April 30, 2025
Unaudited

Tax Allocation Fund	2025 Actuals April	2025 Adopted Budget	% Complete
Beginning Fund Balance*	41,435	41,435	
<u>Revenues:</u>			
Taxes & Fees	-	1,800,000	0.0%
Earnings on Investment	-	-	
Total Operating Revenues	-	1,800,000	0.0%
<u>Expenditures:</u>			
Miscellaneous	-	1,800,000	0.0%
Total Expenditures	-	1,800,000	0.0%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	-	-	
Ending Fund Balance*	41,435	41,435	

* - Unaudited

33% of the fiscal year has elapsed

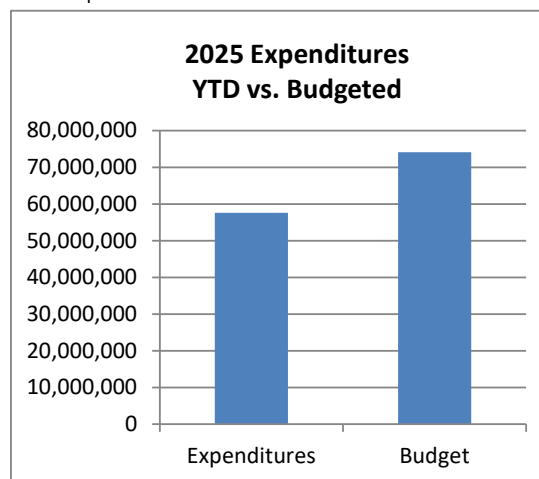
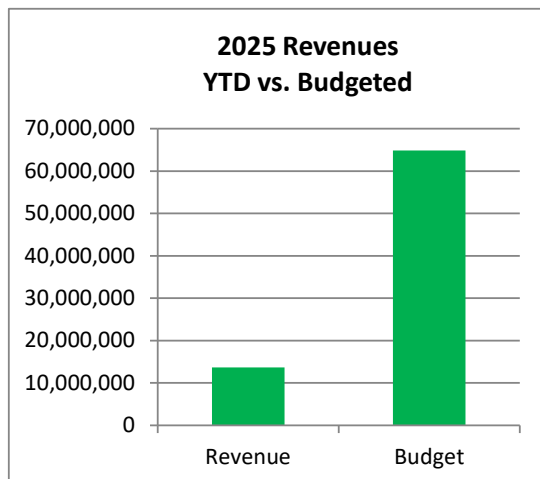


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Water Fund
Period Ending April 30, 2025
Unaudited

Water Fund	2025 Actuals April	2025 Adopted Budget	% Complete
Beginning Cash Balance*	102,695,349	102,695,349	
<u>Revenues:</u>			
Charges for Services	2,352,821	7,815,000	30.1%
Total Operating Revenues	2,352,821	7,815,000	30.1%
<u>Expenses:</u>			
Administration	69,244	358,050	19.3%
Operations	1,383,825	4,895,920	28.3%
Capital Outlay	5,074,768	62,859,000	8.1%
Depreciation	360,581	1,200,000	30.0%
Debt	-	4,790,750	0.0%
Total Operating Expenses	6,888,418	74,103,720	9.3%
Operating Income (Loss)	(4,535,597)	(66,288,720)	
<u>Non-Operating Revenues (Expenses)</u>			
Tap Fees	1,534,491	2,230,000	68.8%
Capital Investment Fees	1,481,631	2,125,000	69.7%
Misc. Revenues	7,129,736	791,250	901.1%
Interest	1,150,764	1,200,000	95.9%
Transfers In/(Out)	50,700,000	50,700,000	100.0%
Total Non-Operating Revenues (Expenses)	61,996,621	57,046,250	108.7%
Excess (Deficiency) of Revenues and Other Sources over Expenses	57,461,025	(9,242,470)	
Ending Cash Balance*	160,156,374	\$ 93,452,879	

* - Unaudited

33% of the fiscal year has elapsed

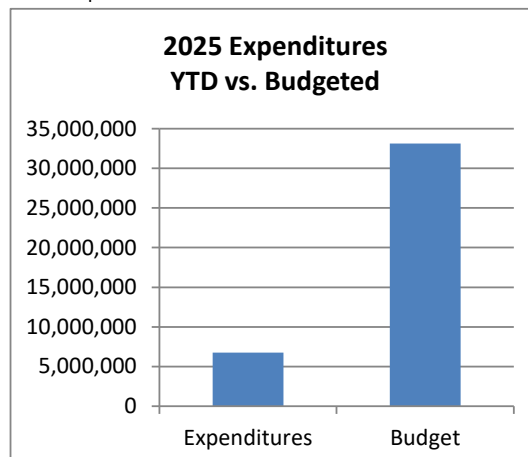
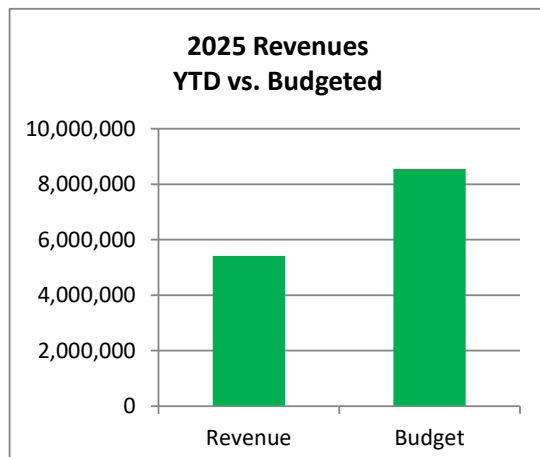


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Sewer Fund
Period Ending April 30, 2025
Unaudited

	2025 Actuals April	2025 Adopted Budget	% Complete
Sewer Fund			
Beginning Cash Balance*	52,274,698	52,274,698	
<u>Revenues:</u>			
Charges for Services	1,809,989	4,364,250	41.5%
Total Operating Revenues	1,809,989	4,364,250	41.5%
<u>Expenses:</u>			
Administration	66,496	266,900	24.9%
Operations	760,952	2,871,200	26.5%
Capital Outlay	5,673,628	25,814,000	22.0%
Depreciation	253,223	1,400,000	18.1%
Debt Service	-	2,769,900	0.0%
	-	-	
Total Operating Expenses	6,754,299	33,122,000	20.4%
Operating Income (Loss)	(4,944,311)	(28,757,750)	
<u>Non-Operating Revenues (Expenses)</u>			
Capital Improvement Fees	2,832,143	3,860,213	73.4%
Misc. Revenues	436	25,000	1.7%
Interest	774,358	1,300,000	59.6%
Transfers In/(Out)	-	(1,000,000)	
Total Non-Operating Revenues (Expenses)	3,606,937	4,185,213	86.2%
Excess (Deficiency) of Revenues and Other Sources over Expenses	(1,337,374)	(24,572,537)	
Ending Cash Balance*	50,937,324	27,702,161	

* - Unaudited

33% of the fiscal year has elapsed

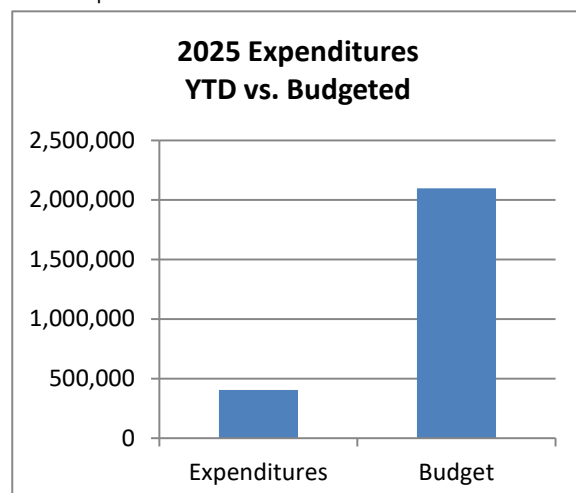
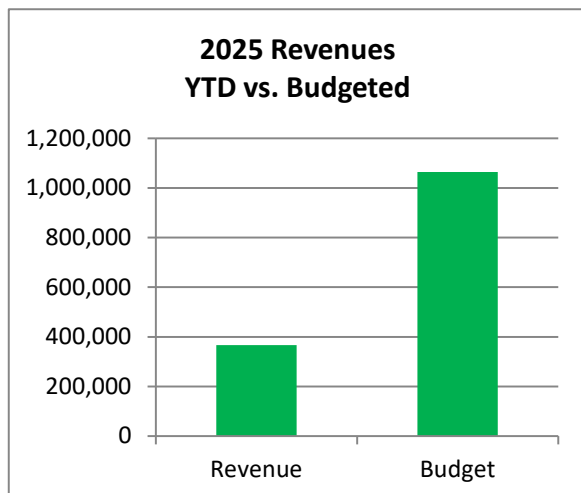


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Drainage Fund
Period Ending April 30, 2025
Unaudited

Drainage Fund	2025 Actuals April	2025 Adopted Budget	% Complete
Beginning Cash Balance*	4,852,055	4,852,055	
<u>Revenues:</u>			
Charges for Services	204,243	560,000	36.5%
Total Operating Revenues	204,243	560,000	36.5%
<u>Expenses:</u>			
Administration	41,971	96,550	43.5%
Operations	94,919	747,900	12.7%
Capital Improvements	267,253	1,254,200	21.3%
Transfer Out	-	-	
Total Operating Expenses	404,143	2,098,650	19.3%
Operating Income (Loss)	(199,900)	(1,538,650)	
<u>Non-Operating Revenues (Expenses)</u>			
Capital Revenues	85,877	250,000	34.4%
Misc. Revenues	37,666	228,780	16.5%
Interest	38,363	25,000	153.5%
Total Non-Operating Revenues (Expenses)	161,906	503,780	32.1%
Excess (Deficiency) of Revenues and Other Sources over Expenses	(37,993)	(1,034,870)	
Ending Cash Balance*	4,814,062	3,817,185	

* - Unaudited

33% of the fiscal year has elapsed

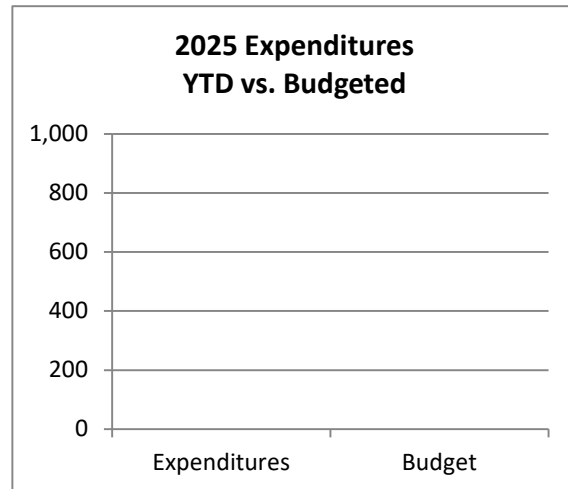
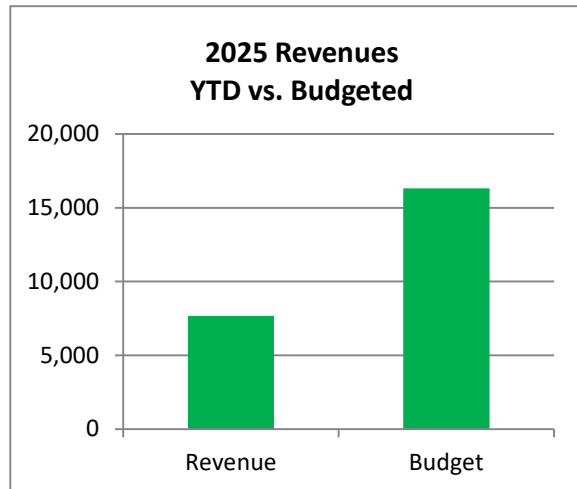


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Cemetery Perpetual Fund
Period Ending April 30, 2025
Unaudited

Cemetery Perpetual Fund	2025 Actuals April	2025 Adopted Budget	% Complete
Beginning Fund Balance*	207,231	207,231	
<u>Revenues:</u>			
Miscellaneous Revenue	5,753	12,560	45.8%
Earnings on Investment	1,912	3,750	51.0%
Total Operating Revenues	7,665	16,310	47.0%
<u>Expenditures:</u>			
Operations & Maintenance	-	-	
Capital Outlay	-	-	
Transfers Out	-	-	
Total Expenditures	-	-	
Excess (Deficiency) of Revenues and Other Sources over Expenditures	7,665	16,310	
Ending Fund Balance*	214,896	223,541	

* - Unaudited

33% of the fiscal year has elapsed

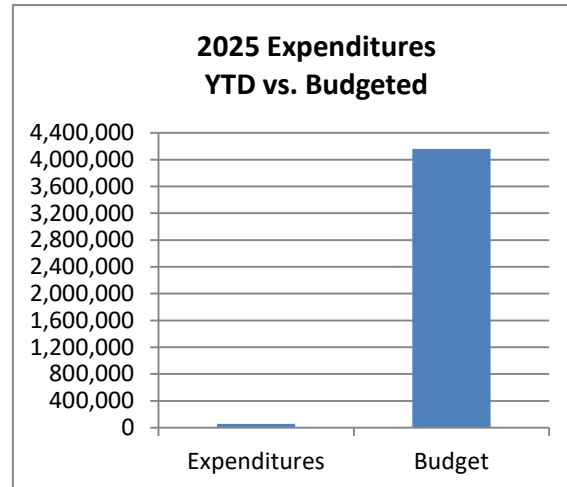
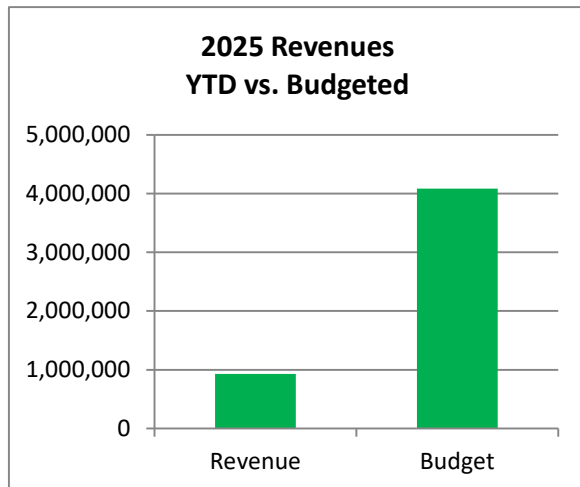


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Library Fund
Period Ending April 30, 2025
Unaudited

Library Fund	2025 Actuals April	2025 Adopted Budget	% Complete
Beginning Fund Balance*	14,065,172	14,065,172	
<u>Revenues:</u>			
Intergovernmental	160,827	1,375,300	11.7%
Miscellaneous Revenue	1,557	13,500	11.5%
Capital Investment Fees	286,923	373,950	76.7%
Interest	51,288	500,000	10.3%
<i>Transfers In</i>	425,786	1,823,124	23.4%
Total Operating Revenues	926,381	4,085,874	22.7%
<u>Expenditures:</u>			
Operations	55,849	4,159,000	1.3%
Capital Outlay	-	-	
Total Expenditures	55,849	4,159,000	1.3%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	870,533	(73,126)	
Ending Fund Balance*	14,935,705	13,992,046	

* - Unaudited

33% of the fiscal year has elapsed

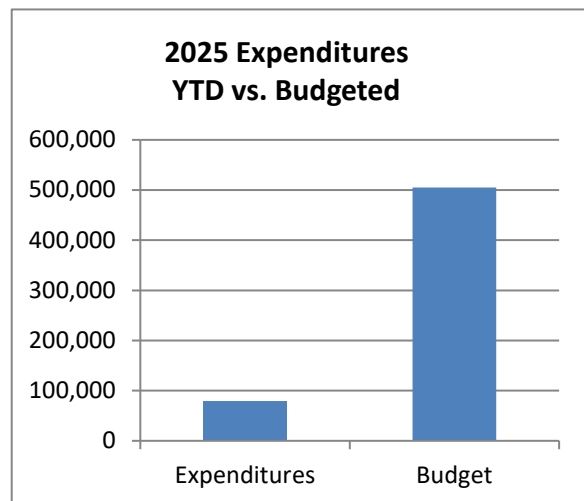
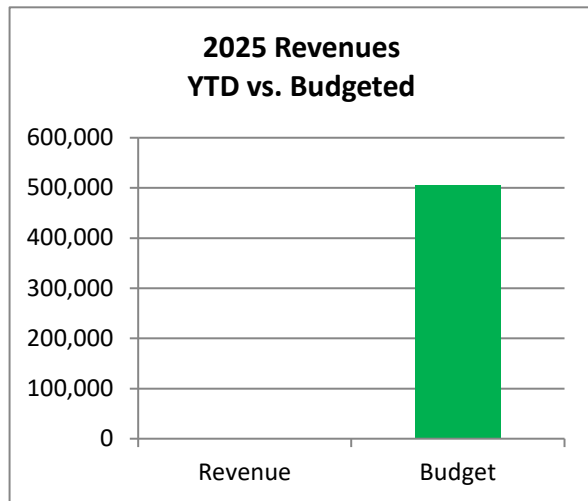


Town of Johnstown, Colorado
Statement of Revenues, Expenditures, and Changes in
Fund Balances - Recreation Center Fund
Period Ending April 30, 2025
Unaudited

Recreation Center Fund	2025 Actuals April	2025 Adopted Budget	% Complete
Beginning Fund Balance*	239,367	239,367	
<u>Revenues:</u>			
State Grants	-	0	
Transfers In	-	505,000	0.0%
Earnings on Investment	-	-	
Total Operating Revenues	-	505,000	
<u>Expenditures:</u>			
Operations & Maintenance	79,345	505,000	15.7%
Capital Outlay	-	-	
Total Expenditures	79,345	505,000	15.7%
Excess (Deficiency) of Revenues and Other Sources over Expenditures	(79,345)	-	
Ending Fund Balance*	160,022	239,367	

* - Unaudited

33% of the fiscal year has elapsed

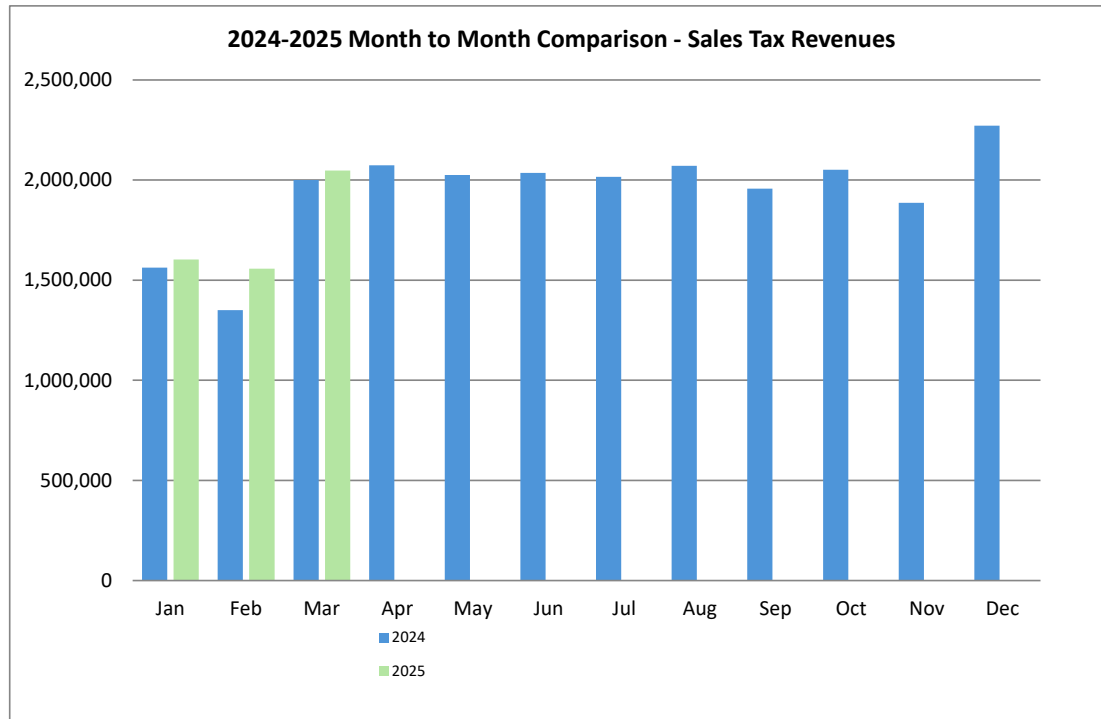


Sales Tax Analysis and Comparison 2025

<u>Month/Year</u>	<u>Sales Tax Collected*</u>	<u>Motor Vehicle Sales Tax Collected*</u>	<u>Total Sales Taxes Collected*</u>
Jan-24	1,323,032	240,170	1,563,202
Feb-24	1,189,197	161,549	1,350,746
Mar-24	1,810,728	189,273	2,000,001
Apr-24	1,897,922	175,763	2,073,685
May-24	1,815,121	210,407	2,025,528
Jun-24	1,828,207	207,361	2,035,568
Jul-24	1,803,095	213,218	2,016,313
Aug-24	1,805,835	266,106	2,071,941
Sep-24	1,738,869	218,022	1,956,891
Oct-24	1,770,171	281,694	2,051,866
Nov-24	1,710,753	175,437	1,886,190
Dec-24	2,040,536	231,014	2,271,550
2023 Total	20,733,466	2,570,015	23,303,481

Jan-25	1,382,593	220,917	1,603,510
Feb-25	1,376,182	181,097	1,557,279
Mar-25	1,855,657	192,599	2,048,256
Apr-25	0	0	0
May-25	0	0	0
Jun-25	0	0	0
Jul-25	0	0	0
Aug-25	0	0	0
Sep-25	0	0	0
Oct-25	0	0	0
Nov-25	0	0	0
Dec-25	0	0	0
2024 Total	4,614,431	594,614	5,209,045

Jan - Mar 2024	4,322,957	590,992	4,913,949
Jan - Mar 2024	4,614,431	594,614	5,209,045
% Increase (Decrease)	6.74%	0.61%	6.01%



* Amounts shown reflect different reporting periods for various entities.



450 S. Parish Avenue
Johnstown, CO 80534
970-587-4664
JohnstownCO.gov

Town Council Consent Agenda Communication

Agenda Date: June 2, 2025

Subject: Resolution 2025-16 Approving an Annual Amendment to the 2024 Asphalt Patching Project Agreement for the 2025 Asphalt Patching Project.

Attachments:

1. 2025 Renewal Western Plains Construction PSA Asphalt Maintenance Project
2. 2025 Pavement Maintenance Program Areas of Work
3. 2024 Western Plains Construction PSA Asphalt Patching Project Executed

Presented by: Tim Hoos, Public Works Director

Agenda Item Description:

The FY 2025 Budget includes an appropriation of \$2.4 million for the Pavement Management Program (PMP), designated specifically for maintenance of existing roadways within the Town. These funds are intended solely for maintenance and are not associated with capital improvement projects.

As part of this year's PMP, \$725,403 was awarded to Lightfield Enterprises for the 2025 Concrete Repair Program, which began construction in April.

The Public Works Department is now moving forward with the 2025 asphalt patching and overlay portion of the PMP. In 2024, this work was awarded to Western Plains Construction, the lowest qualified bidder among seven submissions. The contractor performed well and met project expectations. Their original contract included the option to renew for up to four additional years, with price adjustments based on the Consumer Price Index (CPI) for the Denver Metro area.

For the 2025 PMP project, Western Plains Construction has proposed no increase in unit pricing. Given their solid performance and the absence of a price adjustment, staff recommends amending the existing contract rather than initiating a new bid process.

Following the 2025 Concrete Repair Program, several neighborhoods have been prioritized for asphalt removal/replacement and/or mill and overlay, based on the findings from the 2020 Pavement Condition Study, field inspections, and resident feedback. These neighborhoods include (see attached maps for specific street segments):

1. Carlson Farms
2. Clearview
3. Gateway Park
4. Knolls, Johnstown Heights, Callahan Heights

5. Pioneer Ridge
6. Rolling Hills
7. The Landings

After accounting for the costs from both the Concrete Repair and Pavement Management Programs, an estimated balance of \$184,951 remains in the FY 2025 PMP budget. Staff recommends reserving these funds for contingency use, to address potential unknowns such as subgrade issues or unexpected labor/material needs during repairs.

Staff recommends that the Town Council approve an amendment to the contract with Western Plains Construction authorizing the use of PMP funds for the scope of work identified. This approach will enable the Town to advance the 2025 PMP efficiently, take advantage of our current pricing, and maximize the value of available funding. By expanding infrastructure maintenance efforts, the Town can proactively address pavement needs and support the long-term preservation of its street network.

Strategic Plan Alignment:

Quality Infrastructure & Facilities

- Ensure future viability of infrastructure and facilities
- Repair and maintain existing infrastructure, facilities and equipment

Legal Advice:

The Town Attorney drafted the original contract and renewal agreement which is attached.

Financial Advice:

Funding will come from the \$2.4 million annual Pavement Maintenance Program budget in the Street & Alley Fund, as identified in the adopted 2025 Budget.

Recommended Action:

Staff supports approval of the Annual Amendment to the Agreement with Western Plains Construction, LLC in the amount of \$1,489,645.90 for the 2025 Asphalt Patching and Overlay program.

Reviewed and Approved for Presentation



Town Manager

ANNUAL AMENDMENT TO AGREEMENT (2025 CALENDAR YEAR)

This Annual Amendment to Agreement (2025 Calendar Year) is made and entered this ____ day of _____, 2025, by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (the "Town"), and Western Plains Construction, LLC, a Colorado Limited Liability Company ("Contractor"), and is incorporated into and made a part of that certain ASPHALT PATCHING PROJECT agreement executed by and between the Town and Contractor on or about June 20, 2024 ("Agreement"). Capitalized terms used herein shall have the meaning set forth in the Agreement.

The Work for the 2025 calendar year is set forth on Exhibit 1 attached hereto and incorporated herein by reference. The Work described therein shall supersede and replace the Work performed during previous calendar years.

The compensation for the Work during the 2025 calendar year shall be One Million Four Hundred Eighty Nine Thousand Six Hundred Forty Five DOLLARS and Ninety CENTS (\$1,489,645.90).

Except as expressly provided in this Annual Amendment to Agreement (2025 Calendar Year), the Agreement has not been amended, supplemented or altered in any way by this amendment and the Agreement shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Parties have executed this Annual Amendment to Agreement (2025 Calendar Year) as of the set forth above.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Meghan Martinez, Town Clerk

By: _____
Matt LeCerf, Town Manager

WESTERN PLAINS CONSTRUCTION LLC

By: _____

Name:

Title:

EXHIBIT 1 SCOPE OF WORK FOR 2025 CALENDAR YEAR
(Attached

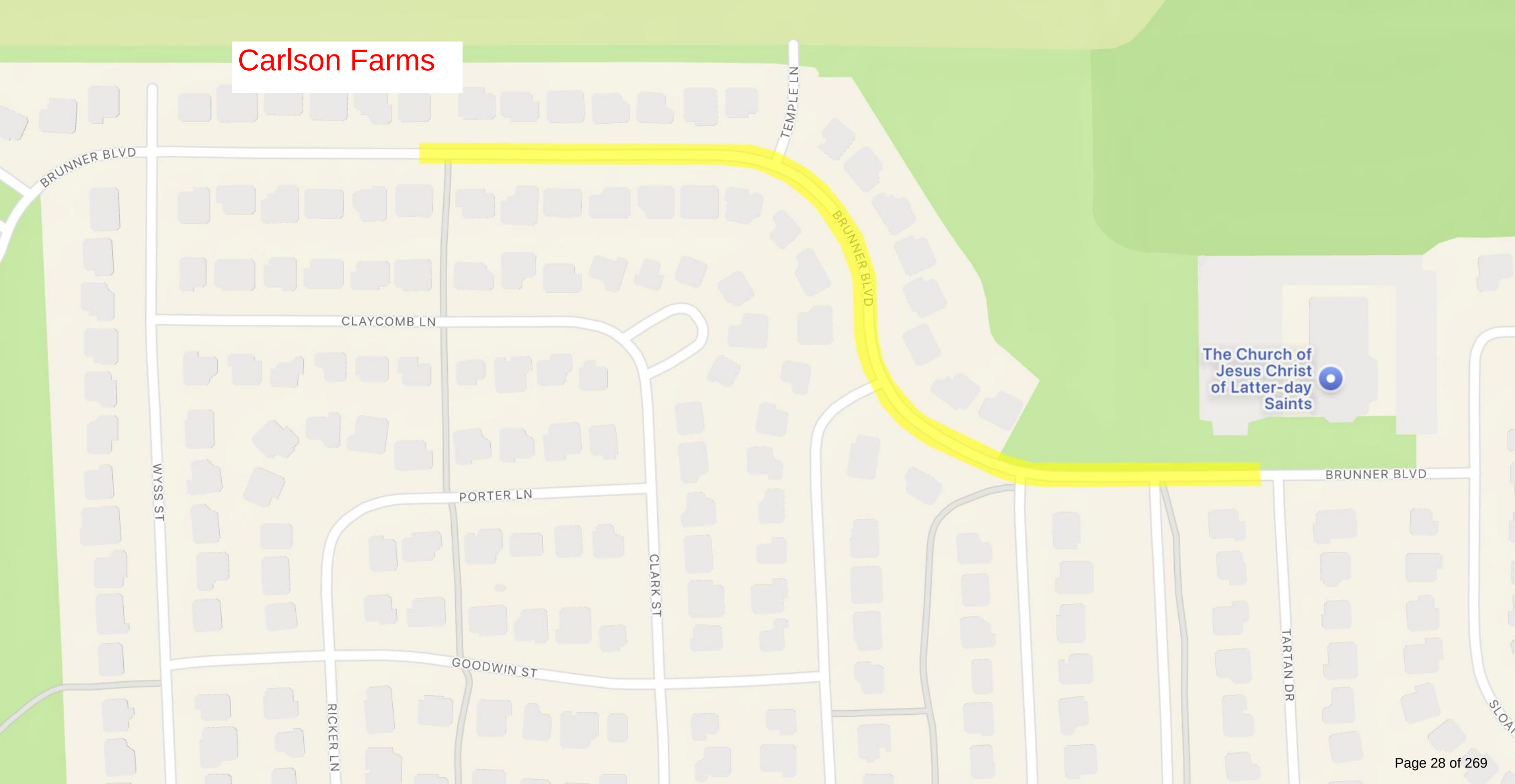
Project: 2025 PMP Asphalt

A					B
Item					Scheduled Value
Bid Item	Description				
		Quant.	Unit	Unit Price	
1	Mobilization	3	LS	1,600.00	\$ 4,800.00
	Remove 6" of existing material	17937	SY	10.00	\$ 179,370.00
	Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	6177	Ton	100.00	\$ 617,700.00
	Traffic Control and door hangers	3	LS	1,500.00	\$ 4,500.00
2	Remove unsuitable subgrade material. Place and compact Class 5 aggregate base course.	250	Ton	40.00	\$ 10,000.00
3	Mobilization	5	LS	1,600.00	\$ 8,000.00
	Removal of Asphalt Mat (Planing) (2")	45243	SY	1.30	\$ 58,815.90
	Emulsified Asphalt	2262	GAL	10.00	\$ 22,620.00
	2" HMA w/fiber (SX)(75)(PG 64-22)	5194	Ton	110.00	\$ 571,340.00
	Re-stripe to match existing layout with Epoxy	0	LS	15,000.00	\$ -
	Traffic Control	5	LS	2,500.00	\$ 12,500.00
					\$ 1,489,645.90

Yellow areas 2" Mill and Overlay

Blue Areas 6" Remove and Replace

Carlson Farms



The Church of
Jesus Christ
of Latter-day
Saints

Clearview

CARLSON BLVD

Elwell
Elementary
School

CARLSON BLVD

BUCKEYE AVE

BASSWOOD AVE

ALDER AVE

COLORADO BLVD

COLORADO BLVD

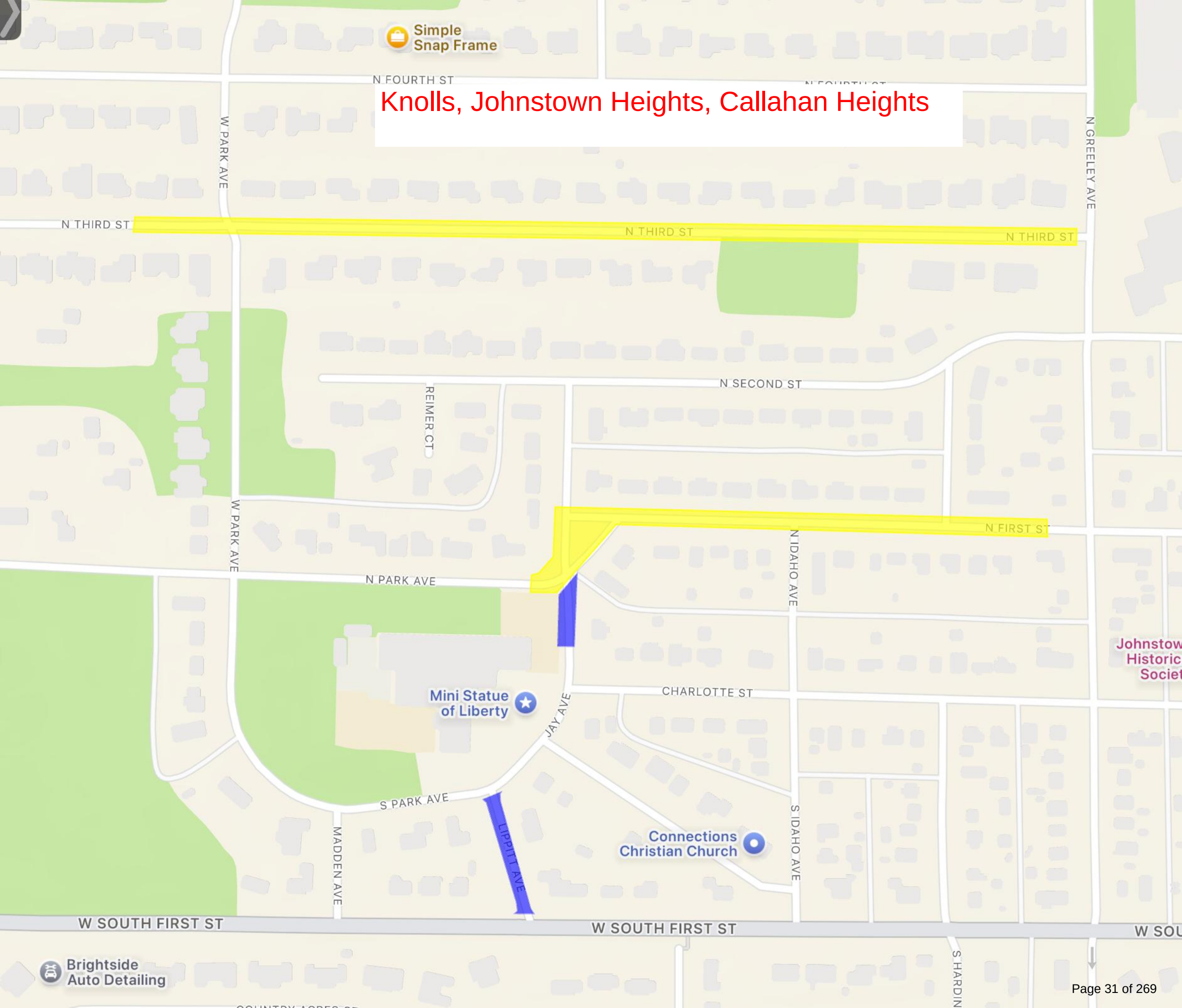
HAWTHORNE AVE

Clearview Park

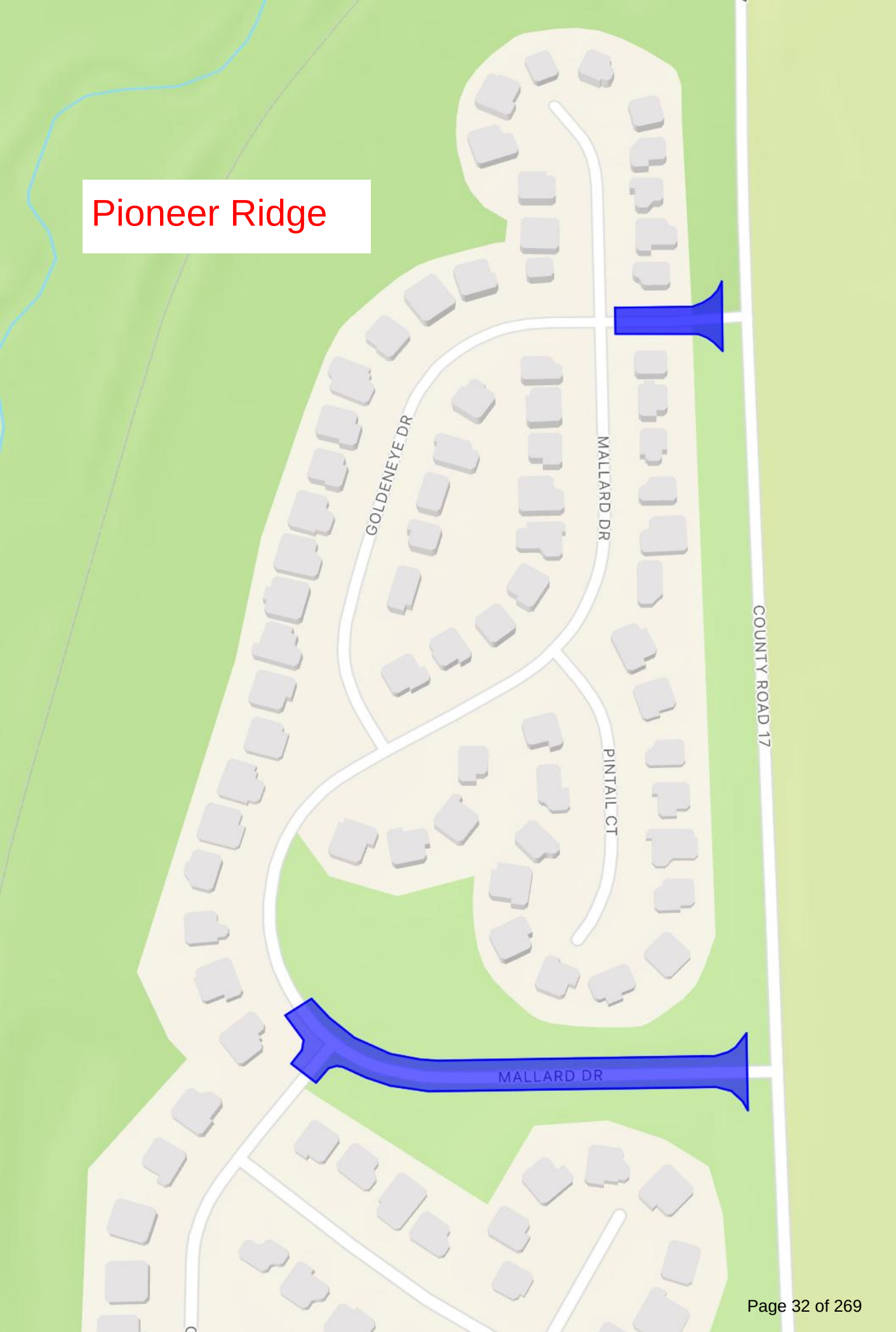
Gateway Park



Knolls, Johnstown Heights, Callahan Heights

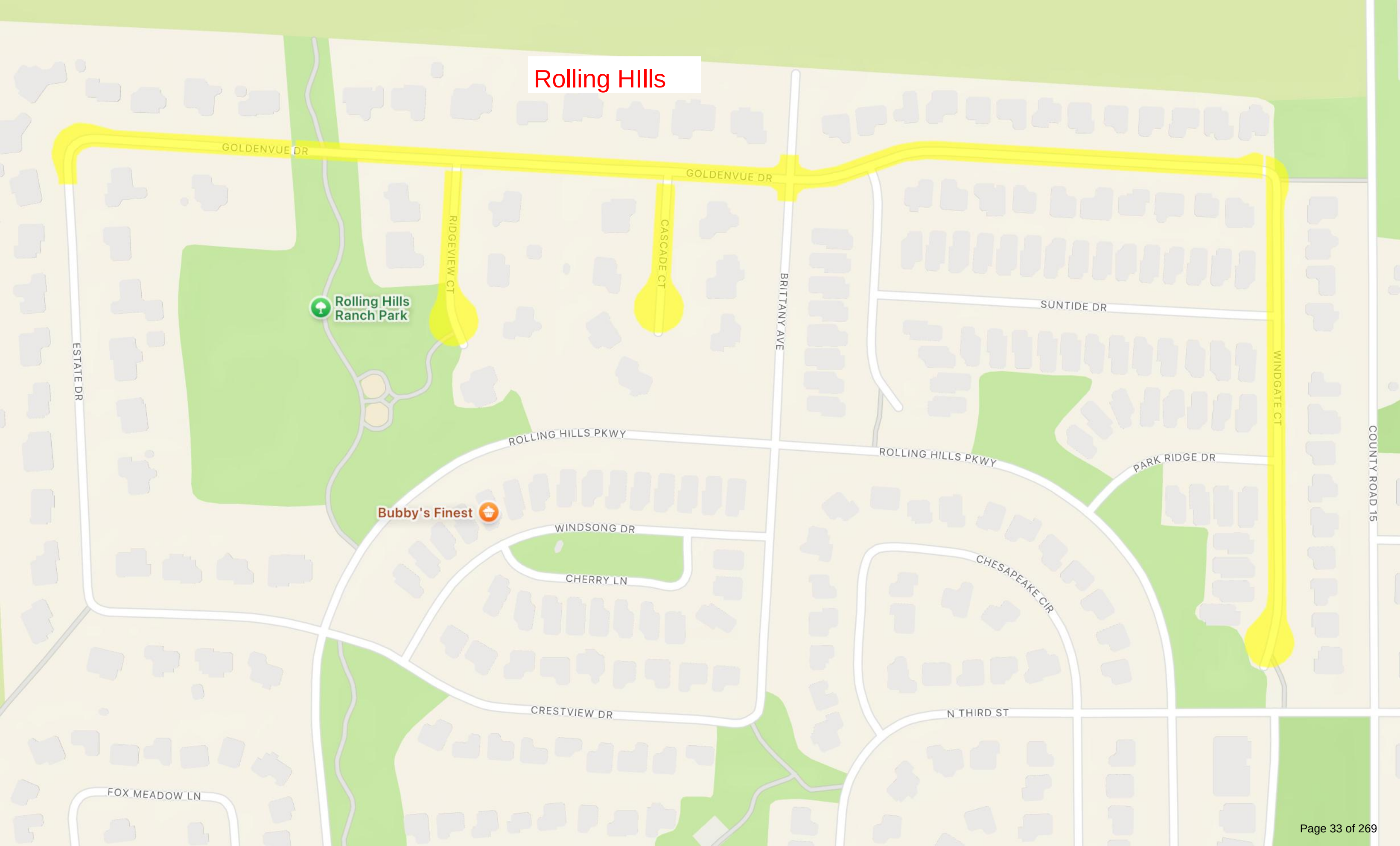


Pioneer Ridge



COUNTY ROAD 17

Rolling Hills



The Landings



2024 TOWN OF JOHNSTOWN ASPHALT PATCHING PROJECT AGREEMENT

This ASPHALT PATCHING PROJECT Agreement (“Agreement”) is made and entered this 20 day of June, 2024 (“Effective Date”), by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (the “Town”), and Western Plains Construction, LLC, a Colorado Limited Liability Company (“Contractor”) (collectively, the “Parties”).

RECITALS

WHEREAS, the Town seeks to undertake asphalt patching and overlay; and

WHEREAS, Contractor has the requisite skills and experience to perform the work; and

WHEREAS, the Town desires to engage the services of Contractor to perform the work and Contractor desires to perform the work described herein for the Town; and

WHEREAS, to effectuate the foregoing, the Parties desire to enter into this Agreement.

AGREEMENT

NOW, THEREFORE, incorporating the foregoing Recitals herein, which are hereby acknowledged as being true and correct, and in consideration of the mutual promises, agreements, undertakings and covenants, as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby mutually agree as follows:

1. Scope of Work and Standard of Performance.
 - A. Contractor agrees to perform the work set forth in Exhibit A, attached hereto and incorporated herein by reference (“Work”). The scope of the Work, and the terms of this Agreement, shall further include the Special Terms and Conditions set forth in Exhibit B, attached hereto and incorporated herein by reference. The scope of the Work shall not be changed absent written agreement of the Parties. Contractor shall furnish all labor, services, materials, tools, and equipment for the construction and completion of the Work.
 - B. Contractor shall undertake the Work in a thorough and workmanlike manner in every respect and in compliance with this Agreement, all applicable building codes and requirements to which the Work is subject. Contractor shall conform to the standards of quality normally observed by a person practicing in such Contractor’s profession. Contractor shall at all times comply with applicable workplace and occupational safety requirements under state and federal law.
 - C. Contractor has familiarized itself with the nature and the extent of the Work, the physical characteristics of the property and the local conditions and federal, state, and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the Work.
2. Commencement, Progress and Completion of Work.

- A. Contractor shall commence the Work upon issuance of a Notice to Proceed subsequent to a pre-construction meeting. The Work shall be fully completed, as determined by the Town, in its discretion, no later than **ninety (90) Working Days** (defined in the Special Terms and Conditions) after issuance of the Notice to Proceed, subject to agreed extensions of time as authorized by the Town in writing.
 - B. Timely completion of the Work is essential. Time is of the essence in all respects regarding the undertakings of Contractor under this Agreement. Therefore, Contractor shall carry out the Work with all due diligence.
 - C. Among other factors that the Town may consider, the Work shall be considered fully complete when all work has been finished, the Town has performed an inspection and accepted the work in writing, and all claims for payment of labor, materials, or services of any kind used in connection with the Work thereof have been paid or settled by Contractor or its surety.
 - D. Until final acceptance of the Work by the Town in writing, Contractor shall have the charge and care thereof, and shall take every necessary precaution against injury or damage to any part thereof. Contractor, at its own expense, shall rebuild, repair, restore, and correct all injuries or damages to any portion of the Work occasioned by any causes before its completion and acceptance. In case of suspension of work from any cause whatsoever, Contractor shall be responsible for all building materials and shall properly store same, if necessary. Contractor shall correct or replace, at its own expense and as required by Town, any building material or portions thereof which may be destroyed, lost, damaged, or in any way made useless for the purpose and use intended by this Agreement. Contractor shall be relieved of the responsibilities provided in this section upon final acceptance of the work by Town, except no such relief shall apply to damages or injuries caused by or related to actions of Contractor or its subcontractors.
 - E. Upon the Town's written acceptance of the Work, Contractor shall be released from further obligation except as set forth in the surety bond, the guarantee set forth in Section 8 or as otherwise provided in this Agreement.
 - F. The Parties recognize that time is of the essence of this Agreement and that the Town will suffer financial loss if the Work is not complete within the time specified in this paragraph plus any extensions thereof allowed. The Parties also recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual loss suffered by the Town if the Work is not completed on time. Accordingly, instead of requiring any such proof, the Parties agree that, as liquidated damages for delay (but not as a penalty), Contractor shall pay the Town the sum of **two thousand two hundred Dollars (\$2,200)** for each day that expires after the time specified above for final completion until the Work is complete.
3. Payment to Contractor.
- A. Contractor agrees to accept an amount not to exceed **\$1,475,643.10** as full payment for the Work during the 2024 calendar year. No funds payable under this Agreement shall become due and payable until the Contractor provides the Town with

satisfactory assurances that Contractor has fully settled or paid for all materials and equipment used in or upon the Work and labor done in connection therewith.

- B. The Town has appropriated the money necessary to fund the Project. No change order or other form of directive shall be issued by the Town requiring additional compensable work to be performed, which causes the aggregate amount payable under the Agreement to exceed the amount appropriated for the original contract amount, unless the Town provides written assurance to the Contractor that lawful appropriations have been made to cover the cost of the additional work or unless such work is covered under the remedy-granting provisions of the Agreement.
 - C. On a monthly basis, Contractor shall submit to the Town for review and approval an application for payment fully completed and signed by Contractor describing the work completed through the last payment and accompanied by such supporting documentation as may be requested by the Town. Materials on hand but not complete in place may be included for payment. The Town shall, within thirty (30) days of receipt of Contractor's completed application for payment, pay the invoice, except that the Town may withhold payment for disputed amounts. The Town shall retain five percent (5%) of the payment.
 - D. Except as otherwise provided herein, upon final completion of the Work, the Town shall, within thirty (30) days, pay to Contractor the retainage accumulated hereunder in addition to any other sums properly due Contractor upon final completion.
 - E. Neither the payment of any progress payment nor the payment of any retained percentage shall relieve the Contractor of any obligations to correct any defective work or material.
 - F. Contractor shall provide Town with written evidence that all persons who have done work or furnished material under this Agreement and are entitled to liens therefor under any laws of the State of Colorado have been fully paid or are not entitled to such liens. Final payment shall not be made to Contractor until the Town is reasonably satisfied that all claims or liens have been satisfied by Contractor.
 - G. Notwithstanding any other provision of this Agreement, the Town may withhold funds if required to do so pursuant to the Colorado Public Works Act, §§38-26-101, *et seq.*, C.R.S., as amended.
4. Term of this Agreement.
- A. Unless either party provides written notice to terminate on or before January 15 of a given calendar year, this Agreement shall extend for four (4) calendar years, through and including the 2027 calendar year. In each calendar year subsequent to the 2024 calendar year, the Parties shall agree upon the scope of the Work to be performed during such calendar year. Contractor shall be entitled to adjust its unit-price compensation for each subsequent calendar year based on increases, if at all, reflected in the Consumer Price Index for the Denver metropolitan area. The Parties shall memorialize the scope of work and the compensation for such work in each

subsequent calendar year by execution of an Annual Amendment to Agreement, the form of which is attached hereto and incorporated herein by reference as Exhibit C.

- B. Notwithstanding the foregoing, pursuant to Section 29-1-110, C.R.S., as amended, financial obligations of the Town payable as set forth herein, after the current fiscal year, are contingent upon funds for that purpose being budgeted, appropriated and otherwise made available. This Agreement shall be terminated effective January 1 of the first fiscal year for which funds are not budgeted and appropriated.

5. Insurance.

- A. Contractor shall not commence work under this Agreement until it has presented Certificates of Insurance as required below, confirming it has obtained all insurance and bonds required by this Section 5. Contractor shall not allow any subcontractor to commence work on this project until all similar insurance required of the subcontractor has been obtained and approved. For the duration of this Agreement, the Contractor must maintain the insurance coverage required in this Section. Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to the contract documents by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or type.

- B. Contractor shall procure and maintain, and shall cause each subcontractor of the Contractor to procure and maintain (or shall insure the activity of Contractor's subcontractors in Contractor's own policy with respect to), the minimum insurance coverages set forth below:

- (1) Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - each employee.
- (2) Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.
- (3) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each accident with respect to each of Contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

- C. The policies required above, except for the Workers' Compensation insurance and Employers' Liability insurance, shall be endorsed to include the Town as an additional insured. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.
- D. Certificates of Insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify this project and shall provide that the coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- E. Failure on the part of the Contractor to procure or maintain policies as provided herein shall constitute a material breach of contract upon which the Town may immediately terminate the Agreement, or, at its discretion, may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Town shall be repaid by Contractor to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Contractor from the Owner.

6. Bonds.

Contractor shall furnish a performance bond and payment bond in an amount at least equal to the contract price, as security for the faithful performance and payment of all Contractor's obligations under the Agreement, including but not limited to the guarantee period provided in Section 8 below. All bonds shall be in the forms approved by the Town. These bonds shall remain in effect at least until two years after the date of final payment. All bonds shall be in the forms prescribed by the contract documents and be executed by such sureties as (i) are licensed to conduct business in the State of Colorado and (ii) are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, amended, by the Audit Staff, Bureau of Account, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the authority to act. If the surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent, or its right to do business in Colorado is terminated, or it ceases to meet the requirements of clauses (i) and (ii) of this section, Contractor shall, within five (5) days thereafter, substitute another bond and surety, both of which shall be acceptable to the Town.

7. Indemnification.

To the fullest extent permitted by law, Contractor agrees to indemnify and hold harmless the Town, and its officers and its employees, from and against all liability, claims, and demands, on account of

any injury, loss, or damage, which arise out of or are connected with the Work, if such injury, loss, or damage, or any portion thereof, is caused by, or claimed to be caused by, the act, omission, or other fault of the Contractor or any subcontractor of the Contractor, or any officer, employee, or agent of the Contractor or any subcontractor, or any other person for whom Contractor is responsible. The Contractor shall investigate, handle, respond to, and provide defense for and defend against any such liability, claims, and demands, and bear all other costs and expenses related thereto, including court costs and attorneys' fees. The Contractor's indemnification obligation shall not be construed to extend to any injury, loss, or damage which is caused by the act, omission, or other fault of the Town.

8. Contractor's Guarantee of Work.

Contractor shall guarantee all work under this Agreement as being free of defects for a period of two (2) years from the date of Construction Acceptance by the Town. If any unsatisfactory condition or damage develops within the time of Contractor's guarantee period due to defective or inferior materials or workmanship, or due to the failure to construct the Work in accordance with the Agreement, then the Contractor shall, upon notice by Town, immediately place such guaranteed work in a condition satisfactory to Town. The Town shall have all available remedies to enforce such guarantee. However, the Town shall not have any work performed independently to fulfill contractor's guarantee and require Contractor to pay Town such sums as were expended by the Town for such work, unless the Town has first given notice to the Contractor of the deficiency and given the Contractor a reasonable opportunity to cure the same.

9. Independent Contractor.

Contractor and any persons employed by Contractor for the performance of work hereunder shall be independent contractors and not employees or agents of the Town. Nothing herein shall be construed as establishing a quality standard for any individual, or as establishing any right on the part of the Town to oversee the actual work of the Contractor or to instruct any individual as to how the work will be performed. Contractor shall have the right to employ such assistance as may be required for the performance of work under this Agreement. Said Contractor shall be responsible for the compensation, insurance, and all clerical detail pertaining to such assistants, and shall be solely responsible for providing any training, tools, benefits, materials, and equipment. THE PARTIES HERETO UNDERSTAND THAT THE CONTRACTOR AND THE CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS ARE NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS UNDER ANY WORKERS' COMPENSATION INSURANCE POLICY OF THE TOWN, AND THAT CONTRACTOR IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX AND OTHER APPLICABLE TAXES AND OTHER AMOUNTS DUE ON ANY MONEYS PURSUANT TO THIS AGREEMENT.

10. Governmental Immunity.

The Parties hereto understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, § 24-10-101 *et seq.*, C.R.S., as amended, or otherwise available to the Town, its officers, or its employees.

11. Costs and Attorneys' Fees.

In the event of litigation enforcing or interpreting the terms of the within Agreement, and only in the event the Town is the prevailing party, the Town shall be entitled an award of reasonable attorney fees and all costs of suit, including expert witness fees, court reporter fees and similar litigation expenses.

12. No Assignment.

This Agreement shall not be assigned by the Contractor without the prior written approval of the Town. Contractor shall have the right to employ such assistance as may be required for the performance of the Work, including the use of subcontractors, which employment shall not be deemed an assignment of the Contractor's rights and duties hereunder.

13. Governing Law and Venue.

The interpretation and enforcement of this Agreement shall be in accordance with Colorado law. The Parties agree to the jurisdiction and venue of the courts of Weld County, Colorado, in connection with any dispute arising out of or in any matter connected with this Agreement.

14. Dispute Resolution.

In the event of any dispute arising under this Agreement, the Parties shall submit the matter to mediation prior to commencing legal action. The cost of the mediation shall be split equally.

15. Notice.

Any notice required to be provided under this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered or sent by a nationally recognized overnight delivery service, by certified mail or by e-mail (on condition of confirmation of receipt), as appropriate, to: (i) if to Contractor, the last-known physical address or email address of Contractor or (ii) if to the Town, to, Matthew LeCerf, Town Manager, 450 S. Parish Avenue, Johnstown, CO 80534, notices@johnstownco.gov.

16. Acceptance of Work.

No act of the Town, or of any representative thereof, either in superintending or directing the Work, or any extension of time for the completion of the Work, shall be regarded as an acceptance of such Work or any part thereof, or of materials used therein, either wholly or in part. Acceptance shall be evidenced only by a final written certificate from the Town. Before the final certificate is issued, Contractor shall execute an affidavit on the certificate that it accepts the same in full payment and settlement of all claims on account of work done and materials furnished under this Agreement, and that all claims for materials provided or labor performed have been paid or set aside in full.

17. Waiver.

No waiver of any breach of this Agreement by Town or anyone acting on behalf of Town shall be held as a waiver of any other subsequent breach thereof. Any remedies provided herein shall be cumulative.

18. No Presumption.

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

19. Severability.

If any portion of this Agreement shall be or becomes illegal, invalid or unenforceable in whole or in part for any reason, such provision shall be ineffective only to the extent of such illegality, invalidity or unenforceability, without invalidating the remainder of such provision or the remaining provisions of this Agreement. If any court of competent jurisdiction should deem any covenant herein to be invalid, illegal or unenforceable because its scope is considered excessive, such covenant shall be modified so that the scope of the covenant is reduced only to the minimum extent necessary to render the modified covenant valid, legal and enforceable.

20. Amendment.

This Agreement may not be amended or modified except by a subsequent written instrument signed by both Parties.

21. No Personal Liability.

In carrying out any of the provisions of this Agreement or in exercising any power or authority thereby, there shall be no personal liability of the Town, its governing body, staff, consultants, officials, attorneys, representatives, agents, or employees.

22. Colorado Labor Clause.

Contractor agrees, pursuant to Title 8, Article 17, C.R.S., as amended, that Contractor shall employ Colorado labor (as defined below in this paragraph) to perform the Work to the extent of not less than eighty percent of each type or class of labor in the several classifications of skilled and common labor employed under this Agreement. "Colorado labor" as used in this Agreement means any person who is a resident of the state of Colorado, at the time of employment, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification.

23. Equal Opportunity Employer.

Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability or national origin. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, age, sex, disability, or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor shall be in compliance with the appropriate provisions of the American with

Disabilities Act of 1990 as enacted and from time to time amended and any other applicable federal regulation.

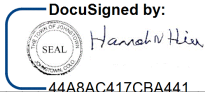
24. Headings.

The headings used herein are for convenience purposes only and shall not limit the meaning of the language contained herein.

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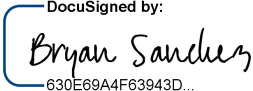
TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: 
Hannah Hill, Town Clerk

By: 
Matt LeCerf, Town Manager

WESTERN PLAINS CONSTRUCTION LLC

By: 
Name: Bryan Sanchez
Title: Project Manager

ATTEST:

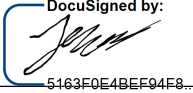
By: 
Bryan Sanchez
Title: Managing member

EXHIBIT A
SCOPE OF WORK
(Attached)

2024 TOWN OF JOHNSTOWN...

Construction

Country Acres

- Removal of 6" Material (23 SY)
- Place two 6" lifts of HMA (8 TON)

Johnstown Center

- Removal of 6" Material (144 SY)
- Place two 6" lifts of HMA (52 TON)

Johnstown Colony

- Removal of 6" Material (26 SY)
- Place two 6" lifts of HMA (9 TON)

Johnstown Heights

- Removal of 6" Material (140 SY)
- Place two 6" lifts of HMA (51 TON)

Pioneer Ridge

- Removal of 6" Material (391 SY)
- Place two 6" lifts of HMA (142 TON)

Rolling Hills

- Removal of 6" Material (2224 SY)
- Place two 6" lifts of HMA (807 TON)

Thompson River Ranch

- Removal of 6" Material (854 SY)
- Place two 6" lifts of HMA (310 TON)

The Landings

- Removal of 6" Material (5890 SY)
- Place two 6" lifts of HMA (2137 TON)

Knolls

- Removal of 6" Material (200 SY)
- Place two 6" lifts of HMA (73 TON)

Clearview

- Removal of 6" Material (1000 SY)
- Place two 6" lifts of HMA (363 TON)

Area 13 - 2" Mill and Overlay

- Blue Area - Removal of Asphalt Mat 2"
- Blue Area - 2" HMA w/Fiber
- Green Area - Removal of Asphalt Mat...
- Green Area - 2" HMA w/Fiber
- Re- Stripe



Construction

Country Acres

- Remo Removal of 6" Material (23 SY)
- Place Place two 6" lifts of HMA (8 TON)

Johnstown Center

- Remo Removal of 6" Material (144 SY)
- Place Place two 6" lifts of HMA (52 TON)

Johnstown Colony

- Remo Removal of 6" Material (26 SY)
- Place Place two 6" lifts of HMA (9 TON)

Johnstown Heights

- Remo Removal of 6" Material (140 SY)
- Place Place two 6" lifts of HMA (51 TON)

Pioneer Ridge

- Removal of 6" M Removal of 6" Material (391 SY)
- Place two 6" lifts Place two 6" lifts of HMA (142 TON)

Rolling Hills

- Removal of 6" Material (222 Removal of 6" Material (2224 SY)
- Place two 6" lifts of HMA (80 Place two 6" lifts of HMA (807 TON)

Thompson River Ranch

- Removal of Removal of 6" Material (854 SY)
- Place two 6 Place two 6" lifts of HMA (310 TON)

The Landings

- Removal of 6" Material (589 Removal of 6" Material (5890 SY)
- Place two 6" lifts of HMA (21 Place two 6" lifts of HMA (2137 TON)

Knolls

- Removal of 6" Material (200 SY) Remo
- Place two 6" lifts of HMA (73 TON) Place

Clearview

- Removal of 6" Material (1000 SY) Removal of
- Place two 6" lifts of HMA (363 TON) Place two 6

Area 13 - 2" Mill and Overlay

- Blue Area - Removal of Asphalt Mat 2" Mill Blue Area - Removal of Asph
- Blue Area - 2" HMA w/Fiber Blue Area - 2" HMA w/Fiber
- Green Area - Removal of Asphalt Mat 2" Mill Green Area - Removal of Asp
- Green Area - 2" HMA w/Fiber Green Area - 2" HMA w/Fiber
- Re- Stripe Re- Stripe

HAND PATCHING AREAS OF WORK**Bid Item 1 - Country Acres**

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	23	\$ 10.00	\$ 230.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	8	\$ 100.00	\$ 800.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 1 - Total Bid	\$ 3,380.00
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Bid Item 2 - Johnstown Center

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	144	\$ 10.00	\$ 1,440.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	52	\$ 100.00	\$ 5,200.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 2 - Total Bid	\$ 8,990.00
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Bid Item 3 - Johnstown Colony

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	26	\$ 10.00	\$ 260.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	9	\$ 100.00	\$ 900.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 3 - Total Bid	\$ 3,510.00
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Bid Item 4 - Johnstown Heights

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	140	\$ 10.00	\$ 1,400.00

Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	51	\$ 100.00	\$ 5,100.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 4 - Total Bid	\$ 8,850.00
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Bid Item 5 - Pioneer Ridge				
Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	391	\$ 10.00	\$ 3,910.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	142	\$ 100.00	\$ 14,200.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 5 - Total Bid	\$ 20,460.00
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Bid Item 6 - Rolling Hills				
Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	117	\$ 10.00	\$ 1,170.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	42	\$ 100.00	\$ 4,200.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 6 - Total Bid	\$ 7,720.00
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Bid Item 7 - Thompson River Ranch				
Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	854	\$ 10.00	\$ 8,540.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	310	\$ 100.00	\$ 31,000.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 7 - Total Bid	\$ 41,890.00
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6" R&R AREAS OF WORK

Bid Item 8 - Rolling Hills

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	2,107	\$ 10.00	\$ 21,070.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	765	\$ 100.00	\$ 76,500.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 8 - Total Bid**\$ 99,920.00****Bid Item 9 - The Landings**

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	5,890	\$ 10.00	\$ 58,900.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	2,137	\$ 100.00	\$ 213,700.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 9 - Total Bid**\$ 274,950.00****Bid Item 10 - Knolls**

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	200	\$ 10.00	\$ 2,000.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	73	\$ 100.00	\$ 7,300.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 10 - Total Bid**\$ 11,650.00****Bid Item 11 - Clearview**

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	1,000	\$ 10.00	\$ 10,000.00

Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	363	\$ 100.00	\$ 36,300.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item 11 - Total Bid	\$ 48,650.00
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Bid Item 12 - Subgrade Repair

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Remove unsuitable subgrade material. Place and compact Class 5 aggregate base course.	Ton	250	\$ 40.00	\$ 10,000.00

Bid Item 12 - Total Bid	\$ 10,000.00
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2" MILL AND OVERLAY AREAS OF WORK

Area 13 - 2" Mill and Overlay

Blue Areas - Mill 2", place 2"

(GR SX 75 PG 64-22 w/fiber).

Green Area - Mill 2" and place

Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Blue Area - Removal of Asphalt Mat (Planing) (2")	SY	6652	\$ 1.30	\$ 8,647.60
Blue Area - Emulsified Asphalt	GAL	185	\$ 10.00	\$ 1,850.00
Blue Area - 2" HMA w/fiber (SX)(75)(PG 64-22)	Ton	833	\$ 110.00	\$ 91,630.00
Green Area - Removal of Asphalt Mat (Planing) (2")	SY	7771	\$ 1.30	\$ 10,102.30
Green Area - Emulsified Asphalt	GAL	386	\$ 10.00	\$ 3,860.00
Green Area - 2" HMA w/fiber (SX)(75)(PG 64-22)	Ton	974	\$ 110.00	\$ 107,140.00
Re-stripe to match existing layout with Epoxy	LS	1	\$ 15,000.00	\$ 15,000.00
Blue Area - Traffic Control (Larimer Pkwy. full night closure 9PM - 5AM)	LS	1	\$ 2,500.00	\$ 2,500.00
Green Area - Traffic Control	LS	1	\$ 2,500.00	\$ 2,500.00

Area 13 - Total Bid	\$ 244,829.90
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Base Bid Total	\$ 784,799.90
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2024 Additional Scope of Work Identified for Asphalt Patching & Overlay Program**6" R&R AREAS OF WORK**

Bid Item 4 - Johnstown Heights				
Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	1	\$ 1,600.00	\$ 1,600.00
Remove 6" of existing material	SY	6,000	\$ 10.00	\$ 60,000.00
Place 6" two (2) lifts of HMA (S)(75)(PG 64-22)	Ton	2,066	\$ 100.00	\$ 206,640.00
Traffic Control and door hangers	LS	1	\$ 750.00	\$ 750.00

Bid Item A 3 - Total Bid	\$ 268,990.00
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2" MILL AND OVERLAY AREAS OF WORK

Bid Item 13 - 25-34				
Blue Areas - Mill 2", place 2" (GR SX 75 PG 64-22 w/fiber). Green Area - Mill 2" and place 2" (GR SX 75 PG 64-22 w/fiber).				
Item	Unit of Measure	Estimated Bid Qty.	UNIT PRICE BID	EXTENDED VALUE
Mobilization	LS	0	\$ 1,600.00	\$ -
Blue Area - Removal of Asphalt Mat (Planing) (2")	SY	0	\$ 1.30	\$ -
Blue Area - Emulsified Asphalt	GAL	0	\$ 10.00	\$ -
Blue Area - 2" HMA w/fiber (SX)(75)(PG 64-22)	Ton	0	\$ 110.00	\$ -
Green Area - Removal of Asphalt Mat (Planing) (2")	SY	26787	\$ 1.30	\$ 34,823.10
Green Area - Emulsified Asphalt	GAL	1342	\$ 10.00	\$ 13,416.00
Green Area - 2" HMA w/fiber (SX)(75)(PG 64-22)	Ton	3078	\$ 110.00	\$ 338,614.10
Re-stripe to match existing layout with Epoxy	LS	1	\$ 30,000.00	\$ 30,000.00
Blue Area - Traffic Control (Larimer Pkwy. full night closure 9PM - 5AM)	LS	0	\$ 2,500.00	\$ -
Green Area - Traffic Control	LS	2	\$ 2,500.00	\$ 5,000.00
Area 13 - Total Bid				\$ 421,853.20

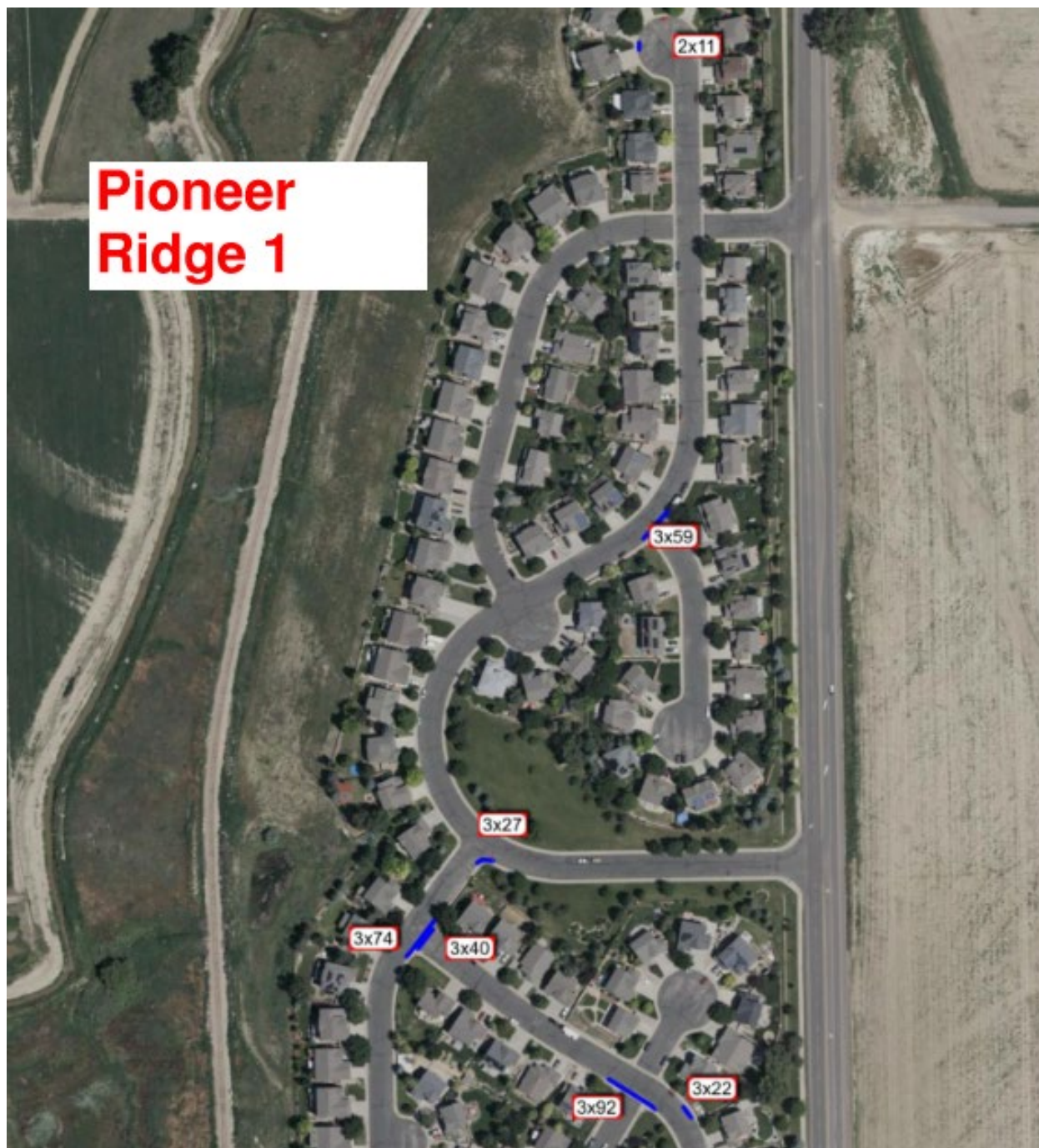
Total Additional Work \$ 690,843.20

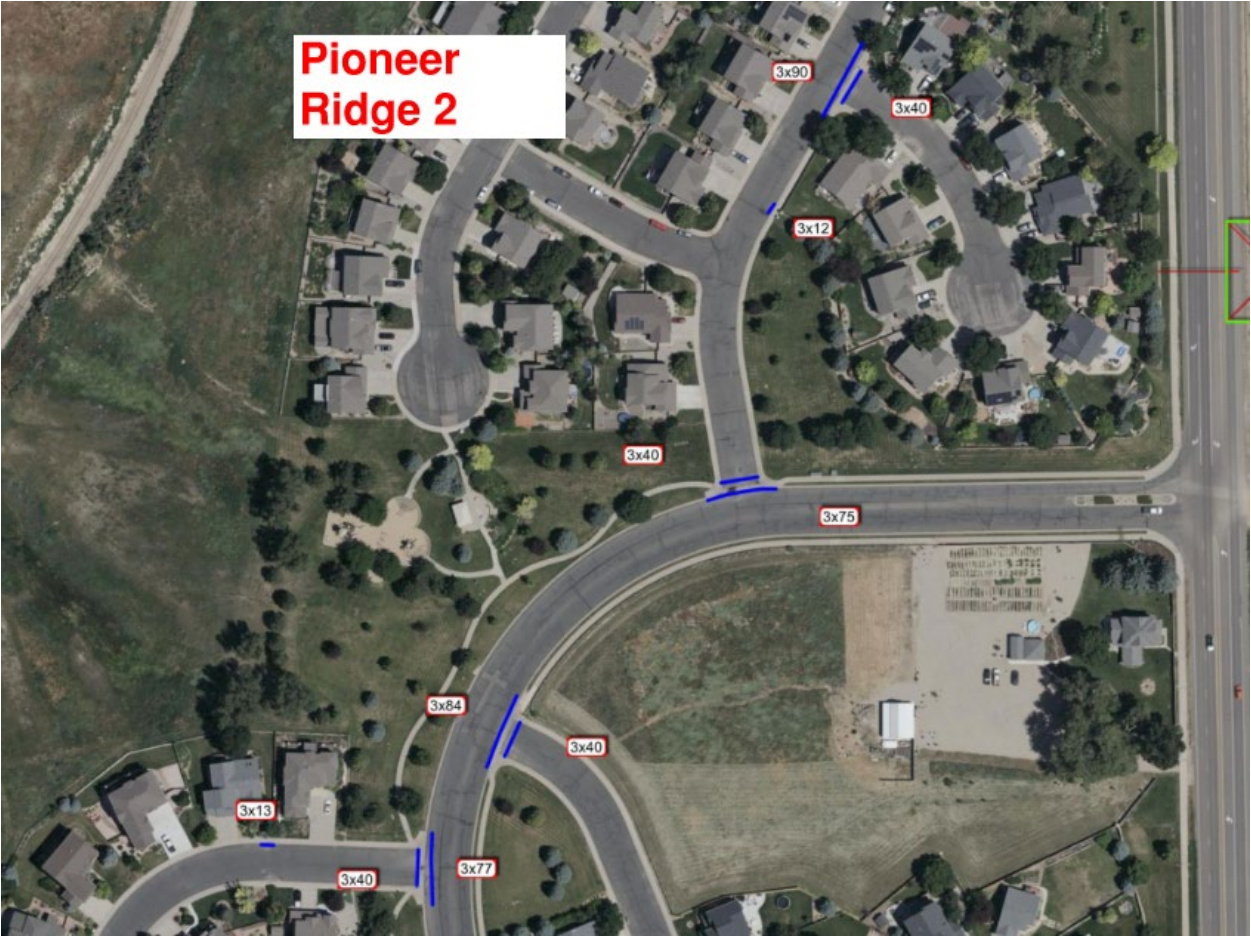












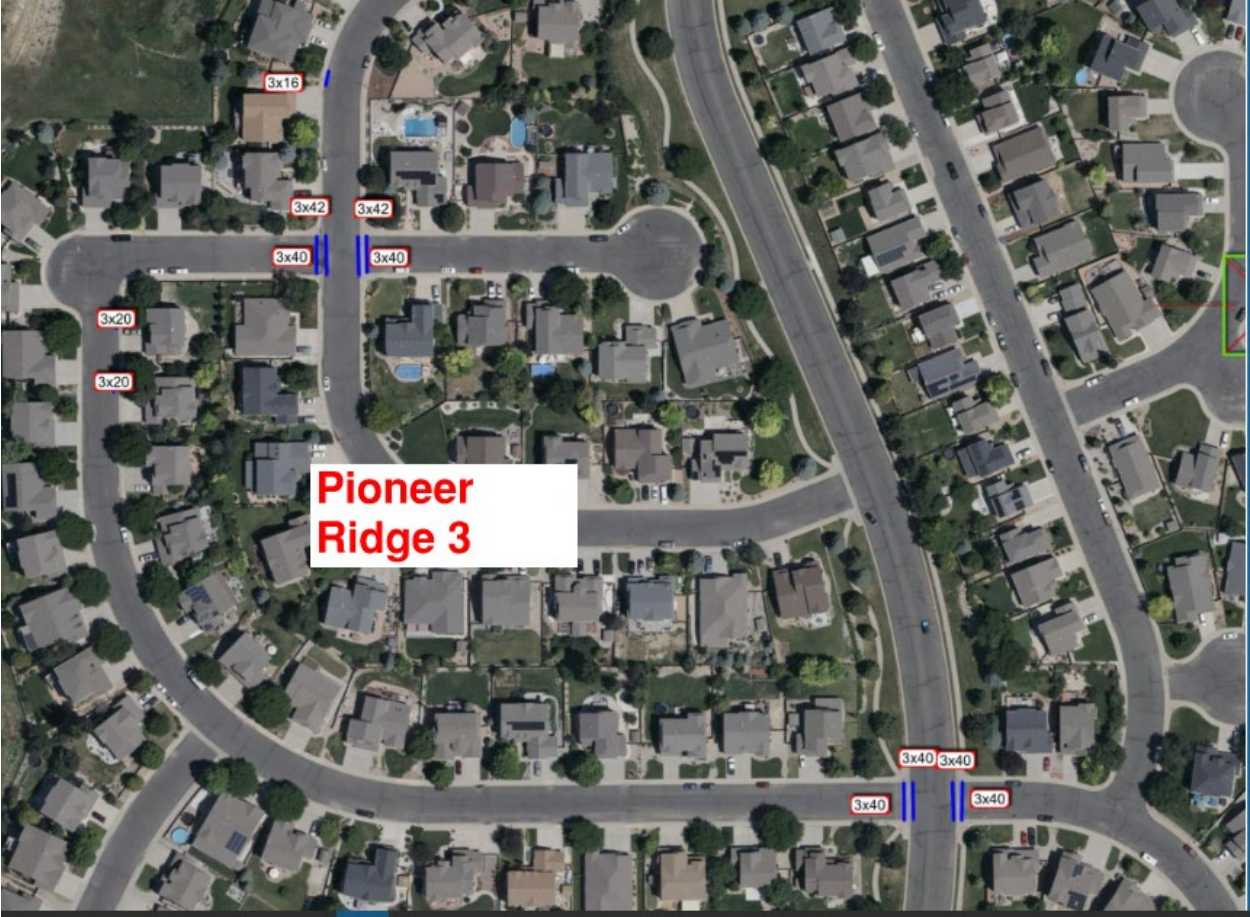








EXHIBIT B

SPECIAL TERMS AND CONDITIONS OF THE WORK

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2.1 DEFINITIONS

(a) The "Contract Documents" shall consist of, among others, the Invitation for Bids, Agreement, Annual Amendment to the Agreement, Bid Proposal, Bid Bond, Performance Bond, Payment Bond, Insurance Requirements, Notice to Proceed, Change Order, Notice of Contractor's Settlement, Final Receipt and Guarantee, Drawings, Specifications, Special and General Conditions, Notice Regarding Illegal Aliens, and including all modifications thereof incorporated in any of the documents before and after the execution of the Contract.

(b) The TOWN and the CONTRACTOR are those named as such in the Agreement. They are treated through the Contract Documents as if each were of singular number and masculine gender.

(c) Wherever in this Contract the word "PUBLIC WORKS DEPARTMENT" is used, it shall be understood as referring to The Public Works Director, Jason Elkins, P.E., or his designated representative.

(d) Any "written notice" served pursuant to the terms of the Agreement shall be deemed to have been duly served if delivered in person or by certified mail to the individual, or to a partner, or to an officer of the corporation for whom it is intended, or any authorized representative thereof.

(e) The term "subcontractor" shall mean anyone, other than the contractor, who furnishes for the Project, under an agreement with the CONTRACTOR, labor, or labor and materials, or labor and equipment, but shall not include any person who furnishes services of a personal nature.

(f) "Work" shall mean the furnishing of all labor, materials, equipment, and other incidentals necessary to the successful completion of the Contract and the carrying out of all duties and obligations imposed by the Contract.

(g) "Extra work" shall mean such additional labor, materials, equipment, and other incidentals as are required to complete the Contract for the purpose for which it was intended, which are shown on the Drawings or called for in the Specifications, or is authorized by the TOWN in addition to that work called for in the Drawings and Specifications.

(h) "Dispute" shall mean lack of agreement between any parties that have any obligations, duties, or responsibilities under the Contract Documents, including but not limited to the Drawings or Specifications.

(i) "Mobilization" shall consist of preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the project site; for the establishment of all offices, buildings and other facilities necessary for work on the project; and for all other work and operations which must be performed in order to begin work on the various items on the Project site.

2.1.1 ABBREVIATIONS

Wherever the following abbreviations are used in these general conditions, Special Condition, specifications, standard details or on the drawings, they are to be construed the same as the respective expressions represented.

AASHTO	American Association of State Highway and Transportation Officials
AAN	American Association of Nurserymen
AB	Aggregate Base
Aban	Abandon
ABC	Aggregate base course
AC	Asphalt cement or concrete
ACB	Asphalt concrete base
ACI	American Concrete Institute
ACP	Asbestos cement pipe
ACPA	American Concrete Pipe Association
ACWS	Asphalt concrete wearing surface
AGC	Associated General Contractors of America, Inc.
Agg	Aggregate
Ahd	Ahead
AIA	American Institute of Architects
AIEE	American Institute of Electrical Public Works Departments
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
APA	American Plywood Association
Approx	Approximate
APWA	American Public Works Association
AR	Aged residue
ASCE	American Society of Civil Public Works Departments
ASME	American Society of Mechanical Public Works Departments
Asph	Asphalt
ASTM	American Society for Testing Materials
Ave	Avenue
AWPA	American Wood Preservers Association
AWSC	American Welding Society Code
AWWA	American Water Works Association
Bbl	Barrel
BC	Beginning of curve
BCR	Beginning of curb return
Beg	Beginning
Bk	Book or Back
Blvd	Boulevard
BM	Bench Mark or Board Measure
Brg	Bearing
BST	Bituminous Surface Treatment
BTB	Bituminous Treated Base
BTU	British Thermal Units
BVC	Beginning of vertical curve
BVCE	Beginning of vertical curve elevation

BVCS	Beginning of vertical curve station
C	Centigrade or Curb
CB	Catch Basin
CBF&C	Catch basin frame & cover
CC or C/C	Center to Center
CCA	Colorado Contractor's Association, Inc.
CDOT	Colorado Department of Transportation
CF	Curb face
Cfs	Cubic Feet per second
CIP	Cast Iron pipe
CIPP	Cast-in-place concrete pipe
CL or C	Centerline
Cm	Centimeter
CMP	Corrugated metal pipe
CO	Clean out
Col	Column
Conc	Concrete
Const	Construct
CP	Concrete pipe (non-reinforced)
CRS	Colorado Revised Statutes
CTB	Cement Treated Base
CY	Cubic Yards
Deg	Degree
DF	Douglas Fir
DG	Decomposed granite
Dia	Diameter
Dim	Dimension
DIP	Ductile Iron Pipe
Div	Division
Dr	Drive
Drwg	Drawing
Dwy	Driveway
Ea	Each
Ease	Easement
E	East
EC	End of curve
ECR	End of curb return
El or Elv	Elevation
EVC	End of vertical curve
EVCE	End of vertical curve elevation
EVCS	End of vertical curve station
Ex or Exist	Existing
F	Fahrenheit
FB	Field Book
F & C	Frame & cover
FH	Fire hydrant
FL or F	Floor line or flow line

Fnd	Found
fps	Feet per second
FS	Finished surface
Ft	Foot or feet
G	Gutter
Ga	Gage
Galv	Galvanized
GL	Ground line
Gpm	Gallons per minute
Gr	Grade
H	High or height
Hdwl	Headwall
Horiz	Horizontal
Hwy	Highway
ID	Improvement District or inside diameter
IE	Invert Elevation
IEEE	Institute of Electrical and Electronic Public Works Departments
In	Inch
Inv	Invert
IP	Iron Pipe
IPS	Iron Pipe Size
Irrig	Irrigation
Jt	Joint
JC	Junction Chamber
Jct	Junction
JS	Junction Structure
L	Length
Lb	Pound
LF	Linear Feet
LH	Lamp hole
Lin	Linear
Long	Longitudinal
Lt	Left
Max	Maximum
Meas	Measured
MH	Manhole
MHF&C	Manhole frame and cover
Min	Minutes or minimum
Misc	Miscellaneous
ML or M	Monument line
Mm	Millimeter
Mon	Monolithic or monument
MTD	Multiple tile duct
MUTCD	Manual of Uniform Traffic Control Devices

N	North
NBS	National Bureau of Standards
NCPI	National Clay Pipe Institute
NE	Northeast
NEC	National Electric Code
NEMA	National Electrical Manufacturer's Association
NFPA	National Fire Protection Association
NPI	Non pay item
NSC	National Safety Council
NSF	National Sanitation Foundation
NW	Northwest
No	Number
OC	On center
OD	Outside diameter
Oz	Ounces
PC	Point of curvature
PCR	Point of curb return
PCC	Point of compound curve or Portland Cement Concrete
PI	Point of intersection or plastic index
PL	Property line
POC	Point of Curve
POS	Point of Spiral
PP	Power pole
ppm	Parts per million
PRC	Point of reverse curve
Prop	Proposed or property
psi	Pounds per square inch
psf	Pounds per square foot
PT or POT	Point of Tangent
P&TP	Power and telephone pole
Pvmt	Pavement
Q	Rate of flow
R	Radius
RC	Reinforced concrete
RCP	Reinforced concrete pipe
Rd	Road
Rdwy	Roadway
Reinf	Reinforced, Reinforcing
Ret Wall	Retaining Wall
RGRCP	Rubber Gasket Reinforced Concrete Pipe
rpm	Revolutions Per Minute
Rt	Right
R/W or Row	Right-of-way
S	South or slope
SAE	Society of Automotive Public Works Departments
San	Sanitary

SC	Spiral to Curve
SCCP	Steel cylinder concrete pipe
SD	Storm drain or Sewer District
SDDTC	Storm Drainage Design and Technical Criteria
Sdl	Saddle
Sec	Seconds
Sect	Section
SE	Southeast
SF	Square feet
Sht	Sheet
Spec	Specifications
SpMH	Special manhole
Sq Ft Yd	Square Foot, Yard
SS	Sanitary sewer
St	Street
Sta	Station
Std	Standard
Str gr	Structural grade
Struct	Structure or structural
SW	Southwest
SY	Square Yard
T	Tangent Distance
Tel	Telephone
Temp	Temporary
TH	Test hole
TP	Telephone pole
Tr	Tract
Trans	Transition
TS	Traffic signal or Tangent to spiral
TSC	Traffic signal conduit
Typ	Typical
UL	Underwriters Laboratories
USC&GS	United States Coast and Geodetic Survey
USGS	United States Geological Survey
V	Velocity of flow
VC	Vertical curve
VCP	Vitrified clay pipe
Vert	Vertical
W	West or width
WI	Wrought iron
WS	Wearing surface
Wt	Weight
Yd	Yard
'	feet or minutes
"	inches or seconds

o	degrees
%	percent
#	number or pound
@	at
/	per
=	equals

2.1.2 GENERAL DEFINITIONS AND TERMS:

Whenever in these specifications or in other contract documents the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

Addendum: A Supplement to any of the Contract Documents issued, in writing, after advertisement of but prior to the opening of bids for a contract.

Advertisement: The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished.

Agency: The government agency for which the construction is being done, either by permit or contract.

Agreement: The written agreement between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are made a part thereof as provided therein.

Application for Payment: The form accepted by the PUBLIC WORKS DEPARTMENT which is to be used by CONTRACTOR in requesting progress or final payment and which is to include such supporting documentation as required by the Contract Documents.

Award: The formal action of the governing body in accepting a proposal.

Backfill: Material placed in an excavated space to fill such space. For trenches this space will be the area from 1 foot above the top of the pipe or conduit to the existing or proposed finished grade of pavement.

Base Course: The upper course of the granular base of a pavement or the lower course of an asphalt concrete pavement structure.

Bedding: Is the material placed in the area from the bottom of the trench to 1 foot above the top of the pipe or conduit.

Bid: The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

Bidder: Any qualified individual, firm, partnership, corporation or combination thereof, acting directly or through a duly authorized representative who legally submits a proposal for the advertised work.

Bridge: A structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, and having a track or passageway for carrying traffic or other

moving loads and having a length measured along the center of roadway of more than 20 feet between undercopings of abutments or extreme ends of openings for multiple boxes.

(Length) The length of a bridge structure is the over-all length measured along the line of survey stationing back to back of backwalls of abutments, if present, otherwise end to end of the bridge floor; but in no case less than the total clear opening of the structure.

(Roadway Width) The clear width measured at right angles to the longitudinal centerline of the bridge between the bottom of curbs or guard timbers or in the case of multiple height of curbs, between the bottom of the lower risers.

Building: Any structure built for the support, shelter, or enclosure of persons, animals, chattel or movable property.

Building Code: A regulation adopted by the governing body establishing minimum standards of construction for the protection of the public health, safety, and welfare in terms of measured performance rather than in terms of rigid specifications of materials and methods.

Calendar Day: Every day shown on the calendar.

Change Order: A written order issued by the TOWN to the CONTRACTOR to make changes in the work or to perform extra work, and setting forth conditions for payment and/or adjustment in time of completion.

Completion Time: The number of calendar days for completion of an act, including authorized time extensions. In case a calendar date of completion is shown in the proposal in lieu of the number of calendar days, the contract shall be completed by that date. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, that shall be excluded.

Conflicting Utility Line: An existing utility line, shown or not shown on the drawings, is a conflicting line when any part falls within the trench pay widths as listed or within the dimensions, as shown on the drawings, for appurtenant structures.

Construction Project: The erection, installation, remodeling, alteration, of durable facilities upon, under, or over the ground. This shall include, but is not limited to buildings, roadways and utility pipes, lines, poles or other structures.

Contingent Bid Item: This is a minor bid item which is likely, but not certain, to occur during the course of work. If the PUBLIC WORKS DEPARTMENT determines that this work is required, the CONTRACTOR will accomplish the work and payment will be made based on the contingent unit bid price included in the proposal.

Contract: The written instrument executed by the CONTRACTOR and the Contracting Agency by which the CONTRACTOR is bound to furnish all labor, equipment, and materials and to perform the work specified, and by which the Contracting Agency is obligated to compensate the CONTRACTOR therefore at the prices set forth therein.

The Contract Documents are herewith by reference made a part of the contract as if fully set forth therein. The term "Contract" shall be used interchangeably herein with the term "Agreement."

Contract Documents: The Contract Documents are defined in the Agreement and shall consist of, among others, the Invitation for Bids, Information for Bidders, Non-Collusion Statement, Bid Proposal, Bid Bond, Notice of Award, Agreement, Performance Bond, Payment Bond, Insurance Requirements, Notice to Proceed, Change Order, Notice of Contractor's Settlement, Final Receipt and Guarantee, Drawings, Specifications, Special and General Conditions, Notice Regarding Illegal Aliens, and including all modifications thereof incorporated in any of the documents before and after the execution of the Contract.

Contracting Agency: The legal entity that has contracted for the performance of the work or for whom the work is being performed.

Contractor: The individual, firm, partnership, corporation or combination thereof entering into a contract with the Contracting Agency to perform the advertised work.

Council: The Johnstown Town Council that by law constitutes the Legislative Department of the Town organized and existing under and by virtue of the laws of the State of Colorado.

Culvert: Any structure not classified as a bridge, which provides an opening under or adjacent to the roadway.

Days: Unless otherwise designated, days will be understood to mean calendar days.

Drawings: That part of the Contract Documents prepared or approved by the PUBLIC WORKS DEPARTMENT which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other Contractor submittals are not Drawings as so defined.

Emergency: Unforeseen occurrences and combinations of circumstances involving the public welfare or the protection of work already done under the Contract Documents, or which endanger life or property and call for immediate action or remedy.

Public Works Department: The person or company referred to as PUBLIC WORKS DEPARTMENT in the Contract Documents.

Equipment: (Construction)-All machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and acceptable completion of work.

(Installed)-All material or articles used in equipping a facility as furnishings or apparatus to fulfill a functional design.

Extra Work: An item of work not provided for in the contract as awarded but found essential to the satisfactory completion of the contract within its intended scope.

Field Order: A written set of emergency instructions to the CONTRACTOR issued only

where the time required for preparation and execution of a formal Change Order would result in a delay or a stoppage of work, or would allow a hazardous condition to exist.

Flooding: Flooding will consist of the inundation of the entire lift with water, puddled with poles or bars to insure saturation of the entire lift.

Foundation: For buildings or structures, this will be the substructure. For pipe this will be the native material or prepared material on which the pipe rests; normally, this is the bottom grade line of the trench.

Full Depth Pavement: An asphalt concrete pavement structure in which the granular base and subbase are replaced by equivalent structural thickness of asphalt concrete.

General Conditions: Uniform general specifications adopted as standard specifications by the PUBLIC WORKS DEPARTMENT.

Holiday: Holidays recognized by collective bargaining agreements in the State of Colorado are:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

Additional holidays recognizable by the State of Colorado Cities and Counties are:

- Martin Luther King's Birthday
- Presidents Day
- Columbus Day
- Veteran's Day
- General Election Day in even-numbered years

When New Year's Day, Independence Day or Christmas Day fall on Sunday, the following Monday shall be considered a holiday.

Additional legal holidays, when designated by the State Governor or President of the United States, will also be recognized by the State, Town and/or County.

Inspector: The PUBLIC WORKS DEPARTMENT's authorized representative assigned to make detailed inspections of contract performance.

Jetting: Jetting is the densification of material, using a continuous supply of water, under pressure, transmitted to the material through a rigid pipe of sufficient length to reach the bottom of the lift being densified. In all cases, the entire lift will be completely saturated working from the top to the bottom.

Laboratory: The established materials testing laboratory of the Contracting Agency's Public Works Department, or other laboratories acceptable to and/or authorized by the PUBLIC WORKS DEPARTMENT to test materials and work involved in the Contract.

Liquidated Damages: A daily charge made against the CONTRACTOR for each

working day, including free time, that any work shall remain uncompleted after elapse of Contract time.

Major Item: Any item of work and/or materials having an original contract value that exceeds ten percent of the amount of the original contract.

Materials: Any substance specified in the project, equipment and other material used or consumed in the performance of the work.

Median: The portion of a divided highway separating the roadways used by traffic going in opposite directions.

Method of Measurement: The manner in which a "Pay Item" is measured to conform to the "Pay Unit."

Non Pay Item: An item of work for which no separate payment will be made under the proposal, but which must be included as an incidental cost for payment on an associated pay item included in the proposal.

Notice of Award: A letter from the TOWN advising the CONTRACTOR that they are the successful Bidder and the Town has accepted their proposal.

Notice of Construction Acceptance: The written acknowledgment that construction is complete which starts the warranty period.

Notice of Final Acceptance: The written acceptance of Work performed under the Contract, following satisfactory conclusion of the warranty period.

Notice of Substantial Completion: The written notice of the date, as certified by the Project Manager, when the Project or a specified part is sufficiently completed, according to the Contract, so the Project or specified part can be used for the intended purposes.

Notice to Bidders: The standard forms inviting proposals or bids.

Notice to Proceed: A directive issued by the TOWN, authorizing the CONTRACTOR to start the work or improvements required in the Contract.

Obligee: One to whom another is obligated. For bonding purposes, the OWNER is the obligee.

Open Trench: The excavated area shall be considered as open trench until all the aggregate base course for pavement replacement has been placed and compacted or, if outside of a pavement area, until the excavated area is brought to finish grade or natural grade.

Owner: The Town of Johnstown, State of Colorado, acting through its legally constituted officials, officers or employees.

Pavement: Any surface of streets, alleys, sidewalks, courts, driveways, etc., consisting of mineral aggregate bound into a rigid or semi-rigid mass by a suitable binder such as,

but not limited to, portland cement or asphalt cement.

Pavement Structure: The combination of sub-base, base course, and surface course placed on a sub-grade to support the traffic load and distribute it to the roadbed.

Pay Item: A detail of work for which individual payments are to be made under the Contract, as specified in the proposal.

Payment Bond: The security provided by the CONTRACTOR solely for the protection of claimants, supplying labor and materials to the CONTRACTOR or his Subcontractors.

Performance Bond: The security by the CONTRACTOR solely for the protection of the Owner and conditioned upon the faithful performance of the contract in accordance with the contract documents, drawings, specifications and conditions thereof.

Permit: The license to do construction in public rights-of-way and/or easements; issued by an Agency to a CONTRACTOR working for another party.

Plans: All approved drawings or reproductions thereof pertaining to the work and details therefor, which are made a part of the Project Manual and Contract Documents.

Plant: The Contractors' and/or subcontractors' facilities, including but not limited to small tools and mobile equipment, located on and/or offsite, necessary for preparation of materials and prosecution of work for the project.

Principal: The individual, firm or corporation primarily liable on an obligation, as distinguished from a surety.

Profile Grade: The trace of a vertical plane intersecting the top surface of the proposed wearing surface, usually along the longitudinal centerline of the roadbed. Profile grade means either elevation or gradient of such trace according to the context.

Project: A specific coordinated construction or similar undertaking identified by a single project number and bid and awarded as one contract. On occasion two or more projects may be bid and awarded as a single contract.

Project Manual: All the integral documents of the contract including but not limited to, IFB, Special Conditions, Project Scope, Specifications and any provided drawings.

Project Representative: See definition contained in Article 1.2.2.

Project Special Conditions: See definition for Special Conditions.

Proposal: The offer of a bidder on the prescribed form, to perform the work and to furnish the labor and materials at the prices quoted.

Proposal Form: The approved form on which the Contracting Agency requires bids to be prepared and submitted for the work.

Proposal Guarantee: The security furnished with a bid to guarantee that the bidder will enter into the contract if his bid is accepted.

Proposal Pamphlet: The book or pamphlet pertaining to a specific project, containing proposal forms, special provisions and other information necessary for and pertinent to the preparation of the proposal or bid.

Referred Documents: On all work authorized by the Contracting Agency, any referenced documents in the specifications, such as Bulletins, Standards, Rules, Methods of Analysis or test. Codes and Specifications of other Agencies, Public Works Department Societies or Industrial Associations, refer to the Latest Edition thereof, including Amendments, which are in effect and published at the time of Advertising for Bids or the issuing of a permit for the work, unless otherwise stated.

Reasonably Close Conformity: Compliance with reasonable and customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, reasonably close conformity means compliance with such working tolerances.

Right-of-Way: A general term denoting, land, property or interest therein, usually in a strip, acquired for or devoted to a street, highway, or other public improvement.

Road: A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.

Roadside: A general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

Roadside Development: Those items necessary to the complete roadway that provide for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; such suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the roadway.

Roadway: The portion of the right-of-way intended primarily for vehicular traffic, and including all appurtenant structures and other features necessary for proper drainage and protection. Where curbs exist, it is that portion of roadway between the faces of the curbs.

Salvageable Material: Material that can be saved or salvaged. Unless designated or directed by the PUBLIC WORKS DEPARTMENT or shown on the Drawings, all salvageable material shall remain the property of the CONTRACTOR.

Sewers: Conduits and related appurtenances employed to collect and carry off water and waste matter to a suitable point of final discharge.

Shop Drawings: Drawings or reproduction of drawings, detailing; fabrication and erection of structural elements, falsework and forming for structures, fabrication of reinforcing steel, installed equipment and installation of systems, or any other supplementary drawings or similar data, which the CONTRACTOR is required to submit for approval.

Shoulder: The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

Sidewalk: That portion of the roadway primarily constructed for the use of pedestrians.

Special Conditions: The special conditions, requirements, additions, and/or revisions to the General Conditions and Standard Specifications, applicable to the work, to cover conditions or requirements peculiar to the project under consideration. Special Conditions fall within one of the two following categories and take precedence over the General Conditions.

(a) Project Special Conditions. Special Conditions peculiar to the project and not otherwise thoroughly nor appropriately set forth in the general conditions or standard specifications or drawings.

(b) Standard Special Conditions. Special directions or requirements not otherwise thoroughly or appropriately set forth in the standard specifications, and which are peculiar to a selected group of projects or which are intended for temporary use.

Specifications: The descriptions, directions, provisions, and requirement for performing the work as contained in the Contract Documents. Specifications shall also mean "Standard Specifications."

State: The State of Colorado.

Standard Details: Uniform detail drawings of structures or devices adopted as Standard Details by the PUBLIC WORKS DEPARTMENT.

Standard: Uniform general specifications adopted as Standard Specifications by the PUBLIC WORKS DEPARTMENT.

Storm Drain: Any conduit and appurtenance intended for the reception and transfer of stormwater.

Street: Streets, avenues, alleys, highways, crossings, lanes, intersections, courts, places, and grounds now open or dedicated or hereafter opened or dedicated to public use and public ways.

Structures: Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, sewers, service pipes, underdrains, foundation drains, fences, swimming pools, and other features which may be encountered in the work and not otherwise classed herein.

Sub-base: The lower course of the base of a roadway, immediately above the sub-grade.

Subcontractors: Those having direct contracts with the CONTRACTOR and those who furnish material worked into a special design according to the Drawings and

Specifications for the work, but not those who merely furnish material not so worked.

Sub-grade: The supporting structures on which the pavement and its special undercourses rest.

Substructure: All of that part of the structure or building below the bearings of simple and continuous spans, skewbacks of arches and tops of footings of rigid frames, together with the backwalls, wingwalls, and wing protection railings.

Superintendent: The Contractor's authorized representative in responsible charge of the work.

Superstructure: The entire structure or building except the substructure.

Supplemental Specifications: Additions and revisions to the Standard Specifications that are adopted subsequent to issuance of the printed Project Manual.

Surety: The individual, firm or corporation, bound with and for the CONTRACTOR for the acceptable performance, execution, and completion of the work, and for the satisfaction of all obligations incurred.

Surface Course: The finish or wearing course of an asphalt concrete pavement structure.

Title or Headings: The titles or headings or the sections and subsections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

Town: A municipal corporation, organized and existing under and by virtue of the laws of the State of Colorado.

Town Clerk: The duly authorized person who performs the duties of clerk for the Contracting Agency.

Traveled Way: The portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Utility: Pipe lines, conduits, ducts, transmission lines, overhead or underground wires, railroads, storm drains, sanitary sewers, irrigation facilities, street lighting traffic signals, and fire alarm systems, and appurtenances of public utilities and those of private industry, businesses or individuals solely for their own use or use of their customers which are operated or maintained in, on, under, over or across public right-of-way or public or private easement.

Waterworks (Water Supply System): The reservoirs, pipelines, wells, pumping equipment, purification works, mains, service pipes, and all related appliances and appurtenances utilized in the procurement, transportation and delivery of an adequate, safe, and palatable water supply for the Contracting Agency.

Work: Any of all of the improvements mentioned and authorized to be made in the Contract Documents, and the construction, demolition, reconstruction, and repair of all or

any portion of such improvements, and all labor, services, incidental expenses, and material necessary or incidental thereto.

Working Day: A calendar day, exclusive of Saturdays, Sundays and Contracting Agency recognized legal holidays, on which weather and other conditions not under the control of the CONTRACTOR will permit construction operations to proceed for the major part of the day with the normal working force engaged in performing the controlling item or items of work which would be in progress at that time.

2.2 GENERAL CONTRACT REQUIREMENTS

2.2.1 FAMILIARITY WITH WORK

The TOWN has endeavored to ascertain all pertinent information regarding site conditions, and subsurface conditions, and has, to the best of his ability, furnished all such information to the CONTRACTOR. Such information is given, however, as being the best factual information available to the TOWN, but is advisory only. The CONTRACTOR, by careful examination, shall satisfy himself as to the nature and location of the work, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters that can in any way affect the work under this Contract.

Bidder shall examine the site of the proposed work and all documents pertaining to the work. It is mutually agreed that the submission of a proposal shall be considered prima facie evidence that the bidder has made such examination and is familiar with the character, quality and quantity of the work to be performed and material to be furnished.

Logs of test hole, ground water levels, and any accompanying soil reports as furnished by the Contracting Agency are furnished for general information only. The field condition so set forth shall not constitute a representation or warranty, expressed or implied, that such conditions are actually existent. Bidders shall make their own investigations and form their own estimates of the site conditions. After the submission of the proposal, no complaint or claim that there was any misunderstanding as to the quantities, conditions or nature of the work will be entertained.

2.2.2 CHANGED CONDITIONS

The CONTRACTOR shall immediately, and before such conditions are disturbed, except in the event of any emergency, notify the TOWN in writing of: (1) subsurface or latent physical conditions at the site differing materially from those indicated in the Contract; or (2), previously unknown physical or other conditions at the site, of an unusual nature, not generally recognized as inherent in work of the character provided for in the Contract, which could not have reasonably been discovered prior to execution of the Contract. The PUBLIC WORKS DEPARTMENT shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or the time required for, performance of this Contract, an adjustment shall be made pursuant to Article 2.6.1, if appropriate, and the Contract modified in writing accordingly. Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless he has given notice as above required, provided that the PUBLIC WORKS DEPARTMENT may, if he determines the facts so justify, consider and adjust any such claims assessed before the date of final settlement of the Contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Article 2.2.33 hereof.

2.2.3 ORDER OF COMPLETION

The CONTRACTOR shall submit, at such times as may reasonably be requested by the PUBLIC WORKS DEPARTMENT, schedules which shall show the order in which the CONTRACTOR proposes to carry on the work, with dates at which the CONTRACTOR will start the several parts. The Special Conditions, Specifications or Drawings may require that certain phases or parts of the work be completed first or in a certain order. If the CONTRACTOR elects to use PERT or CPM charts, he shall furnish copies of them to the PUBLIC WORKS DEPARTMENT upon request.

2.2.4 DESIGN AND SPECIFICATIONS

It is agreed that the TOWN shall be responsible for the adequacy of the Specifications and Drawings. The TOWN, through the PUBLIC WORKS DEPARTMENT, shall furnish the Specifications and Drawings, which adequately represent the requirements of the work to be performed under the Contract. All such instructions shall be consistent with the Contract Documents and shall be true developments thereof. Specifications and Drawings that adequately represent the work to be done shall be furnished prior to the time of entering into the Contract. The PUBLIC WORKS DEPARTMENT may, during the life of the Contract, and in accordance with Article 2.2.15, issue additional instructions, by means of drawings or other media, necessary to illustrate changes in the work.

2.2.5 SURVEYS

The TOWN has not provided bench marks adjacent to the work. From the information provided by the TOWN, the CONTRACTOR shall develop and make all detail surveys needed for construction, such as slope stakes, batter boards, stakes for pile locations, and other working points, lines, and elevations. The CONTRACTOR shall be responsible for any mistakes made in his detail surveys.

The CONTRACTOR shall carefully preserve bench marks, reference points and stakes, and in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their necessary loss or disturbance.

2.2.6 CLAIMS

If the CONTRACTOR claims that any instructions by drawings or otherwise, issued after the date of the Contract, involve extra cost under the Contract, he shall give the PUBLIC WORKS DEPARTMENT written notice thereof within ten (10) days after the receipt of such instruction, and in any event before proceeding to execute the work, except for emergency work endangering life or property, and the procedure shall than be as provided for changes in the work, as set forth herein. No such claim shall be valid unless so made.

2.2.7 EXECUTION AND HIERARCHY OF DOCUMENTS

The Contract Documents are complimentary and what is called for by any one of such documents shall be as binding as if called for by all. In case of any conflict, discrepancy, or inconsistency among any of the Contract Documents, the following hierarchy shall control from most compelling to least compelling:

Agreement
 Special Conditions
 Drawings & Specifications (the more stringent requirement controls)
 Design Standards & Specifications
 Figures govern over scaled dimensions

Materials or work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards.

2.2.8 MATERIALS AND APPLIANCES

Unless otherwise stipulated, the CONTRACTOR shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completion of work. The CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

2.2.9 EMPLOYEES

The CONTRACTOR shall, at all times, enforce strict discipline and good order among his employees, and shall seek to avoid employing, for the Contract, any unfit person or anyone not skilled in the work assigned to him.

The CONTRACTOR shall provide adequate sanitary facilities.

Employees of the CONTRACTOR and/or any subcontractor working on the project shall not be considered as employees of the TOWN, nor shall they be entitled to any of the benefits provided to the TOWN's employees.

2.2.10 ROYALTIES AND PATENTS

The CONTRACTOR shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement for any patent rights and indemnify and save the TOWN harmless from loss on accounts thereof, except that the TOWN shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, unless the TOWN has notified the CONTRACTOR prior to the signing of the Contract that the particular process, design, or product is patented or is believed to be patented.

2.2.11 PERMITS, LICENSES AND REGULATIONS

Permits and licenses of a temporary nature, necessary for the prosecution of the work, shall be secured and paid for by the CONTRACTOR. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the TOWN, unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the CONTRACTOR observes that the Specifications or Drawings are at variance therewith, he shall promptly notify the PUBLIC WORKS DEPARTMENT in writing, and any necessary changes shall be adjusted in the Contract for changes in the work.

2.2.12 INSPECTION OF WORK

All materials and equipment used in the construction of the project shall be subject to adequate testing in accordance with generally accepted standards as required by the Contract Documents.

The TOWN shall provide sufficient competent personnel, working under qualified supervision for the inspection of the work, while such work is in progress, to ascertain that the completed work will comply in all respects with the standards and requirements set forth in the Specifications and Drawings. The inspection of the Contract will be as it relates to the compliance with the Specifications and Drawings, quality of workmanship, and material. Notwithstanding such inspection, the CONTRACTOR will be held responsible for the acceptability of the work.

The PUBLIC WORKS DEPARTMENT and his representatives shall at all times have access to work whenever it is in preparation or progress, and the CONTRACTOR shall provide proper facilities for such access and for inspection.

If the Specifications, the PUBLIC WORKS DEPARTMENT's instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, the CONTRACTOR shall give the PUBLIC WORKS DEPARTMENT timely notice to its readiness for inspection, and if the inspection is by an authority other than the PUBLIC WORKS DEPARTMENT, a date shall be fixed for such an inspection. Inspections by the PUBLIC WORKS DEPARTMENT shall be promptly made, and where applicable, at the source of supply. Any work required by the PUBLIC WORKS DEPARTMENT to be uncovered for examination shall be properly restored at the CONTRACTOR's expense unless the PUBLIC WORKS DEPARTMENT has unreasonably delayed inspection.

Re-examination of any work may be ordered by the PUBLIC WORKS DEPARTMENT, and if so ordered, the work must be uncovered by the CONTRACTOR. If such work is found to be in accordance with the Contract Documents, the TOWN shall pay the cost of re-examination. If such work is not in accordance with the Contract Document, the CONTRACTOR shall pay such cost.

2.2.13 SUPERINTENDENTS

The CONTRACTOR shall keep on his work at all times during its progress, competent superintendents and/or responsible assistants. The superintendent shall represent the CONTRACTOR and all directions given to him shall immediately be confirmed in writing to the CONTRACTOR. Superintendent shall be named in writing by CONTRACTOR at the beginning of the work.

2.2.14 PRECONTRACT EXAMINATION AND DISCOVERY OF DISCREPANCIES DURING WORK

Before submitting his proposal, the CONTRACTOR will examine all construction plans and the entire and complete Specifications and Drawings. The CONTRACTOR will become well and fully informed as to the materials and the character of the work required, the relationship of all of the particular parts of the work, and he will visit and inspect the site, observing and examining the conditions existing.

After the execution of the Contract, no consideration will be granted for any misunderstanding of the materials to be furnished or the work to be done, it being mutually understood that the tender of the proposal carried with it an agreement to this end and all other conditions mentioned in the Contract Documents, the Specifications and Drawings, and implied a full and complete understanding of them and all construction plans, drawings, notes, indications, and requirements.

Should anything be omitted from the construction plans or specifications necessary to the proper completion of the work herein described, it shall be the duty of the CONTRACTOR to so notify the TOWN before signing the Contract, and in the event of failure of the CONTRACTOR to give such notice, he shall make good any damage or defect in his work caused thereby without extra charge. No allowance will be made for lack of full knowledge of all conditions, except such underground conditions as are determined after commencement of the work and were unknown to the CONTRACTOR as more fully described in Article 2.2.2.

If the CONTRACTOR, in the course of the work, finds any discrepancy between the Specifications and Drawings and the physical conditions of the locality, or any errors or omissions in the layout as given by survey points and instruction, he shall immediately inform the PUBLIC WORKS DEPARTMENT, in writing, and the PUBLIC WORKS DEPARTMENT shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the CONTRACTOR's risk, except in the event of an emergency.

2.2.15 CHANGES IN THE WORK

At any time by written order, the TOWN may make changes in the Specifications, Drawings or scheduling of the Contract. All such work shall be executed under the time constraints of the original Contract dates except that any claim for extension of time caused thereby shall be allowed and adjusted at the time of ordering such change or at such time as it can be ascertained.

In giving instructions, the PUBLIC WORKS DEPARTMENT shall have authority to make minor changes in the work not involving extra cost, and not inconsistent with the purpose of the work. Except in an emergency endangering life and property, no claim for an addition to the Contract sum shall be valid unless the additional work was so ordered by the PUBLIC WORKS DEPARTMENT.

The CONTRACTOR shall proceed with the work as changed and the value of any such work or change shall be determined as provided for in the Agreement.

The TOWN may at any time, as the need arises, order changes within the scope of the work without invalidating the Agreement. If such changes increase or decrease the amount due

under the Contract Documents, or in the time required for performance of the work, the CONTRACTOR shall perform the same at the unit prices or lump sum indicated in the bid, as approved by the PUBLIC WORKS DEPARTMENT.

2.2.16 EXTENSION OF TIME

a. Extension of time stipulated in the Contract for completion of the work will be made when changes in the work occur, as provided in Article 2.2.15; when the work is suspended as provided in Article 2.2.17; and when the work of the CONTRACTOR is delayed on account of conditions which could not have been foreseen, or which were beyond the control of the CONTRACTOR, his subcontractors or suppliers, and which were not the result of their fault or negligence.

Extension of time for completion shall also be allowed for any delays in the progress of the work that, in the opinion of the PUBLIC WORKS DEPARTMENT, entitles the CONTRACTOR to an extension of time.

b. The CONTRACTOR shall notify the PUBLIC WORKS DEPARTMENT promptly of any occurrence or condition which, in the CONTRACTOR's opinion, entitles him to an extension of time. Such notice shall be in writing and shall be submitted in ample time to permit full investigation and evaluation of the CONTRACTOR's claim. Failure to provide such prompt and ample notice shall constitute a waiver by the CONTRACTOR of any claim.

2.2.17 SUSPENSION OF WORK

The TOWN may at anytime suspend the work, or any part thereof, by giving three (3) days' notice to the CONTRACTOR in writing.

2.2.18 THE TOWN'S RIGHT TO TERMINATE CONTRACT

If the CONTRACTOR should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed as a result of his insolvency, or if he should persistently or repeatedly refuse or should fail, except for cases in which extensions of time are provided, to supply enough properly-skilled workmen or materials, or if he should fail to make payments to subcontractors or for materials or labor so as to affect the progress of the work or persistently be guilty of a substantial violation of the Contract, then the TOWN, upon written notice from the PUBLIC WORKS DEPARTMENT that sufficient cause exists to justify such action and without prejudice to any other right or remedy, and after giving the CONTRACTOR and his Surety seven (7) days' written notice, terminate the employment of the CONTRACTOR and take possession of the premises and of all materials, tools, equipment and other facilities installed on the work and paid for by the TOWN, and finish the work by whatever method the PUBLIC WORKS DEPARTMENT may be deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to the CONTRACTOR. If such expense shall exceed such unpaid balance, the CONTRACTOR shall pay the difference to the TOWN. The expense incurred by the TOWN as herein provided, and the damage incurred through the CONTRACTOR's default, shall be certified by the PUBLIC WORKS DEPARTMENT.

Where the Contract has been terminated by the TOWN, said termination shall not affect or terminate any of the rights of the TOWN then existing or which may thereafter accrue because

of such default as against the CONTRACTOR or his Surety. Any retention or payment of moneys by the TOWN due to the CONTRACTOR under the terms of the Contract, shall not release the CONTRACTOR or his Surety from liability for the CONTRACTOR's default.

2.2.19 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

If the work should be stopped under an order of any court, or other public authority, for a period of more than three (3) months, through no act or fault of the CONTRACTOR, then the CONTRACTOR may, upon seven (7) days written notice to the PUBLIC WORKS DEPARTMENT, stop work or terminate this Contract and recover from the TOWN payment for all work executed, plus any loss sustained upon any plant or materials, plus reasonable profit and damages.

2.2.20 CANCELLATION OF CONTRACT

Failure of the CONTRACTOR to comply with any of the requirements of the Contract and the Specifications and Drawings may be considered as evidence of the inability on the part of the CONTRACTOR to maintain the quality and service standards deemed necessary, and shall be sufficient cause for the cancellation of the Agreement and the initiating of legal action against the Performance Bond of the CONTRACTOR.

2.2.21 CORRECTION OF WORK

The CONTRACTOR shall promptly remove from the premises all materials and work condemned by the PUBLIC WORKS DEPARTMENT as failing to meet contract requirements, whether incorporated in the work or not, and the CONTRACTOR shall promptly replace and re-execute the work in accordance with the Contract and without expense to the TOWN and shall bear the expense of making good all the work, including the work of other contractors that is destroyed or damaged by such removal or replacement.

All removal and replacement work shall be done at the CONTRACTOR's expense. If the CONTRACTOR does not take action to remove the condemned work and materials within ten (10) days after written notice, the TOWN may remove them and store the material at the expense of the CONTRACTOR. If the CONTRACTOR does not pay the expense of such removal and storage within ten (10) days thereafter, the TOWN may, upon ten (10) days written notice, sell such materials at auction or at private sale and shall pay the CONTRACTOR any net proceeds thereof, after deducting all costs and expenses that should have been borne by the CONTRACTOR.

2.2.22 REMOVAL OF EQUIPMENT

In the case of termination of this Contract before completion for whatever cause, the CONTRACTOR, if notified to do so by the TOWN, shall promptly remove any part or all of his equipment and supplies from the property of the TOWN, failing which, the TOWN shall have the right to exercise control over and to remove such equipment and supplies at the expense of, and without recourse, by the CONTRACTOR.

2.2.23 RESPONSIBILITY FOR WORK

The CONTRACTOR assumes full responsibility for the work. Until final acceptance, the CONTRACTOR shall be responsible for damage to or destruction of the work, except for any part covered by partial acceptance as set forth in Article 2.2.24 and except such damage or destruction that is caused by the negligent or willful acts of the TOWN.

2.2.24 PARTIAL COMPLETION AND ACCEPTANCE

If at any time prior to the issuance of the final certificate, referred to in Article 2.2.34 hereinafter, any portion of the permanent construction has been satisfactorily completed to the PUBLIC WORKS DEPARTMENT's satisfaction, and if the PUBLIC WORKS DEPARTMENT determines that such portion of the permanent construction is not required for the operations of the CONTRACTOR, but is needed by the TOWN, the PUBLIC WORKS DEPARTMENT shall issue to the CONTRACTOR a Certificate of Partial Completion, and thereupon or at any time thereafter, the TOWN may take over and use the portion of the permanent construction described in such certificate.

The issuance of a Certificate of Partial Completion shall not be construed to constitute an extension of the CONTRACTOR's time to complete the portion of the permanent construction to which it relates, if he fails to complete it in accordance with the terms of this Contract. The issuance of such a certificate shall not operate to release the CONTRACTOR or his Sureties from any obligations under this Contract or the Performance Bond.

If such prior use increases the cost of or delays the work, the CONTRACTOR shall be entitled to extra compensation, or extension of time, or both, as the PUBLIC WORKS DEPARTMENT may determine, unless otherwise provided.

2.2.25 PAYMENT WITHHELD PRIOR TO FINAL ACCEPTANCE OF WORK

As a result of subsequently discovered evidence, the TOWN may withhold or nullify the whole or part of any certificate of payment to such extent as may be necessary to protect the TOWN from loss occasioned by:

- (a) Defective work not remedied by the CONTRACTOR;
- (b) Claims filed or reasonable evidence indicating probable filing of claims by other parties against the CONTRACTOR for work done on the project;
- (c) Failure of the CONTRACTOR to make payments properly to subcontractors or for material or labor; or
- (d) Damage by the CONTRACTOR to subcontractors or to another contractor.

When the above grounds are removed, or the CONTRACTOR provides Surety Bond satisfactory to the TOWN that will protect the TOWN in the amount withheld, payment shall be made for amounts withheld because of them. No moneys may be withheld under (b) and (c) if a Payment Bond is included in the Contract.

Notwithstanding the foregoing, the TOWN may withhold funds if required to do so pursuant to the Colorado Public Works Act, §38-26-101, *et seq.*

2.2.31 PUBLIC WORKS DEPARTMENT'S STATUS

The PUBLIC WORKS DEPARTMENT shall perform technical inspection of the work. He has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract. He shall also have authority to reject all work and materials which do not conform to the Contract and to decide questions which arise in the execution of the work.

2.2.32 PUBLIC WORKS DEPARTMENT'S DECISIONS

The PUBLIC WORKS DEPARTMENT shall, within a reasonable time after their presentation to him, make decisions in writing on all claims of the CONTRACTOR and on all other matters relating to the execution and progress of the work or the interpretation of the Contract Documents.

2.2.33 DISPUTE RESOLUTION

Except as otherwise provided in Articles 2.2.18 and 2.2.19, the following provisions shall apply to a dispute, controversy or claim:

A. Notice and Attempt to Cure: In the event of a dispute, controversy or claim, the non-breaching party agrees to provide written notice to the breaching party. Such written notice shall specifically state the reason of the dispute and appropriate corrective action, if known. The breaching party shall have five (5) days to cure the default, unless the PUBLIC WORKS DEPARTMENT agrees in writing that additional time is warranted.

B. Mediation: If the default is not resolved during the cure period, and prior to the commencement of arbitration, the non-breaching party shall first submit the matter to mediation conducted by a neutral mediator. The parties shall attempt to agree upon a mediator and shall endeavor to find a mediator having at least five (5) years' experience in construction-related matters. If the parties are unable to agree upon a mediator, either party may apply to the American Arbitration Association in Denver, Colorado, for appointment of a mediator. The cost of the mediation shall be shared equally by the parties.

C. Arbitration: If the dispute is not resolved by the mediation process within thirty (30) days after the appointment and installation of a mediator, the non-breaching party may commence arbitration. The dispute, controversy or claim shall then be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

2.2.34 ACCEPTANCE AND FINAL PAYMENT

Upon receipt of written notice that the work is substantially complete or ready for final inspection and acceptance, the PUBLIC WORKS DEPARTMENT will promptly make such inspection and when he finds the work acceptable under the Contract and the Contract fully performed or substantially completed, he shall promptly issue a certificate, over his own signature, stating that the work required by this Contract has been substantially completed and is accepted by him under the terms and conditions thereof, and the entire balance found to be due the CONTRACTOR, including the retained percentage is due and payable, unless a retention based on the PUBLIC WORKS DEPARTMENT's estimate of the fair value of the claims against the CONTRACTOR is warranted or a retention for the cost of completing the uncompleted or unsatisfactory items of work with specified amounts for each incomplete or defective item of work is warranted. No final payment shall be made by the TOWN unless and until the CONTRACTOR has certified in writing to the PUBLIC WORKS DEPARTMENT that all payroll, material bills, and other indebtedness connected with the work have been paid or otherwise satisfied.

The making and acceptance of the final payment shall constitute a waiver of all claims by the TOWN, other than those arising from unsettled claims or liens, from faulty work appearing within the two-year guarantee period, from the requirements of the Specifications and Drawings, or from manufacturer guarantees. It shall also constitute a waiver of all claims by the

CONTRACTOR, except those previously made and still unsettled.

If, after the work has been substantially completed, full completion thereof is materially delayed through no fault of the CONTRACTOR and the PUBLIC WORKS DEPARTMENT so certifies, the TOWN shall, upon certificate of the PUBLIC WORKS DEPARTMENT, and without terminating the Contract, make payment of balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the project to bind the subcontractors to the CONTRACTOR by the terms of the Contract Documents, and to give the CONTRACTOR the same power as regard to terminating any subcontract that the TOWN may exercise over the CONTRACTOR under any provision of the Contract Documents.

If the TOWN fails to make payment as herein provided, there shall be added to each payment daily interest at the rate of six percent (6%) per annum commencing on the first day after said payment is due and continuing until the payment is delivered or mailed to the CONTRACTOR.

Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and the TOWN.

Subcontracts, or transfer of Contract, shall not release the CONTRACTOR of his liability under the Contract and the Payment and Performance Bonds.

Notwithstanding the foregoing, the TOWN may withhold funds if required to do so pursuant to the Colorado Public Works Act, §38-26-101, *et seq.*

2.2.35 LIQUIDATED DAMAGES

The CONTRACTOR recognizes and agrees that the date of the commencement and completion of the work are essential conditions of the Contract Documents, and the work shall be commenced on the date specified in the Notice to Proceed and shall proceed at such rate of progress as to insure full completion as provided in the Notice to Proceed, unless otherwise extended as provided herein. The CONTRACTOR further recognizes and agrees that the allotted time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the work during the period such work is to be performed.

In the event the CONTRACTOR fails to complete the work within the allotted time limit, the following liquidated damages shall be applied:

Original Contract Amount (\$)		Liquidated Damages
From More Than	To And Including	per Calendar Day (\$)
0	500,000	800
500,000	1,000,000	1,600
1,000,000	2,000,000	2,200
2,000,000	5,000,000	3,200
5,000,000	15,000,000	5,400
15,000,000	-----	9,800

These rates will be assessed per calendar day for each day which the CONTRACTOR fails to finish the work in excess of the time period allotted.

The parties agree that the liquidated damages, as stated herein, are not a penalty and are reasonable, given the expected harm from a delay in completion, the difficulty of proving actual loss, and the inadequacy of any other remedy.

Notwithstanding the foregoing, the CONTRACTOR shall not be charged with liquidated damages when the delay in completion of the work is due to unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including, but not limited to, unforeseen conditions, acts of God, or of the public enemy, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and abnormal and unforeseeable weather. In such case, the CONTRACTOR shall promptly provide written notice of the delay to the Town.

2.2.36 TAXES

Except as may be otherwise provided in this Contract, the contract price is to include all applicable taxes, but does not include any tax from which the TOWN and the Contractor are exempt. Upon request by the CONTRACTOR, the TOWN shall furnish a tax exemption certificate or similar evidence of exemption with respect to any such tax not included in the contract price, pursuant to this provision.

2.3 LEGAL RELATIONS & RESPONSIBILITIES TO PUBLIC

2.3.1 LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

Laws and Regulations: The CONTRACTOR shall keep himself fully informed of all TOWN and county ordinances and regulations, and state and federal laws which in any manner affect the work herein specified. He shall at all times observe and comply with said ordinances, regulations, or laws.

2.3.2 PROJECT SAFETY

The CONTRACTOR is solely responsible for and shall take reasonable precautions in the performance of the work under this Contract to protect all persons from hazards to life and property. The CONTRACTOR shall comply with all health, safety and fire protection regulations and requirements.

2.3.3 PROTECTION OF THE PUBLIC AND OF WORK AND PROPERTY

The CONTRACTOR shall provide and maintain all necessary watchmen, barricades, warning lights, and signs in accordance with the Manual of Uniform Traffic Control Devices, and take all reasonable precautions for the protection and safety of the public. He shall continuously maintain reasonable protection of all work from damage, and shall take all reasonable precautions to protect the TOWN's property from injury or loss arising in connection with this Contract. Streets and highways shall be kept free of dirt and litter from CONTRACTOR's handling operations. The CONTRACTOR shall take reasonable precautions to protect private property adjacent to the project from such nuisances as dust and dirt, rock, and excessive noise. He shall make good any damage, injury or loss to his work and to the property owner resulting from lack of reasonable protective precautions, except such as may be due to errors in the Contract Documents, or caused by agents of adjacent private and public property, as provided by law and the Contract Documents.

2.5 MEASUREMENT & PAYMENT

2.5.1 PAYMENT

Unless payment is otherwise withheld as provided herein, partial payment under the Contract shall be made at the request of the CONTRACTOR once each month, based upon partial estimates to be furnished by the CONTRACTOR and approved by the PUBLIC WORKS DEPARTMENT or inspector. In making such partial payment, there shall be retained five percent (5%) of the estimated amounts until final completion and acceptance of all work covered by the Contract.

In preparing estimates for partial payments, the material delivered on the site and preparatory work done may be taken into consideration.

Payments for work under the subcontracts of the CONTRACTOR shall be subject to the above conditions.

2.5.2 PAY QUANTITIES

The CONTRACTOR shall be paid on a unit price basis as indicated by the proposal for the actual quantities installed.

MEASUREMENT AND PAYMENT Site Work MOBILIZATION

This item shall be paid for on a lump sum (LS) basis and shall include the cost of furnishing at the job site all equipment, facilities, materials, personnel, and supplies required to complete the construction. The cost of Mobilization shall not constitute more than 5% of the total contract amount.

The mobilization will be measured by the LS. The accepted quantities will be paid for at the contract unit price for each of the pay items that appear in the bid schedule.

MEASUREMENT AND PAYMENT Site Work REMOVAL OF EXISTING MATERIAL ASPHALT MAT

Payment for Removal of Existing Material Asphalt Mat will be total compensation for all labor, materials, tools, equipment, and incidentals required to remove the asphalt as designated in the scope of work and bid schedule, and as directed by the Town Project Manager.

Asphalt depth verification will not be measured and paid for separately; but will be included in the work.

Methods to prevent debris from entering the storm sewer, methods to protect the traveling public, and methods to prevent airborne debris will not be paid for separately; but will be included in the work.

Removal of Asphalt Mat will be measured by the actual quantity completed to the required depth and accepted, by the square yard (SY). The accepted quantities will be paid for at the contract unit price for each of the pay items that appear in the bid schedule.

MEASUREMENT AND PAYMENT Site Work ASPHALT HAND PATCHING

Hot Mix Asphalt (Hand Patching) consists of those quantities required for the replacement of unstable corrugated areas in the existing pavement, and areas removed for concrete repair forms. These quantities will be restricted to small areas which require hand placement methods and where conventional paving equipment cannot be utilized.

Areas to be patched shall be excavated and squared to a neat line, leaving the sides of the excavation vertical. Prior to placement of the patch the exposed sides of the existing pavement shall be thoroughly coated with Emulsified Asphalt (slow-setting). Hot mix asphalt shall then be placed and compacted in succeeding layers not to exceed 3 inches in depth.

Preparation, and tack coat of areas to be patched will not be measured and paid for separately but shall be included in the work.

The Hand Patching will be measured by the Ton. The accepted quantities will be paid for at the contract unit price for each of the pay items that appear in the bid schedule.

MEASUREMENT AND PAYMENT Site Work ASPHALT PATCHING

Hot Mix Asphalt (Patching) consists of those quantities required for the replacement of unstable corrugated areas in the existing pavement. Areas to be patched shall be excavated and squared to a neat line, leaving the sides of the excavation vertical. Before placement of the patch, subgrade will be approved by Town Project Manager, and the exposed sides of the existing pavement shall be thoroughly coated with emulsified asphalt (slow-setting). Preparation, and tack coat of areas to be patched will not be measured and paid for separately but shall be included in the work. Hot mix asphalt shall then be placed and compacted in succeeding layers not to exceed 3 inches in depth. The Asphalt Patching will be measured by the Ton. The accepted quantities will be paid for at the contract unit price for each of the pay items that appear in the bid schedule.

MEASUREMENT AND PAYMENT Site Work SUBGRADE REPAIR

Identified subgrade that would be detrimental if left in place in its existing condition. This work consists of the removal of unsuitable subgrade material and haul offsite. Place and compact aggregate base course as directed by the Town Project Manager. If the required compacted depth of the aggregate base course exceeds 6 inches, it shall be constructed in two or more layers of approximately equal thickness. The maximum compacted thickness of any one layer shall not exceed 6 inches. Water will not be measured and paid for separately but shall be included in the work. Compaction will not be measured and paid for separately but shall be included in the work.

The aggregate base course will be measured by the ton. The accepted quantities will be paid for at the contract unit price for each of the pay items listed below that appear in the bid schedule.

MEASUREMENT AND PAYMENT Site Work ASPHALT MILLING

This item shall be paid for on a square yard (SY) basis as indicated in the Bid Schedule and shall include all equipment, materials, and labor, for the removal of asphalt mat during milling operations. Extents of milling operations shall be identified and marked by the Town Project

Manager prior to any work. All mill operations shall achieve a roadway crown of a 1% minimum with minimum of 2-inches at edge of asphalt.

The asphalt milling will be measured by the SY. The accepted quantities will be paid for at the contract unit price for each of the pay items that appear in the bid schedule.

MEASUREMENT AND PAYMENT Site Work Emulsified Asphalt

This work consists of preparing and treating an existing surface with bituminous material.

The accepted quantities will be paid for by the gallon (gal) at the contract unit price for each of the pay items that appear in the bid schedule.

MEASUREMENT AND PAYMENT Site Work ASPHALT OVERLAY

HOT MIX ASPHALT (GRADING SX)(75)(WITH FIBER)

All overlay operations shall be a minimum of 2-inches where identified. The overlay shall be type (GRADING SX)(75)(WITH FIBER) asphalt and the overlay shall have a 2% crown. A tack coat shall be applied on all milled surface areas. Approved tack coat material shall be applied at a rate determined by the Project Manager. The Asphalt Overlay will be measured by the Ton. The accepted quantities will be paid for at the contract unit price for each of the pay items that appear in the bid schedule. Fibers will not be paid for separately but shall be included in the cost of Hot Mix Asphalt (Grading SX) (75) (With Fiber).

MEASUREMENT AND PAYMENT Site Work TRAFFIC CONTROL

This item shall be paid for on a lump sum (LS) basis as indicated in the Bid Schedule and shall include all equipment, materials, and labor; for supplying and installing traffic control as per the Contractor supplied traffic control plan. This item also includes but is not limited to supplying signs, installation, monitoring, maintenance, daily superintendence provided by a traffic control supervisor, moving signs and removal of traffic control devices for the duration of the project. Traffic Control will be measured by the LS. The accepted quantities will be paid for at the contract unit price for each of the pay items that appear in the bid schedule.

MEASUREMENT AND PAYMENT Site Work PAVEMENT MARKINGS

Striping and thermoplastic pavement markings plan and field layout shall be approved by the Town Project Manager prior to application. Repaint, replace, or install all striping and thermoplastic markings removed during patching or mill and overlay applications. These shall include all yellow center and white shoulder striping as well as stop bar, crosswalk, or other existing thermoplastic markings as applicable in a plan to be approved by the Town prior to application. Striping quantity should cover at minimum 100 sf/gal to a max of 110 sf/gal. Striping shall be epoxy. Access must always be maintained for residents in the work area. Traffic Control Plan shall be prepared and submitted to Town for approval prior to any work. The cost of all activities not specifically included on the bid tab shall be borne by the contractor.

2.6 SCOPE OF WORK

2.6.1 CHANGES IN THE WORK

When changes in the work are authorized as provided in Article 2.2.15 and the PUBLIC WORKS DEPARTMENT agrees that additional payment is warranted, payment shall be determined as follows:

- (a) Unit prices previously approved;

- (b) An agreed lump sum; or
- (c) The actual cost of labor, direct overhead, materials, supplies, equipment and other services necessary to complete the work. In addition, there shall be added on an amount to be agreed upon, but not to exceed fifteen percent (15%) of the actual cost of the work, to cover the cost of general overhead and profit.

The PUBLIC WORKS DEPARTMENT shall determine which methodology should be applied to determine the proper amount of the additional payment.

2.6.2 ASSIGNMENT OF CONTRACT

The CONTRACTOR shall not sublet, sell, transfer, assign, or otherwise dispose of the Contract, or of his rights, title, or interest therein, without the written consent of the TOWN. The CONTRACTOR may utilize the services of specialty subcontractors on those parts of the project which, under normal contraction practices, are performed by specialty subcontractors.

The CONTRACTOR shall not award work to subcontractors in excess of fifty percent (50%) of the contract price without prior written approval of the TOWN.

2.6.3 SEPARATE CONTRACTS

The TOWN reserves the right to execute separate contracts in connection with this project. The CONTRACTOR shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs. If the proper execution or results of any part of the CONTRACTOR's work depends upon the work of any other contractor, the CONTRACTOR shall inspect and promptly report to the PUBLIC WORKS DEPARTMENT any defects in such work that render it unsuitable for such proper execution and results.

2.6.4 SUBCONTRACTS

As provided herein, the CONTRACTOR shall notify the TOWN, in writing, of the names of the subcontractors proposed for the work, designating the portions of work to be performed by each. The CONTRACTOR agrees that he is as fully responsible to the TOWN for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

Nothing contained in the Contract Documents shall create any contractual relation between any subcontractor and the TOWN.

2.6.5 UNDERGROUND OBSTRUCTIONS

As provided herein, the CONTRACTOR shall anticipate all underground obstructions, such as water lines, gas lines, sewer lines, concrete, debris, and all other types of utility lines and, unless authorized pursuant to Article 2.2.2, no extra payment will be allowed for the removal, protection, replacement, repair or possible increased cost caused by underground obstruction. Any such lines or obstructions indicated on the Drawings show only the approximate location from the information available and must be verified in the field by the CONTRACTOR. The PUBLIC WORKS DEPARTMENT will endeavor to familiarize the CONTRACTOR with all underground utilities and obstructions, but this will not relieve the CONTRACTOR from full responsibility for anticipating all underground obstructions.

In accordance with § 9-1.5-103, C.R.S, the CONTRACTOR shall not make or begin excavation without first notifying the owners, operators or association of owners and operators having underground facilities in the area of such excavation. Notice may be given in person, by telephone, or in writing and shall be given at least two business days prior to beginning work, or as otherwise provided by Colorado law.

The CONTRACTOR shall protect the existing utilities in a manner as requested by the respective utility owners at no extra compensation. The CONTRACTOR agrees to defend, indemnify and hold the TOWN, its officers, employees and agents, harmless from any and all losses, damages or claims which may arise out of, or be connected with, construction performed where said utilities are located.

Should it be necessary to relocate utilities in the area of construction, the TOWN shall coordinate the relocations with the utility owner and the CONTRACTOR.

2.6.6 EMERGENCY WORK

In an emergency affecting the safety of life or of the work or of adjoining property, the CONTRACTOR is, without special instructions or authorization from the PUBLIC WORKS DEPARTMENT, hereby permitted to act at his discretion to prevent such threatening loss or injury. He shall also act, without appeal, if so authorized or instructed by the PUBLIC WORKS DEPARTMENT. Any compensation claimed by the CONTRACTOR as a result of emergency work, shall be determined by agreement or in accordance with Article 2.6.1.

2.6.7 CLEANING UP

The CONTRACTOR shall remove, at his own expense, from the TOWN's property and from all public and private property, all temporary structures, rubbish and waste materials resulting from his operations. This requirement shall not apply to property used for permanent disposal of rubbish or waste materials in accordance with permission of such disposal granted to the CONTRACTOR by the TOWN thereof where such disposal is in accordance with local ordinances and is approved by the PUBLIC WORKS DEPARTMENT.

2.6.8 ASPHALT SPECIFICATIONS

Manholes, valve boxes, and thermoplastic markings shall be covered with an appropriate material during the operation and shall be removed immediately after pavement operations.

Hot mix asphalt shall be placed only on properly prepared unfrozen surfaces that are free of water, snow, and ice. The hot mix asphalt shall be placed only when both the air and surface temperatures equal or exceed the temperatures specified in Table 401-3 and the Project Manager determines that the weather conditions permit the pavement to be properly placed and compacted.

401-3

Placement Temperature Limitations in °F

Compacted Layer Thickness in inches	Minimum Surface and Air Temperature °F	
	Top Layer	Layers Below Top Layer

< 1 ½	60	50
1 ½ < 3	50	40
3 or more	45	35

The Contractor shall schedule the work so that no planned or recycled surface is left without resurfacing for more than 10 calendar days. The Contractor shall immediately place a temporary hot mix asphalt layer on any surface that has been planned or recycled and cannot be resurfaced per the above temperature requirements within 10 calendar days after being planned or recycled. The minimum thickness of the temporary hot mix asphalt layer shall be 2 inches. The Contractor shall perform the process control required to assure adequate quality of the hot mix asphalt used in the temporary layer. All applicable pavement markings shall be applied to the temporary layer surface. The Contractor shall maintain the temporary layer for the entire period that it is open to traffic. Distress that affects the ride, safety, or serviceability of the temporary layer shall be immediately corrected to the satisfaction of the Project Manager. The temporary hot mix asphalt layer shall be removed when work resumes.

Hot Mix Asphalt (Grading SX) (75) (With Fiber) shall include reinforcement fiber strands with virgin aramids that meet the following requirements:

Property Requirement

Nominal Specific Gravity 0.91 to 1.44

Maximum Length 0.75 inches

Only reinforcing fiber strands that are not detrimental to the pavement will be allowed. The Contractor shall store and maintain reinforcing fiber strands in accordance with the manufacturer's recommendations and shall ensure that the fiber blend corresponds with the manufacturer's recommendations for the hot mix asphalt materials being used on the project. The Contractor shall follow the manufacturer's recommended procedures for placement of fiber strand reinforced warm or hot mix asphalt pavement.

Acceptable products are:

- ACE FIBERTM,
- FORTA-FI®, or
- An approved equivalent.

Aramid fibers will not be paid for separately but shall be included in the cost of Hot Mix Asphalt (Grading SX) (75) (With Fiber).

The Contractor shall ensure there is a manufacturer's representative experienced in incorporating reinforcing fibers and placing fiber reinforced warm or hot mix asphalt present on the project when placement of the fiber reinforced mix begins. The manufacturer's representative shall have experience with fiber reinforced pavements based on the support of at least three projects previously constructed in the United States. This representative may be a representative of the fiber supplier, the asphalt mix designer, or a private consultant, able to provide sufficient documentation including applicable projects and experience. The representative's name, qualifications, and previous experience shall be provided to the Project Manager for approval at least 5 working days before the fiber reinforced paving operation begins. The representative shall remain on site for the first two days of placing fiber reinforced pavement, at a minimum, and until an acceptable production sequence is established.

Any changes to the asphalt mix or fiber material beyond the allowed tolerances during production shall be disclosed by the representative and submitted in writing to the Project Manager by the Contractor as a change in mix design. The Contractor shall inject reinforcement fiber strands through the Recycled Asphalt Pavement collar, or prior to the addition of liquid asphalt cement, with a metered blower system. The Contractor shall ensure that reinforcement fiber strands are added at the specified rate per the mix design. The Contractor shall ensure that virgin aramid fibers are introduced at a minimum dosage rate of 2.1 ounces per ton of hot or warm mix asphalt pavement. If there is evidence of fiber balls at the discharge chute, the Contractor shall immediately adjust operations according to the manufacturer's recommendation to correct the problem. The Contractor shall also remove all observed fiber balls during placement. The Project Manager may require the Contractor to cease operations if fiber balls are present, until a correction plan has been submitted and approved. Any delays due to shutting down due to the presence of fiber balls shall be considered non-excusable and non-compensable. The Contractor shall provide the Project Manager with documentation detailing total reinforcement fiber strands added to the warm or hot mix asphalt at the end of each day's production. The documentation shall include total reinforcement fiber strands added and the percentage of total reinforcing fibers that are virgin aramid fibers.

EXHIBIT C
ANNUAL AMENDMENT TO AGREEMENT
(Attached)

ANNUAL AMENDMENT TO AGREEMENT
(_____ CALENDAR YEAR)

This Annual Amendment to Agreement (_____ Calendar Year) is made and entered this ____ day of _____, 202__, by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (the “Town”), and Western Plains Construction, LLC, a Colorado Limited Liability Company (“Contractor”), and is incorporated into and made a part of that certain ASPHALT PATCHING PROJECT agreement executed by and between the Town and Contractor on or about _____, 2024 (“Agreement”). Capitalized terms used herein shall have the meaning set forth in the Agreement.

The Work for the _____ calendar year is set forth on Exhibit 1 attached hereto and incorporated herein by reference. The Work described therein shall supersede and replace the Work performed during previous calendar years.

The compensation for the Work during the ____ calendar year shall be _____ DOLLARS and _____ CENTS (\$_____).

Except as expressly provided in this Annual Amendment to Agreement (_____ Calendar Year), the Agreement has not been amended, supplemented or altered in any way by this amendment and the Agreement shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Parties have executed this Annual Amendment to Agreement (_____ Calendar Year) as of the set forth above.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

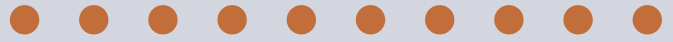
By: _____, [Mayor or Town Manager]

GREAT PLAINS CONSTRUCTION LLC

By: _____
Name:
Title:

EXHIBIT 1
SCOPE OF WORK FOR _____ CALENDAR YEAR
(Attached)

Town of Johnstown



TOWN MANAGER'S REPORT



June 2025
johnstownco.gov



TOWN MANAGER'S REPORT



Administration, Finance, Planning, Human Resources, and Communications

Upcoming Council Meetings & 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):

- 06/02/2025 - Regular Council Meeting
- 06/09/2025 - Work Session
- 06/16/2025 - Regular Council Meeting

Town Offices Closure

Town offices will be closed on Friday, July 4th in observance of Independence Day.

YMCA Audit

The forensic audit of the YMCA by Eide Bailly has begun. To date, staff at the YMCA have been provided with a preliminary document request, a secure portal to submit data, and have met with the auditors for clarification on some of the items.

Town Audit

Audit fieldwork has been completed, and we are expecting drafts of the financial statements sometime during the first week of June. Hinkle & Co., P.C. is scheduled to present the results of the audit and published financial statements to the Town Council at the regular Council meeting on July 7th.

Liquor Licensing

16 renewal applications were processed, approved, and issued in the first quarter. Three new liquor license applications are pending, and staff expect hearings to be held on the new licenses in June/July.

Special Event Permits

Permits have been issued for several community events happening on June 7th, including BBQ Day, the Johnstown Jog, and the Johnstown Historical Society Carriage Rides. It is shaping up to be a fun-filled day for the community, with something for everyone to enjoy.

Code Updates

We had a successful work session with the Town Council on May 12, wherein we discussed a multitude of proposed amendments to the Land Use and Development Code, as well as a targeted corridor study of Parish Avenue in and around the downtown area. Look for more to come on these projects in the coming months.

Open Records Requests

84 requests for public records have been processed this year.

TOWN MANAGER'S REPORT



American Rescue Plan Act

The final fund reports for the American Rescue Plan Act (ARPA) were submitted in April 2025. On May 15, 2025, the Town received notification from the U.S. Department of the Treasury regarding an update the Compliance and Reporting Guidance. Town staff will review the changes and continue to monitor and follow the evolving guidance as we prepare to officially close out this grant.

Business of the Month Program

The BOTM program is on pause for May and June. The program will resume in July and the Town looks forward to recognizing local businesses in our community.

Utility Bills

Starting with the April bills, the Town partnered with a new printing company and took the opportunity to refresh the utility bill format. The updated layout is designed to be easier to read, more organized, and a little more modern.

Municipal Court

May 2025 Court data is broken down for Council's review below, with a total of cases 202 being closed.

- Code Violations: 10
- Traffic Violations: 88
- Theft: 75
- Other Criminal Cases: 15
- Parking: 14

Hiring

The Town has recently added several new faces to the team, including a Planner III, an Engineer II, and a Water Operator I. We are also pleased to announce the promotion of Carissa Cygan to Sergeant. Interviews are currently underway for the Utility Director position, and we are actively recruiting for a Records Supervisor and Police Officers.

Consulting Services for Downtown

The RFP for Financial Consulting Services for Downtown Johnstown officially closed on May 14th and the Town received a total of 7 submissions. Staff is currently reviewing the RFP's received and will bring the submitted proposals and a contract to Council for review and consideration in late July or early August.

Enterprise Zones

Town staff is currently working with Larimer and Weld County to review proposed changes to Johnstown's Enterprise Zone boundaries. Due to updated income date, some areas no longer meet eligibility criteria, which is prompting adjustments. While Johnstown has limited Enterprise Zone coverage, we are actively coordinating with the few local businesses that utilize these incentives to ensure a smooth transition. Enterprise Zones offer tax credits and other benefits to support job creation and business growth in designated areas.

TOWN MANAGER'S REPORT

Recent Events

On Saturday May 17th, alongside the Police Department Renovation Ribbon Cutting, the Town hosted it's annual Touch-a-Truck event in the Police Department parking lot from 10:00 am – 2:00 pm. Families enjoyed getting up close with Public Works vehicles, Front Range Fire trucks, and police cars – an event that drew a great turnout! The Town also hosted a free shredding event for local Johnstown residents on the same date and times, making it a well-rounded day of fun and useful community services.



*Young participants at Touch-a-Truck sitting in yellow skid-steer.

Upcoming Events

June 7th - BBQ Day

- 130+ Vendors 11a – 4p
- Parade 10am
- Car Show 10a – 1p
- Concert 7p
- Fireworks at Roosevelt Middle School 9p

June 20th - Movie Night at Thompson River Ranch HOA Park

July 2nd - Coffee with a Cop



*Resident dropping off documents to shredding truck during Johnstown's Shred Event.



*White dump truck with side snow plow at the Touch-a-Truck Event.

TOWN MANAGER'S REPORT



Police Department

Statistics

Stats are from April 1- April 30, 2025

- Officers responded to 1300 calls for service.
- Officers responded to 23 traffic accidents.
- Officers conducted 179 traffic stops.
- Incident summary:
 - Animal Complaints (50)
 - Burglar Alarms (14)
 - Code Violations (27)
 - Disturbances (14)
 - Suspicious Activity (64)
 - Thefts (55)
 - Trespass (1)
 - Vandalisms (3)
- Physical Arrest (22)
- Traffic Citations (134)

Top Arrest Types

- Theft and Controlled Substance

Case of Interest

- In October of 2024, the Detective Division started a child exploitation investigation following a cyber tip from the National Center for Missing and Exploited Children. Investigators traced the IP address used to download suspected materials to a home in Johnstown. A search warrant was executed in April, and a device was seized. Forensic analysis is ongoing.

Training

Mini Academy - We started our mini academy for three of our new cadets. Once they finish the mini academy they will start the Field Training Program.

Firearms - Officer Olds and Officer Beckman conducted department firearms training and a qualification course for handguns, rifles, and off-duty firearms.

ADA - Commander Oglesby attended ADA for Law Enforcement and a Recruiting class put on by our insurance carrier CIRSA.

Ti Simulator - Sergeant Timme and Officer Ward attended Ti Simulator instructor school. They can now run interactive simulation systems that place officers in immersive real-world scenarios.

Crisis Intervention - Officer Sprong attended CIT training in Longmont and learned how to approach people in crisis.

FBI LEEDA SLI - Officer Flessner attended the FBI Supervisor Leadership Institute. He will learn the finer points of first line supervision in Law Enforcement.

TOWN MANAGER'S REPORT



Blue Envelope Program

JPD joined a state wide initiative to help improve communication between patrol officers and individuals with invisible disabilities or communication challenges.

Promotion

Detective Cygan was promoted to Sergeant Cygan and will be in charge of her own patrol team.

Academy Graduation

Officer Cushman, Officer Harrell, and Officer Bartleson graduated from the Front Range Police Academy and were sworn in as Town of Johnstown Police Officers. Officer Harrell won awards in firearms, defensive tactics and the top cadet.



* Officer Cushman, Officer Harrell, and Officer Bartleson being sworn in as Johnstown Police Officers.

Ribbon Cutting

The Johnstown Police Department held a ribbon Cutting to celebrate the re-opening of the Johnstown Police Department after renovation and expansion.



*Council Members and Police Officers cutting a yellow ribbon in front of the brick Police Department building.

Cinco de Mayo Festival

Officers worked the Downtown Cinco de Mayo Festival.



Public Works & Utilities

Around Town

This month, crews completed 162 work orders across a range of facility, street, and park maintenance tasks. Work included:

- Asphalt crack sealing and mastic crack seal
- Hot asphalt street repair
- Street sweeping and road grading
- Road sign repair
- Support for funeral services
- Managing park shelter reservations
- Perform facility maintenance
- Preparing the grounds of the PD for the ribbon cutting
- And various other facility, street, and park related projects

Pavement Maintenance Program

Concrete Replacement Work in the Landings.

The contractor removed and replaced approximately 3,100 SF of concrete in May.



*Workers installing concrete in the street next to orange cones and a white truck.

Plant Operations

Water Treatment

- 3.492 Average Daily Flows: out of 6 MGD treatment capacity

Low Point

- 0.435 Average Daily Flows: out of 1.5 MGD treatment capacity

Central

- 0.684 Average Daily Flows: out of 1 MGD treatment capacity

Collections and Distributions

Inspections & Installations

- 9,946' water main
- 882' sewer main
- 2,088' storm water
- 202 water/sewer inspections

Emergency Tabletop Training

On May 15th, the Utilities Department conducted an emergency tabletop exercise focused on strengthening the Town's preparedness and response capabilities. The exercise covered key areas such as establishing a clear chain of command, forming an incident command structure, managing safety data sheets, mapping needs for emergency scenarios, and enhancing coordination between Town departments and community partners. These proactive efforts help ensure the Town is well-prepared to respond effectively in the event of an emergency.



Capital Projects

Little Thompson River Pedestrian Bridge

The contractor successfully completed the project, and the pedestrian bridge is fully open.

Crosswalk signage and striping on CR 46 1/2 are expected to be completed by Public Works Staff within the next month.

West Parish Alley

Xcel Energy has completed their gas mainline installation within the alley. They will switch customers from their old gas meters on Parish Ave to the newly installed gas meters within the alley in June 2025. Telecommunication utilities will begin their relocations later this year.

Roosevelt Parkway & WCR 13 Intersection and Reconfiguration

The contractor started work for the new roundabout outside the travel lanes on May 5. The intersection is scheduled to be fully closed for construction May 27 (day after Memorial Day) and is anticipated to reopen with the new roundabout configuration by August 11 just before school starts.

2025 Mill and Overlay

Locations and total costs are being finalized for the 2025 Mill and Overlay program. The contract awarded to Western Plains Construction for last year's work included an option to renew for an additional 4 years through 2027. The contractor performed well last year so the contract will be recommended for renewal for this year's work.

Sandra Drive Storm Drainage Improvements

The demolition contractor has completed the demolitions of the homes necessary for the storm drainage project. The engineering consultant continues with design with initial plans expected to be submitted for review in July 2025.

SH 60 Waterline Replacement and Extension

The water main has passed all testing, final connections have been made, and the old water line has been abandoned. Close out of the project will continue as the project looks like it will be closed out in the coming weeks. Highway 60 opened back up on Friday May 23.

TOWN MANAGER'S REPORT



Maestas Street Storm Drainage Improvements

Final construction plans are under review for construction of storm drain improvements in the area of Maestas Street and Molinar Street. The project is expected to be advertised for bids in early June with construction commencing in late summer.

Central Wastewater Treatment Plant

Lagoon 1 dredging is complete. The contractor can begin installing the sewer trunk line that feeds the new plant, paving the way for startup this fall. The contractor continues to install miscellaneous equipment and piping, including potable water throughout the site.

Lone Tree Raw Water Transmission Line

Town staff, the design engineer, and the landman continue to work on obtaining easements. This is particularly important in the portion of the project in Larimer County as they will not approve of the alignment without all easements in place. Offer letters have gone out for most of the property owners and negotiations will continue. The design engineer is continuing to work on gathering all necessary reports for the Larimer County technical review process and coordinating with the various other entities on permitting and approval.

Water Treatment Plant Expansion

The contractor is continuing to work on construction of the foundations and concrete slabs for the various treatment buildings. Other activities include the installation of electrical duct banks, miscellaneous utilities, and procurement of critical path items. Overall, the project is still on track for substantial completion in late 2026 or early 2027.



450 S. Parish Avenue
Johnstown, CO 80534
970-587-4664
JohnstownCO.gov

Town Council Agenda Communication

Agenda Date: June 2, 2025

Subject: Resolution 2025-14 Amending the Rules and Regulations and Amended Fees for the Johnstown Cemetery

Attachments:

1. Resolution 2025-14 Adopting Amended Cemetery Rules and Regulations and Amended Fees
2. Cemetery Rules Exhibit A
3. Proposed Cemetery Fees Exhibit B

Presented by: Meghan Martinez, Town Clerk

Agenda Item Description:

As part of the Town's ongoing commitment to respectful cemetery management and improved public service, staff and the Cemetery Committee have reviewed and are proposing updates to several aspects of cemetery operations. The following summary outlines proposed changes and updates related to decorations, plantings, maintenance, and fees.

Decorations

To maintain a respectful and orderly environment, certain items are no longer permitted, while others will be monitored or regulated:

- Prohibited: Tinsel and balloons are no longer allowed.
- Allowed with conditions:
 - Crosses, shepherd's hooks, and trellis/lattice structures are permitted. Trellises or lattice structures must not exceed 3 feet in height and may only be placed around the headstone.
 - Crosses and shepherd's hooks may remain until they are no longer in good condition at the discretion of the Public Works Director.
 - Historical crosses will be reviewed on a case-by-case basis.
 - Christmas and solar lights are permitted.

Live Plantings

Live plantings are allowed within cemetery plots, provided they adhere to certain placement and maintenance expectations:

- Must be placed only at the ends of memorials and must be placed within 12" of each end of the headstone and within the grave space.
- Woody plantings such as trees, shrubs, and rose bushes are not allowed and will be removed without notice.

- Plantings must be maintained by the individual or family. If left unattended for a period of time, a letter will be sent to the last known contact. If no action is taken within 60 days, the planting will be removed.
- All current live plantings, including rose bushes, will be grandfathered in under these maintenance guidelines. Existing trees and woody plantings will be subject to removal after proper notification.

Lost and Found Established

To accommodate items misplaced or removed from plots:

- A Lost and Found area will be created in the northwest corner of the cemetery.

Cemetery Clean-Up Days

To ensure consistent maintenance and communication with the community:

- Clean-up efforts will occur during the first week of March and October annually.
- Trash and flower removal will be ongoing.

Footstones

In addition to one upright headstone, one flat footstone will now be allowed per burial plot. Footstones may not contain flower vases or holders to allow for smooth maintenance operations. Dimensions and placement will be finalized in coordination with the maintenance team.

Payment Plans

To support accessibility and ensure responsible financial stewardship:

- Payment plans will be available for up to three years, with a required non-refundable down payment.
- If not paid in full within three years, a 90-day notice will be issued and funds will be returned to the purchaser minus the non-refundable down payment at which time the plot will be returned to the cemetery inventory and made available for purchase.

Cemetery Fees and Pricing

The proposed updates to cemetery pricing and fees are as follows:

Resident Burial Space	\$1,600.00	\$1,700.00
Non-Resident Burial Space	\$3,000.00	\$3,500.00
Resident Infant Burial Space	\$850.00	
Non-Resident Infant Burial Space	\$1,750.00	
Resident Cremains Space	\$850.00	\$900.00
Non-Resident Cremains Space	\$1,500.00	\$2,000.00
Resident Columbarium Niche (includes opening, closing & engraving)	\$1,500.00	\$2,000.00
Non-Resident Columbarium Niche (includes opening, closing & engraving)	\$4,000.00	
Non-Refundable Down Payment (Payment Plans Only)	10% of the contracted total on plot or niche only	

These proposed updates to cemetery policies and fees represent the Town's continued dedication to maintaining a dignified, respectful environment for families and loved ones, while also ensuring responsible long-term stewardship of cemetery grounds. Through clearer guidelines, improved communication, and thoughtful adjustments to pricing and operations, staff and the Cemetery Committee aim to better serve the community's needs and preserve the integrity of this important public space. Staff respectfully recommends Council approval of these changes as presented.

Strategic Plan Alignment:

Organizational Excellence & Public Trust

- Strengthen public trust and confidence
- Engage, inform and involve the community

Quality Infrastructure & Facilities

- Establish and maintain levels of service
- Repair and maintain existing infrastructure, facilities and equipment

Legal Advice:

The Town Attorney reviewed the proposed changes and drafted the new rules and regulations.

Financial Advice:

Not Applicable

Recommended Action:

Approve the proposed updates to the Johnstown Cemetery Rules and Regulations and fee schedule.

Suggested Motions:

For Approval: I move to approve Resolution 2025-14 Adopting Amended Cemetery Rules and Regulations and Amended Fees for the Johnstown Cemetery.

For Denial: I move to deny Resolution 2025-14, with the following direction to staff:

Reviewed and Approved for Presentation



Town Manager

**TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2025-14**

**RESOLUTION ADOPTING AMENDED CEMETERY RULES AND REGULATIONS
AND AMENDED FEES FOR THE JOHNSTOWN CEMETERY**

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, on or about December 21, 2020, by Resolution No. 2020-41, the Town Council adopted Cemetery Rules and Regulations concerning the Johnstown Cemetery; and

WHEREAS, after conferral with the Cemetery Committee, the Town Clerk recommends that the Town Council adopt amended Cemetery Rules and Regulations; and

WHEREAS, the Town Clerk further recommends that the Town Council adopt amended fees for, among others, burial spaces provided at the Johnstown Cemetery; and

WHEREAS, based on the recommendation of the Town Clerk, the Town Council desires to adopt amended Cemetery Rules and Regulations and amended fees; 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 dated June 2, 2025, attached hereto and incorporated herein by reference as Exhibit A. The Cemetery Rules and Regulations adopted herein shall supersede and replace previously adopted rules and regulations.

2. Modifications, revisions or additional rules and regulations necessary for the proper use and enjoyment of the Cemetery may be administratively adopted.

3. The Town Council hereby adopts amended fees for the Johnstown Cemetery as shown on Exhibit B, attached hereto and incorporated herein by reference, and directs the Town Clerk to add the amended fees to the Town Fee Schedule.

4. 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.

5. 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 _____, 2025.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Meghan Martinez, Town Clerk

By: _____
Michael P. Duncan, Mayor

CEMETERY RULES AND REGULATIONS

Dated: June 2, 2025

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, footstone 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 PAYMENT PLANS.

The Town Clerk may allow the purchaser of a burial space to enter into a payment plan, not to exceed three (3) years, to make full payment for the burial space. The Town Clerk shall require, at a minimum, a non-refundable downpayment in the amount of ten percent (10%) of the price for the burial space and has discretion to determine the terms of the payment plan for the remaining balance. If full payment for the burial space is not received within three (3) years or, unless the same is remedied to the satisfaction of the Town Clerk, the purchaser defaults under the payment plan, the Town Clerk shall withhold the non-refundable downpayment in the amount of ten percent (10%) of the price for the burial space and return the remaining funds to the purchaser. The burial space shall thereafter be placed back into the Cemetery inventory to be sold to a different purchaser. Under all circumstances, full payment is required prior to burial, unless the mortuary assumes full responsibility for payment. With respect to payment plans executed prior to the date of these rules and regulations, the Town Clerk is directed to endeavor to amend those payment plans to provide for a maximum three

(3) year payment plan for a burial space.

5.4 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.

5.5 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.

In addition to regular garbage pickup, flower removal and the like, the Cemetery crew will conduct a more comprehensive clean-up of the Cemetery during the first week of March and first week of October during any given year. Yard sign reminders will be placed throughout the Cemetery prior to clean-up.

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 EMERGENCY BURIALS. Arrangements for emergency burials must be made through the Town Clerk's office with approval of the Public Works Director or designee and upon proof of emergency.

9.4 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.

9.5 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.

9.6 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.

9.7 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.

9.8 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:

9.8.1 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.

9.8.2 Each cremains grave space shall hold the remains of only one body.

9.8.3 Each niche may hold up to two urns.

9.9 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.

9.10 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.

9.11 OPENING NICHE.

Once a niche contains two urns, unless lawfully required, the niche shall not be reopened.

9.12 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.

9.13 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.

9.14 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.

9.15 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. Except as provided herein, 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. Except as otherwise provided herein, 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. Trellis/lattice are allowed to a maximum height of 36" and may only be placed on a headstone. 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 Live plants are allowed as long as they are placed within 12" of each end of the headstone and within the grave space and are privately maintained to a height of no more than 24"; except that live plants growing on a trellis or lattice may grow to a maximum height of 36". If live plants are not properly maintained (e.g., kept alive, trimmed if needed and kept free of weeds), at the discretion of the Public Works Director, upon sixty (60) days' notice and an opportunity to cure, the plants will be removed. Woody planting, such as scrubs, trees and rose bushes, are not allowed and will be removed without notice; except that woody plants existing on the date of these rules and regulations will be permitted to remain as long as they are privately maintained and are contained within the individual grave space.

11.1.4 Christmas 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.

11.1.5 Notwithstanding anything to the contrary herein, if trees, shrubs, bushes or flowers growing on any grave spaces, walkways or roads interfere with the general design of the Cemetery, such will be removed without notice.

11.2 OTHER ARTICLES.

11.2.1 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.

11.2.2 Tinsel and balloons are not allowed.

11.2.3 Crosses and shepherd hooks are allowed until they are no longer in good condition at the discretion of the Public Works Director. Upon sixty (60) days' notice and an opportunity to replace, splintered crosses or crosses in disrepair, along with the shepherd hooks, will be removed. Historical crosses will be evaluated on a case-by-case basis to determine whether they may remain in the Cemetery.

11.2.4 Christmas blankets and lights shall be allowed from December 1st through March 1st.

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 full payment is received by the Town for the burial space.

12.2.2 Only one burial memorial for each burial space shall be permitted; except that, in addition to any other type of burial memorial, a flat footstone shall also 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 Except as otherwise provided herein, 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 Except as otherwise provided herein, 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 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.

12.2.9 Burial memorials will be limited to a height not exceeding three (3) feet.

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.

12.4.3 A lost and found area shall be located at the northwest corner of the Cemetery. For a reasonable time period, removed decorations and items will be placed at the lost and found area for recovery by persons owning or interested in the property.

12.4.4 When notice is required pursuant to these rules and regulations, the Town will exercise good faith efforts to locate a person to whom to provide notice. If such a person is not reasonably located or the Town, for whatever reason, is not able to provide notice, the Town shall not be liable or responsible for damage, of any kind, resulting therefrom. No person shall have a claim against the Town, its employees, agents or officials, based on the Town's failure to provide, or a person's failure to receive, notice.

12.4.5 No claim or cause of action shall accrue against the Town, its employees, agents or officials, based on these rules and regulations. When the Town is required to undertake tasks pursuant to these rules and regulations, the Town will exercise good faith efforts to undertake such tasks. The Town shall not be liable or responsible for damage, of any kind, to any person resulting from the Town's actions or from the Town's failure to undertake such tasks as contemplated in these rules and regulations.

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.

ARTICLE VI Cemetery

Sec. 11-106. Price of burial spaces.

Grave Space:

Resident - with perpetual care	\$1,700.00
Non resident - with perpetual care	\$3,500.00
Resident - Infant	\$850.00
Non resident - Infant	\$1,750.00
Resident - cremains space with perpetual care	\$900.00
Non resident - cremains space with perpetual care	\$2,000.00

Resident - Niche in Columbarium (includes opening and engraving)	\$2,000.00
Non-Resident - Niche in Columbarium (includes opening and engraving)	\$4,000.00

Sec. 11-114. Cemetery fees.

Openings - Regular Grave:

Weekdays	\$800.00
Weekend or holiday openings	\$1,400.00

Openings - Cremains:

Weekdays	\$400.00
Weekend or holiday openings	\$800.00

Disinternment charges	\$250.00
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Remembrance Brick	\$100.00
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Non-Refundable Down Payment	10% of the contracted total on plot or niche only
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450 S. Parish Avenue
Johnstown, CO 80534
970-587-4664
JohnstownCO.gov

Town Council Consent Agenda Communication

Agenda Date: June 2, 2025

Subject: Resolution 2025-15: Resolution Extending the Moratorium on the Town of Johnstown's Acceptance of the Dedication of Consolidated Home Supply Ditch & Reservoir Company Water Shares Adjudicated for Municipal Use In District Court, Water Division No. 1, Case No. 20CW3011, and the Dedication of Water Shares That Have Not Been Adjudicated for Municipal Use to July 21, 2025

Attachments: 1. Resolution 2025-15

Presented by: Mitzi McCoy, Deputy Town Manager
Matt LeCerf, Town Manager

Agenda Item Description:

On March 17, 2025, Town Council approved Resolution 2025-09, approving a short-term moratorium on the Town of Johnstown's acceptance of the dedication of Consolidated Home Supply Ditch & Reservoir Company Water Shares Adjudicated for municipal use in District Court, Water Division No. 1, Case No. 20CW3011. This moratorium was set to expire on June 2, 2025. The Town's consulting water engineers are still working through some of the analysis to determine the most appropriate yield recommendation for shares associated with Case No. 20CW3011. Resolution 2025-15 as presented, will extend the moratorium on acceptance and dedication of these shares until July 21, 2025.

Strategic Plan Alignment:

Organizational Excellence & Public Trust

- Strengthen public trust and confidence

Quality Infrastructure & Facilities

- Ensure future viability of infrastructure and facilities

Legal Advice:

The resolution presented was drafted by the Town Attorney.

Financial Advice:

Not Applicable

Recommended Action:

Staff recommends approval of Resolution 2025-15 as presented

Reviewed and Approved for Presentation

A handwritten signature in blue ink, appearing to be 'W. J. C.', is written above a horizontal line.

Town Manager

**TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2025-15**

**RESOLUTION EXTENDING THE MORATORIUM ON THE TOWN OF
JOHNSTOWN'S ACCEPTANCE OF THE DEDICATION OF
CONSOLIDATED HOME SUPPLY DITCH & RESERVOIR COMPANY
WATER SHARES ADJUDICATED FOR MUNICIPAL USE IN DISTRICT
COURT, WATER DIVISION NO. 1, CASE NO. 20CW3011, AND THE
DEDICATION OF WATER SHARES THAT HAVE NOT BEEN
ADJUDICATED FOR MUNICIPAL USE TO JULY 21, 2025**

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 authority to administer the affairs of the Town; and

WHEREAS, by Resolution No. 2025-09, the Town Council imposed a moratorium on the Town's acceptance of the dedication of Consolidated Home Supply Ditch & Reservoir Company water shares decreed for municipal use in the District Court, Water Division No. 1, styled as *Concerning the Application for Water Rights of: the Town of Johnstown in Larimer and Weld Counties*, Case No. 20CW3011 ("2020 Water Litigation") and of all water shares that have not been decreed for municipal use through June 2, 2025; and

WHEREAS, to provide Town staff, as well as the Town's water counsel and water engineer, additional time to assess the proper raw water credit attributable to such water shares and bring forth an Ordinance for the Town Council's consideration that would amend the raw water credit set forth in Section 13-123 of the Johnstown Municipal Code, Town staff requests that the Town Council extend the moratorium for an additional seven (7) weeks, to and including July 21, 2025; and

WHEREAS, the Town Council supports Town staff's request and desires to extend the moratorium on the dedication of the above-described water shares to the Town; and

WHEREAS, the Town Council finds that the adoption of this Resolution is in the best interests of the citizens of the Town.

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

1. The Town Council hereby extends the moratorium on the Town's acceptance of the dedication of Consolidated Home Supply Ditch & Reservoir Company water shares decreed for municipal use in the 2020 Water Litigation and of all water shares that have not been decreed for

municipal use to and including July 21, 2025. From the effective date of this Resolution through July 21, 2025, the Town shall not accept the dedication of such water shares.

2. For development projects that require the dedication of water prior to July 21, 2025, wherein the applicant desires to dedicate Consolidated Home Supply Ditch & Reservoir Company water shares decreed for municipal use in the 2020 Water Litigation or water shares that have not been decreed for municipal use, the Town Manager and the Town Attorney are directed to work with such applicants on a case-by-case basis to provide a reasonable solution, in the form of a written agreement that the applicant may defer dedication of water shares until after July 21, 2025 or any other reasonable alternative, on the condition that the applicant remain obligated to dedicate the proper amount of water to the Town.

3. This Resolution shall be effective upon adoption.

PASSED, SIGNED, APPROVED, AND ADOPTED THIS ____ day of June, 2025.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Meghan Martinez, Town Clerk

By: _____
Michael P. Duncan, Mayor



450 S. Parish Avenue
Johnstown, CO 80534
970-587-4664
JohnstownCO.gov

Town Council Agenda Communication

Agenda Date: June 2, 2025

Subject: Memorandum of Understanding Between the Town of Johnstown and the Thompson Rivers Park and Recreation District

Attachments: 1. Memorandum of Understanding

Presented by: Mitzi McCoy, Deputy Town Manager
Matt LeCerf, Town Manager

Agenda Item Description:

Included in the FY 2025 Budget is an allocation to begin design of a new Senior Center in the community. The current allocation is \$500,000 and Council agreed that the facility shall be an aggregate cost of not more than \$5,000,000 which includes design, construction, all furniture and fixtures, site development, and other improvements to the location. Currently, the Centennial Park site is the presumed location of this new facility. The current facility has reached its useful life and considering its poor layout and other constraints, retrofitting the current facility does not make good financial sense.

While the Town was exploring the options for locating a new facility, there has also been an impromptu meeting and discussion with the Thompson River Parks and Recreation District (TRPR) to explore a partnership where the Town would build a senior center and connected to it would be a community center funded by TRPR. There are certainly economies of scale for a project like this. Some of these benefits includes shared spaces for congregation and entertaining, kitchen and break room areas, and overall delivery of services. As part of this exploration, the Town and TRPR worked to develop an Memorandum of Understanding (MOU), that would allow for the two entities to begin moving forward on the design of a joint facility. This MOU is included with this correspondence and is the key element in Staff's request to Council for consideration and approval. The major components of this MOU include the following:

- An establishment of representation on the committee that will work to develop the design of the project.
- An identified distribution of costs for both the design and construction of the facility.
- The method of delivery for both the design and construction components.
- Termination provisions as appropriate at various stages of the project.
- A commitment to future obligations and agreements related to the operations of the facility should the facility be jointly built.

Both Staff teams' in conjunction with their respective legal representation have worked to develop this MOU. This MOU will allow us to collaborate and work together for the benefit of this meaningful community project.

Strategic Plan Alignment:*Safe & Welcoming Community*

- Create arts and culture opportunities that connect the community
- Grow an open, inclusive environment where all residents have the opportunity to flourish

Natural & Built Environment

- Expect and encourage community-centered design

Quality Infrastructure & Facilities

- Ensure future viability of infrastructure and facilities

Legal Advice:

The Town Attorney worked to develop the MOU as presented.

Financial Advice:

This project does have an allocation in the FY 2025 budget to begin design of the senior center facility. Our component does not include or plan for the community center.

Recommended Action:

Approve the MOU as presented between the Town and TRPR.

Suggested Motions:

For Approval: I move to approve the authorize the Town Manager to execute the Memorandum of Understanding Between the Town of Johnstown and the Thompson Rivers Park and Recreation District as presented.

For Denial: I move to deny the Memorandum of Understanding Between the Town of Johnstown and the Thompson Rivers Park and Recreation District as presented.

Reviewed and Approved for Presentation

Town Manager

MEMORANDUM OF UNDERSTANDING
BETWEEN THE TOWN OF JOHNSTOWN AND
THE THOMPSON RIVERS PARK AND RECREATION DISTRICT

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into this ____ day of day of _____, 2025, by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (“Town”), and the Thompson Rivers Park and Recreation District, a quasi-municipal corporation and political subdivision of the State of Colorado (“TRPR”). The Town and TRPR may collectively be referred to as the “Parties” or singularly as a “Party.”

RECITALS

WHEREAS, the Town and TRPR desire to collaborate with respect to the design and potential construction of a new community facility for joint use to be located in Centennial Park in the Town of Johnstown (“Community Facility”); and

WHEREAS, the Town and TRPR anticipate each having, utilizing and maintaining separate defined space at the Community Facility, the size of which is yet to be determined, and sharing a common area (“Project”); and

WHEREAS, to determine whether the Project is feasible, the Town and TRPR desire to engage an architect to design the Community Facility and then, assuming each Party desires to move forward, hire a contractor to construct the Community Facility; and

WHEREAS, to set forth an understanding of the joint roles, obligations and commitments concerning the Project, the Town and TRPR desire to enter into this MOU.

AGREEMENT

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Joint Committee. The Parties agree to establish a committee to set forth goals and ideas concerning the Community Facility, oversee the design of the Community Facility and provide feedback concerning the Project (“Committee”). The Committee shall be comprised of up to three (3) representatives designated by the Town, up to three (3) representatives designated by TRPR and two (2) representatives designated by the Johnstown Senior Center, a Colorado non-profit corporation, one of which must be the Senior Center Coordinator.

2. Retention of An Architect. After execution of this MOU, the Parties agree to engage an architect to design the Community Facility. The Parties shall mutually agree upon the methodology to engage the architect, which methodology shall comply with the Town’s financial policies concerning public bidding as applicable.

3. Design Costs.

a. During the design of the Community Facility by the architect, the Parties shall share equally in the design costs. At the completion of the design, the Parties shall “true-up” the cost based on their actual pro-rata share of the space at the Community Facility. For illustrative purposes only, if the Community Facility is 5,000 square feet, with Town having 2,500 square feet, TRPR having 1,500 square feet and the common area comprised of 1,000 square feet, the Town shall ultimately be responsible for sixty percent (60%) of the design cost (3,000/5,000) and TRPR shall be responsible for forty percent (40%) of the design cost (2,000/5,000).

b. The Parties agree that the Town will enter into the agreement with the architect for the design of the Community Facility and that the architect will send invoices to the Town for the design costs. The Town will, absent dispute, pay such invoices. After receipt of invoices from the architect, the Town will send invoices to TRPR for TRPR’s share of the design costs. TRPR agrees to pay such invoices within thirty (30) days of receipt.

4. Project Delivery Method. If the Parties move forward with construction of the Community Facility, the Parties agree to utilize a Construction Manager General Contractor (“CMGC”) delivery method.

5. Retention of a CMGC Contractor. Unless either Party decides not to move forward with the construction of the Community Facility, as provided below, when the design of the Community Facility is thirty (30) to sixty (60) percent complete, the Parties agree to engage a CMGC Contractor to assist with the design and provide feedback concerning the construction. When the design is complete or nearly complete and a final price for construction has been established and justified as reasonable, the Parties agree to enter into a CMGC construction contract. The Parties shall negotiate the structure of the CMGC construction contract as a later date; provided, however, that they agree to share in the cost of construction of the Community Facility based on each Party’s pro rata share of the space at the Community Facility, as described above.

6. Termination of Participation. Either Party may terminate its participation in the Project by providing written notice to the other Party at the following two milestones: (a) prior to retaining a CMGC contractor when the design is approximately thirty (30) to sixty (60) percent complete or (b) prior to entering into a CMGC construction contract when the design is complete or nearly complete. The terminating Party shall be responsible for all costs incurred to the date of such Party’s termination and for all costs incurred that are directly related to such Party’s termination. For example, if one Party ceases to participate in the Project prior to execution of the construction contract and the architect is required to revise design plans due to such Party’s termination, the terminating Party shall be required to pay all the costs related to the revisions to the design.

7. Financial Encumbrance. Neither Party shall be entitled to financially encumber the Community Facility or the real property upon which it will be situated. If either Party obtains a

loan or other financial pledge to pay for any part of the Project, the loan may not be secured by the Community Facility or the real property upon which the Community Facility will be situated.

8. Infrastructure Improvements. If the Parties move forward with construction of the Community Facility, the cost of infrastructure improvements, including, but not limited to, roadways, sidewalks, drainage, parking lots and signage, shall be split based on each Party's pro-rata share of the space at the Community Facility, as described above.

9. Operating Agreement. If the Parties move forward with construction of the Community Facility, prior to the completion of the construction, the Parties shall execute an operating agreement containing the terms and conditions related to, among other matters, the operation and maintenance of the facility, repairs to the facility, utilities and janitorial services.

10. Land Lease. If TRPR moves forward with construction of the Community Facility, the Town agrees to enter into a land lease with TRPR, providing TRPR with a long term right to occupy the Community Facility and the real property upon which the Community Facility will be situated. The Town does not agree to transfer a fee interest or title to any portion of the real property.

11. Water and Sewer Tap Fees. If TRPR moves forward with construction of the Community Facility, TRPR shall be required to pay water tap and sewer tap fees and, if applicable, a non-potable tap fee to the Town based on a water demand approved by the Town's water engineer. Alternatively, if there is only one water tap and one sewer tap and, if applicable, one non-potable tap fee for the Community Facility, TRPR shall pay its pro-rata share of the tap fees, as described above.

12. Water Dedication. If TRPR moves forward with construction of the Community Facility, TRPR will be required to dedicate raw water to the Town in the amount and of the type set forth in the Johnstown Municipal Code, as approved by the Town's water engineer.

13. Miscellaneous.

a. Assignment. Neither Party may assign its rights or duties under this MOU without receiving the prior written consent of the other Party.

b. No Third-Party Beneficiaries. This MOU is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.

c. Notices. All notices, consents or other instruments provided for under this MOU shall be deemed properly given when: (1) hand-delivered; 2) sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth; or (3) sent by electronic mail return receipt requested and received. Either party, by notice to be given, may change the address to which future notices shall be sent.

TO TRPR:

Thompson Rivers Park & Recreation District
Attention: Executive Director
320 Centennial Drive
Milliken CO 80543
cdudley@trpr.org
trpr@trpr.org

TO TOWN:

Town of Johnstown
Attention: Town Manager
450 S. Parish
P. O. Box 609
Johnstown, CO 80534
Email: mlecerf@johnstowntownco.gov;
notices@johnstowntownco.gov

d. Waiver. No consent or waiver, express or implied, by either Party to or of any breach or default by the other Party in the performance of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default. Failure on the part of either Party to complain of any act or failure to act or to declare the other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder.

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

f. Costs and Attorney's Fees. If any judicial proceedings may hereafter be brought to enforce any of the provisions of this MOU, 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.

g. Entire Agreement and Amendments. This MOU constitutes the entire agreement and understanding between the Parties concerning the subject matter herein and supersedes all prior agreements or understandings. Any amendment to this MOU must be in writing and signed by the Parties. The Parties, however, understand and agree that this MOU contains a general understanding relating to the design and construction of the Community Facility and that aspects related thereto will need to be negotiated and set forth in separate agreements.

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

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

j. Instruments of Further Assurance. The Parties each covenant that they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.

k. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Parties, their respective officials, employees, contractors, or agents, or any other person acting on behalf of the Parties and, in particular, governmental immunity afforded or available to the Parties pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S.

l. Counterpart Execution. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

m. Subject to Annual Appropriation and Budget. Notwithstanding anything contained herein to the contrary, the Parties agree that their obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the board of each Party and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the Parties, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Parties, including, without limitation, Article X, Section 20, or Article XI, Sections 1, 2 or 6 of the Constitution of the State of Colorado.

This MOU is entered into on the ____ day of _____, 2025, and upon signature of the authorized representatives of each party, shall become effective and binding on each party.

TOWN OF JOHNSTOWN

ATTEST:

By: _____
Meghan Martinez, Town Clerk

By: _____
Matt LeCerf, Town Manager

THOMPSON RIVERS PARK AND RECREATION
DISTRICT

ATTEST:

By: _____
Katie Rummel, Deputy Director

By: _____
Clint Dudley, Executive Director



450 S. Parish Avenue
Johnstown, CO 80534
970-587-4664
JohnstownCO.gov

Town Council Agenda Communication

Agenda Date: June 2, 2025

Subject: Intersection Agreement Concerning Roundabout At Roosevelt Parkway and Colorado Boulevard

Attachments: 1. Roundabout Intersection Agreement

Presented by: Mitzi McCoy, Deputy Town Manager
Matt LeCerf, Town Manager

Agenda Item Description:

Enclosed for your review and consideration is an agreement regarding cost-sharing for the design and construction of the Roundabout at Roosevelt Parkway and Colorado Boulevard. The parties included in this agreement are the Town of Johnstown, Eleven, LLC, Granary Development II, LLC and the Weld County School District RE-5J. As part of the agreement, the cost-sharing for the project is as follows:

Entity	Design Cost	Construction Cost	Total
Granary Development II, LLC	\$150,000	\$1,000,000	\$1,150,000
Eleven, LLC	\$75,000	\$500,000	\$575,000
Weld County School District RE-5J	\$75,000	\$500,000	\$575,000
Town of Johnstown	\$150,000 (plus any excess)	\$2,000,000 (plus any excess)	\$2,150,000

On April 7, 2025, Council awarded construction of this project for the total amount of \$4.5MM, including contingencies for the project, to Connell Resources.

Of note and included in the agreement is a special provision for Eleven, LLC. The Roundabout was offset to the west, which resulted in a greater impact of the right of way onto Eleven, LLC. As part of negotiations, the right of way and temporary easement acquired were negotiated at \$60,000. This is being provided as a credit towards the design component, which leaves a balance of \$15,000 for the design of this intersection. This does not impact the overall cost of the construction obligations associated with Eleven, LLC.

While we are still working to gather approval from all entities, along with signatures, in concept all entities support this agreement in its current form. Accordingly, it is recommended that the Town

Council also approve the agreement in its current form. Construction on the roundabout is already underway and with a full shutdown beginning on Tuesday, May 27, following the RE-5J High School graduation. As previously presented to the Town Council, the project is scheduled for completion by August 11. Should the project not be completed by the target date, there are provisions in place to provide for an interim solution.

Repayment of the design will happen as proposed in the agreement not later than either 30 days of delivery of invoice or by July 31, 2025. Repayments for the construction component in the obligations of each party are required to be paid not later than December 31, 2026. However, if payment is not received by that date, then interest shall begin to accrue for the payment and the interest shall be equal to the tenure US Treasury Bill at the time of completion of the construction. Approval of this document will authorize the signing of the document, which will need to be circulated through several entities.

Strategic Plan Alignment:

Quality Infrastructure & Facilities

- Establish and maintain levels of service
- Ensure future viability of infrastructure and facilities

Legal Advice:

Legal advice Town Attorney administered drafting of the document as it's presented.

Financial Advice:

The Town will have financial obligations to this agreement and the project in the amount of approximately \$2.6 million which includes design, construction, and contingencies. It is important to note that the Town will be paying the full amount and then receiving reimbursement. This means the total project cost is budgeted in the current FY 2025.

Recommended Action:

Staff recommends approval of the agreement as presented.

Suggested Motions:

For Approval: I move to approve the Intersection Agreement Concerning Roundabout At Roosevelt Parkway and Colorado Boulevard and authorize the Town Manager to sign the agreement as presented.

For Denial: I move to deny the Intersection Agreement Concerning Roundabout At Roosevelt Parkway and Colorado Boulevard.

Reviewed and Approved for Presentation



Town Manager

INTERSECTION AGREEMENT CONCERNING ROUNDABOUT AT ROOSEVELT PARKWAY AND COLORADO BOULEVARD

This Intersection Agreement Concerning Roundabout at Roosevelt Parkway and Colorado Boulevard (“Agreement”) is made and entered into on this ____ day of _____, 2025, by and among the Town of Johnstown, a home rule municipality and political subdivision of the State of Colorado (“Town”), Eleven, LLC, a Colorado limited liability company (“Eleven”), Granary Development II, LLC, a Colorado limited liability company (“Granary”), and the Weld County School District RE-5J, a school district of the State of Colorado (“School District”) (Eleven, Granary and the School District may be collectively referred to herein as the “Developers” and the Town and Developers may be collectively referred to herein as the “Parties”).

RECITALS

1. The Town has engaged a consultant to design a roundabout at the intersection of Roosevelt Parkway and Colorado Boulevard, located in the Town of Johnstown, County of Weld, State of Colorado (“Intersection”), and thereafter to engage a contractor to install and construct the roundabout at the Intersection. While certain of the Parties previously agreed to pay funds toward the costs of a traffic signal and controller system at the Intersection, after due consideration and analysis, the Parties recognize and agree that a roundabout, rather than a traffic signal, constitutes the better and more effective traffic control measure at the Intersection.

2. The Developers have agreed to pay a portion of the costs of the design and installation and construction of the roundabout at the Intersection (collectively, “Intersection Improvements”) and agree to reimburse the Town for such costs.

3. To be collaborative to the success of the project, the Town is also contributing funds toward the Intersection Improvements as set forth in this Agreement.

4. On or about March 14, 2022, the Town and Eleven entered into that certain Subdivision Development and Improvement Agreement, recorded in the Office of the Weld County Clerk and Recorder at Reception No. 4835733 (“Eleven Agreement”), wherein Eleven acknowledged that, upon development of the Property, as defined therein, Eleven would be obligated to pay the costs of certain public improvements, including, but not limited to, roadway and intersection improvements at the Intersection. By this Agreement, Eleven agrees to pay twenty-five percent (25%) of the Developer’s portion of the cost of a roundabout, rather than a traffic signal and controller system, with a guaranteed expenditure cap, at the Intersection.

5. On or about March 21, 2022, the Town and Hartford Investments, LLC, a Colorado limited liability company, entered into that certain Subdivision Development and Improvement Agreement, recorded in the Office of the Weld County Clerk and Recorder at Reception No. 4827066 (“Granary Agreement”), wherein Granary, the successor to Hartford Investments, LLC, agreed to pay fifty percent (50%) of the cost of the installation of a traffic signal at the Intersection. By this Agreement, Granary agrees to pay fifty percent (50%) of the Developer’s portion of cost

of a roundabout, rather than a traffic signal and controller system, with a guaranteed expenditure cap, at the Intersection.

6. On or about June 20, 2023, the Town and the School District entered into that certain Subdivision Development and Improvement Agreement (“School District Agreement”), wherein the School District agreed to pay twenty-five percent (25%) of the cost of the installation of a traffic signal and controller system at the Intersection. By this Agreement, the School District agrees to pay twenty-five percent (25%) of the Developer’s portion of the cost of the roundabout, rather than a traffic signal and controller system, with a guaranteed expenditure cap, at the Intersection.

7. The Parties desire to memorialize their agreement regarding the Developers obligation to reimburse the Town for a portion of the cost of the Intersection Improvements and thus desire to enter into this Agreement.

AGREEMENT

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

1. Recitals. The Recitals are incorporated as if set forth fully herein.

2. Scope of the Intersection Improvements. The Intersection Improvements shall include the cost to design the roundabout at the Intersection (“Design Services”) and the cost to install and construct the roundabout at the Intersection (“Construction Services”). In compliance with the Town financial policies (Town of Johnstown Comprehensive Financial Management Policies – April 2022), or as otherwise approved by the Town Council, the Town shall utilize its discretion to retain the most qualified and responsible consultant to perform the Design Services and the most qualified and responsible contractor to perform the Construction Services.

3. Payment Obligation.

(a) Proportional Payment Obligation: The Developers, with a guaranteed expenditure cap, and the Town agree to pay a portion of the cost of the Intersection Improvements as follows:

- (i) Eleven agrees to pay a total of Seventy-Five Thousand Dollars (\$75,000) for the Design Services and a total of Five Hundred Thousand Dollars (\$500,000) for the Construction Services, provided that, contemporaneously with the execution of this Agreement, Eleven will be executing both a Deed of Dedication and Temporary Construction and Access Easement in favor of the Town related to the Intersection Improvements (the “Conveyance

Documents”). The Town and Eleven agree that the total value of the land conveyed in the Conveyance Documents is Sixty Thousand Dollars (\$60,000.00), which, instead of being paid from the Town to Eleven, will be applied as a credit towards the sums owed from Eleven to the Town for the Design Services stated above. Therefore, in accordance with this Agreement, and conditioned upon Eleven executing said Conveyance Documents, Eleven shall be required to pay to the Town only \$15,000.00 for the stated Design Services. The payments from Eleven to the Town stated in this Section 3(a)(i) shall be Eleven’s sole financial obligation for the Intersection Improvements contemplated in this Agreement, the Parties acknowledging that the Town will bear any excess costs for the Design Services and/or Construction Services in accordance with Section 3(a)(iv) below;

- (ii) Granary agrees to pay a total of One-Hundred Fifty Thousand Dollars (\$150,000) for the Design Services and a total of One Million Dollars (\$1,000,000) for the Construction Services. The payments from Granary to the Town stated in this Section 3(a)(ii) shall be Granary’s sole financial obligation for the Intersection Improvements contemplated in this Agreement, the Parties acknowledging that the Town will bear any excess costs for the Design Services and/or Construction Services in accordance with Section 3(a)(iv) below;
- (iii) The School District agrees to pay a total of Seventy-Five Thousand Dollars (\$75,000) for the Design Services and a total of Five Hundred Thousand Dollars (\$500,000) for the Construction Services. The payments from the School District to the Town stated in this Section 3(a)(iii) shall be the School District’s sole financial obligation for the Intersection Improvements contemplated in this Agreement, the Parties acknowledging that the Town will bear any excess costs for the Design Services and/or Construction Services in accordance with Section 3(a)(iv) below;
- (iv) The Town agrees to pay One-Hundred Fifty Thousand Dollars (\$150,000) and any amounts that exceed a total of Four-Hundred and Fifty Thousand Dollars (\$450,000) for the Design Services and agrees to pay any amounts that exceed a total of Two Million Dollars (\$2,000,000) for the Construction Services.

- (b) Timing of Reimbursement Payment to Town:

- (i) Upon completion of the Design Services, the Town shall provide an invoice to each of the Developers for their proportionate share of the cost of the Design Services, in the amount set forth above. Within thirty (30) days of delivery of the invoice or by July 31, 2025, whichever is later, each of the Developers shall provide payment in full to the Town;
- (ii) Subsequent to completion of the Construction Services, the Town shall provide an invoice to each of the Developers for their proportionate share of the cost of the Construction Services, in the amount set forth above. Each of the Developers shall provide payment in full to the Town on or before December 31, 2026; provided, however, that the Developers, or any of them, may defer payment or part of the payment until July 1, 2030, on the condition that, on and after January 1, 2027, interest in an amount equal to the interest payable on the ten-year U.S. treasury bills at the time of the completion of the Construction Services shall accrue on any outstanding portion of the portion of the payment.

4. Effect on Prior Agreements. This Agreement shall: (i) constitute an amendment to the Eleven Agreement pursuant to Exhibit B-3 attached thereto; (ii) to the extent of a conflict, supersede and replace Paragraph (c) of Exhibit B-3 attached to the Granary Agreement; and (iii) to extent of a conflict, supersede and replace Paragraph 4 of Exhibit B-3 attached to the School District Agreement. Except as expressly provided in this Agreement, the Eleven Agreement, Granary Agreement and School District Agreement have not been amended, supplemented or altered in any way by this Agreement and the Eleven Agreement, Granary Agreement and School District Agreement shall remain in full force and effect in accordance with their terms. If there is any inconsistency between the terms of this Agreement and the terms of the Eleven Agreement, Granary Agreement and School District Agreement, the provisions of this Agreement will govern and control.

5. No Third-Party Beneficiaries. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto. However, the Developers, or any of them, shall have the right to assign their rights and obligations under this Agreement in writing, executed by the Developer and the assignee, to any other party in conjunction with a sale or other transfer of all or any portion of their respective real property interests surrounding the Intersection, provided that prompt written notice of such assignment be provided to the Town.

6. Notices. All notices, consents or other instruments provided for under this Agreement shall be deemed properly given when: (1) hand-delivered; 2) sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set

forth; or (3) sent by electronic mail. Either party, by notice to be given, may change the address to which future notices shall be sent.

TO TOWN:

Town of Johnstown

Attn: Town Manager

450 So. Parish

P. O. Box 609

Johnstown, CO 80534

Email: mlecerf@johnstownco.gov and notices@johnstownco.gov

TO ELEVEN:

Eleven, LLC

Attention: Abraham Sauer

6715 County Road 50

Johnstown, CO 80534

Email: sauer@skybeam.com

TO GRANARY:

Granary Development II, LLC

Attn: Shane Westlind

4801 Goodman Rd.

Timnath, CO 80547

Email: swestlind@hartfordco.com

TO SCHOOL DISTRICT:

Weld County School District RE-5J

Attention: Michael Everest

110 S. Centennial Drive, Suite A

Milliken, CO 80534

Email: michael.everest@weldre5j.org

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

8. Mediation. In the event of any dispute arising under this Agreement, the Parties shall submit the matter to mediation prior to commencing legal action and shall share equally in the cost of the mediation.

9. Entire Agreement and Amendments. This Agreement constitutes the entire agreement and understanding between the parties concerning the subject matter contained herein

and supersedes all prior agreements or understandings regarding the same. Any amendment to this Agreement must be in writing and signed by the parties.

10. Costs and Attorney's Fees. If any judicial proceedings may hereafter be brought to enforce Developers' payment obligations, as set forth herein, 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 from the non-prevailing party.

11. Severability. If any provision or part of this Agreement is 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.

12. 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

13. 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.

14. Subject to Annual Appropriation. The School District's financial obligations under this Agreement in future fiscal years are subject to annual appropriation in accordance with Colorado law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

TOWN OF JOHNSTOWN, COLORADO

By: _____
Matthew S. LeCerf, Town Manager

Attest:

Meghan Martinez, Town Clerk

ELEVEN, LLC
a Colorado limited liability company

By: _____
Name: Abraham Sauer
Title: Manager

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of _____ 2025, by Abraham Sauer as Manager of Eleven, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

WELD COUNTY SCHOOL DISTRICT RE-5J

ATTEST:

By: _____
Monica Johnson, Secretary

By: _____
Michael Wailes, Board of Education President

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this _____ day of
_____ 2025, by _____ as the _____ of Weld County School
District RE-5J.

Witness my hand and official seal.

My commission expires: _____

Notary Public



450 S. Parish Avenue
Johnstown, CO 80534
970-587-4664
JohnstownCO.gov

Town Council Agenda Communication

Agenda Date: June 2, 2025

Subject: Award Contract for Construction of the Town of Johnstown Development Services Building

Attachments:

1. Standard Form of Agreement Between Owner and Contractor - Form A102
2. General Conditions of the Contract for Construction - Form A201
3. GMP Estimate
4. Project Site Exhibit
5. Site Plan
6. Elevations
7. Professional Services Agreement

Presented by: Jeremy Gleim, Planning and Development Director
Doug Gossett, Engineering Director

Agenda Item Description:

AGENDA ITEM DESCRIPTION:

Over the past decade, the Town has experienced substantial growth, leading to a corresponding increase in municipal staffing to meet the evolving needs of the community. With limited space remaining at Town Hall, an expansion of municipal facilities is now recommended to ensure the continued delivery of high-quality services. To effectively support the needs of the community, the Town is proposing the construction of a new Development Services Building. This facility will house the Planning and Engineering Departments, which provide essential services including land use and zoning code administration, building permitting, development review, inspection and safety services, project management and technical support. The proposed location for the new building is a 1.74-acre vacant parcel owned by the Town, located southwest of the existing Town Hall, at the northeast corner of Centennial Drive and Castle Pines Avenue.

Last year, the Town entered into a contract for architectural design services for the new building with D2C Architects. In January of this year, the Town Council entered into a Professional Service Agreement (PSA) with Sampson Construction, Co. (Sampson) for pre-construction services under the Construction Manager at Risk (CMAR) delivery method (Attachment #3). The purpose of the pre-construction CMAR was to engage a construction firm during the design phase to provide input on the design constructability, offer value engineering recommendations, provide more accurate cost estimates, and establish a Guaranteed Maximum Price (GMP) to complete the project. Based on the GMP proposed, as described more fully in the PSA for CMAR Services (Attachment #3), the Town will have the option to either accept the proposed GMP as presented or to obtain an independent cost estimate to verify that the pricing falls within an acceptable percentage threshold. If the Town opts for an independent cost estimate and the percentage threshold is not met, the

Town will reserve the right to determine whether they want to proceed with the CMAR or formally bid out the construction project based on the design.

The Town received the GMP from Sampson on May 23, 2025. The GMP for the construction of the Development Services Building is \$5,227,188. The initial bid for this project, which was included in Sampson's submittal for pre-construction CMAR Services, was estimated at \$4,539,303. The GMP includes a cover sheet which explains the delta between the initial cost estimate and the final GMP. Absent those items, which total \$613,506, the GMP is actually \$14,282 below the initial design-phase estimate of \$4,539,303. Furthermore, the original estimate did not include a solar panel system for the building, which has since been added to the project at an estimated cost of \$88,000. Based on this analysis, staff is recommending that Sampson Construction Co. be awarded the contract for construction services.

Based on the current schedule, and upon award of the contract, Sampson would begin construction on June 16, 2025. Substantial completion and final inspections are planned for mid-April 2026, with a targeted move-in date of April 27, 2026.

Strategic Plan Alignment:

Organizational Excellence & Public Trust

- Be an employer of choice that attracts dedicated team members, passionate about Johnstown

Quality Infrastructure & Facilities

- Establish and maintain levels of service
- Ensure future viability of infrastructure and facilities

Legal Advice:

The Town Attorney has reviewed the Contract.

Financial Advice:

The Guaranteed Maximum Price (GMP) for the project is \$5,227,188. This project will span two budget years (2025 and 2026). The 2025 budgeted allotment for this project is \$4,200,000. The balance will be covered in fiscal year 2026.

Recommended Action:

Staff recommends awarding the Construction Contract to Sampson Construction Co., Inc, as presented.

Suggested Motions:

For Approval: I move to approve awarding the construction contract to Sampson Construction Co., Inc. for the construction of the Town of Johnstown Development Services Building, at a GMP cost of \$5,227,188, and authorize an additional 10% contingency for unforeseen and miscellaneous construction expenses encountered on the project, to be distributed at the Town Manager's discretion.

For Denial: I move to deny awarding the Construction Contract to Sampson Construction Co., Inc. for the construction of the Town of Johnstown Development Services Building.

Reviewed and Approved for Presentation

A handwritten signature in blue ink, appearing to be 'W. J. C.', is written above a horizontal line.

Town Manager



AIA® Document A102® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the 2nd day of June in the year 2025
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Town of Johnstown
450 S. Parish Avenue
Johnstown, CO 80534

and the Contractor:
(Name, legal status, address and other information)

Sampson Construction Co., Inc., a Nebraska corporation
4508 Endeavor Drive, Suite 100
Johnstown, Colorado 80534

for the following Project:
(Name, location and detailed description)

Johnstown Development Services Building
201 Centennial Drive
Johnstown, Colorado 80534

The Architect:
(Name, legal status, address and other information)

D2C Architects, Inc., a Colorado corporation
1212 S Broadway, Suite 250
Denver, CO 80210

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A102™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	RELATIONSHIP OF THE PARTIES
4	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
5	CONTRACT SUM
6	CHANGES IN THE WORK
7	COSTS TO BE REIMBURSED
8	COSTS NOT TO BE REIMBURSED
9	DISCOUNTS, REBATES AND REFUNDS
10	SUBCONTRACTS AND OTHER AGREEMENTS
11	ACCOUNTING RECORDS
12	PAYMENTS
13	DISPUTE RESOLUTION
14	TERMINATION OR SUSPENSION
15	MISCELLANEOUS PROVISIONS
16	ENUMERATION OF CONTRACT DOCUMENTS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract and the General Conditions of the Contract for Construction (AIA Document 201-2017, as amended) ("General Conditions"), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 16.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information available to Owner that is

required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 4.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☐ A date set forth in a notice to proceed issued by the Owner.
- ☒ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)
- June 9, 2025

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 4.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 4.3 Substantial Completion

§ 4.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

- ☐ Not later than () calendar days from the date of commencement of the Work.
- ☒ By the following date: May 9, 2026

§ 4.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 4.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 4.3, liquidated damages, if any, shall be assessed as set forth in Section 5.1.6.

ARTICLE 5 CONTRACT SUM

§ 5.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee.

§ 5.1.1 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work, or other provision for determining the Contractor's Fee.)

Two and forty-five hundredths of one percent (2.45%) of the Cost of the Work

§ 5.1.2 The method of adjustment of the Contractor's Fee for changes in the Work:

Two and forty-five hundredths of one percent (2.45%) of the value of the change.

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

N/A

Init.

§ 5.1.4 Rental rates for Contractor-owned equipment shall not exceed the standard rental rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit (\$0.00)
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§ 5.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

Time is of the essence for the Work specified in the Contract Documents and the Owner will incur substantial damages if the Work is not completed within the time fixed for the Substantial Completion, as extended, if at all by consent of the Owner and the Architect in writing pursuant to the Contract Documents. Inasmuch as the actual damages for such delay are impossible to determine, the Contractor agrees that it and its surety shall be liable for and shall pay liquidated damages to the Owner. The Contractor and the Owner hereby agree that the liquidated damages of Five Hundred Dollars (\$500.00) per day are a reasonable estimate of Owner's damages and are not a penalty. Liquidated damages shall not commence to accrue until thirty (30) days after the date fixed for Substantial Completion, as extended, if at all by consent of the Owner and the Architect.

§ 5.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Contract Sum is guaranteed by the Contractor not to exceed Five Million Two Hundred Twenty-Seven Thousand One Hundred Eighty-Eight Dollars and No Cents (\$5,227,188.00), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 5.2.2 Alternates

§ 5.2.2.1 Alternates, if any, included in the Guaranteed Maximum Price: N/A

Item	Price
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§ 5.2.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
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§ 5.2.3 Allowances, if any, included in the Guaranteed Maximum Price:

(Identify each allowance.)

Item	Price
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§ 5.2.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:

(Identify each assumption.)

§ 5.2.5 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 5.2.6 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 5.2.4. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 5.2.4 and the revised Contract Documents.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Article 7 of AIA Document A201™–2017, General Conditions of the Contract for Construction.

§ 6.2 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Contractor's Fee as defined in Section 5.1.1 of this Agreement.

§ 6.4 If no specific provision is made in Article 5 for adjustment of the Contractor's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Article 5 will cause substantial inequity to the Owner or the Contractor, the Contractor's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COSTS TO BE REIMBURSED

§ 7.1 Cost of the Work

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. The Cost of the Work shall include only the items set forth in this Article 7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Contractor shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages, salaries or rates of construction workers directly employed by the Contractor to perform the construction of the Work at the site or at off-site workshops.

§ 7.2.2 Wages or salaries or rates of the Contractor's safety, management, quality control, supervisory and administrative personnel assigned to the Project regardless of whether their duties are performed at the site, at a location other than the site, or at one of Contractor's offices.

§ 7.2.2.1

(Paragraphs deleted)

[Intentionally omitted]

§ 7.2.3 [Intentionally omitted]

§ 7.2.4 Costs paid or incurred by the Contractor, as required by law, for taxes, insurance, contributions, assessments, and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick

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/

leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts and this Agreement that are properly entered into pursuant to this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall be properly stored at a location designated by the Owner, and shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Contractor, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Contractor's site office, if any and if approved by the Owner, including general office equipment and supplies, document reproductions, facsimile transmissions and postage and parcel delivery charges, telephone and data service related to the Project and reasonable petty cash expenses of the site office.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract or agreed-upon rates for the same.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Contractor, with the Owner's prior approval.

§ 7.6.2 Tariffs and unforeseeable increases in the cost of goods, materials, or equipment are not sales, use or similar taxes.

Init.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Contractor is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents, with the Owner's prior written consent.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Contractor resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Contractor knew or should have known or had reason to believe that the required design, process or product was an infringement of a copyright or a patent, and the Contractor failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements, shall not be included in the Cost of the Work used to calculate the Contractor's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor after the execution of this Agreement in the performance of the Work and with the Owner's prior written approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work, with the Owner's prior written approval.

§ 7.6.11 That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017 to the extent not (a) caused by the Contractor, a Subcontractor, a Sub-Subcontractor or anyone for whom any such person or entity is responsible, or (b) capable of being prevented through timely notice of an unsafe condition to the Owner.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence or willful conduct of, or failure to fulfill a specific responsibility by, the Contractor, Subcontractors, Sub-Subcontractors or anyone for whom any such person or entity is responsible, and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Contractor; (2) any entity in which any stockholder in, or management employee of, the Contractor holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Contractor; or (4) any person, or

any member of the immediate family of any person, who has the right to control the business or affairs of the Contractor.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 10. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 10.

ARTICLE 8 COSTS NOT TO BE REIMBURSED

§ 8.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 15;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Contractor's principal office and offices other than the site office, except to the extent the same are directly related to the Work of this Project;
- .4 Overhead and general expenses, except as may be expressly included in Article 7;
- .5 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Contractor, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Article 7; and
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

§ 8.2 Costs To Be Born by Owner without Reimbursement from Contractor

Notwithstanding anything to the contrary elsewhere in the Contract Documents, Contractor is not responsible for costs and expenses related to or arising out of tariffs of every type and description that are unanticipated and/or unknown as of the date of the execution of this Agreement.

ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

§ 9.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

§ 9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

§ 10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Contractor shall deliver such bids to the Architect and the Owner with an indication as to which bids the Contractor intends to accept. The Owner then has the right to review the Contractor's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 10.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ 10.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 10.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Contractor shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article 11.

ARTICLE 11 ACCOUNTING RECORDS

The Contractor shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Contractor's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law. All accounting records shall be maintained in accordance with generally accepted accounting practices consistently applied.

ARTICLE 12 PAYMENTS

§ 12.1 Progress Payments

§ 12.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 12.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

N/A

§ 12.1.3 The Owner shall make payment on an Application for Payment, or on the amounts approved therein by the Architect, thirty (30) days after the Application for Payment is approved by the Architect and thereafter submitted to the Town. The Owner anticipates that the Contractor will submit monthly Applications for Payment.

§ 12.1.4 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, lien waivers and releases as set forth in the General Conditions and any other evidence required by the Owner or the Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 12.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 12.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 12.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 12.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 12.1.5.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect.

§ 12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 12.1.7 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 12.1.7.1 The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 12.1.7.1.1 and 12.1.7.1.2 at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 12.1.7.1.1 and 12.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 12.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation;
- .6 Amounts about which there is a legitimate dispute as to whether payment is due; and
- .7 Retainage withheld pursuant to Section 12.1.8.

§ 12.1.8 Retainage

§ 12.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner shall withhold the following amount, as retainage, from the payment otherwise due:

Five percent (5%).

§ 12.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

N/A

Init.

§ 12.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 12.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

N/A

§ 12.1.8.3

(Paragraphs deleted)

Retainage shall be released to the Contractor pursuant to Colorado law, Section 38-26-107, C.R.S., and as described in the General Conditions.

§ 12.1.9 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner may pay the Contractor any additional amounts, if any, in accordance with the General Conditions.

§ 12.1.10 Except with the Owner's prior written approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 12.1.11 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 12.1.12 In taking action on the Contractor's Applications for Payment, the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that: (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 12.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 12.2 Final Payment

§ 12.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

- .1 the Contractor has fully performed the Contract, except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work and a final Application for Payment;
- .3 the Contractor has submitted complete and legally effective releases or waivers satisfactory to Owner of any and all lien rights, if any, arising out of the Work or in relation to the Project; and
- .4 a final Certificate for Payment has been issued by the Architect in accordance with Section 12.2.2.

§ 12.2.2 Within 30 days of the Owner's receipt of the Contractor's final accounting for the Cost of the Work, the Owner may conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 12.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 12.2.2.2 Within seven days after receipt of the written report described in Section 12.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 12.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 12.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

§ 12.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Contractor's final accounting, is less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.

§ 12.2.3 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment subject to the provisions of Colorado law, including, but not limited to Section 38-26-107, C.R.S.

§ 12.2.4 [Intentionally omitted]

§ 12.3 Interest

Payments for undisputed amounts due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

Five percent (5%).

ARTICLE 13 DISPUTE RESOLUTION

§ 13.1

(Paragraphs deleted)

[Intentionally omitted]

§ 13.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- ☐ Arbitration pursuant to Section 15 of AIA Document A201–2017
- ☒ Litigation in a court of competent jurisdiction in the County of Weld, State of Colorado
- ☐ Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 14 TERMINATION OR SUSPENSION

§ 14.1 Termination

§ 14.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 14.1.2 Termination by the Owner for Cause

§ 14.1.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Contractor to the date of termination;
- .2 Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that

bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;

- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 14.1.2.2 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 14.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 14.1.3

(Paragraphs deleted)

[Intentionally omitted]

§ 14.2 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 15.2 The Owner's representative:

(Name, address, email address and other information)

Matt LeCerc, Town Manager
Town of Johnstown
450 S. Parish Avenue
Johnstown, Colorado 80534

§ 15.3 The Contractor's representative:

(Name, address, email address and other information)

Rick Fleming, Project Executive
Sampson Construction Co., Inc.
4508 Endeavor Drive, Suite 100
Johnstown, Colorado 80534

§ 15.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 15.5 Insurance and Bonds

(Paragraphs deleted)

§ 15.5.1 Insurance

§ 15.5.1.1 For all phases of the Project, the Contractor and the Owner shall purchase and maintain the insurance required herein and as set forth in the General Conditions. The Contractor shall require that each Subcontractor procure and maintain, at its own cost and expense, the requisite insurance.

§ 15.5.1.2 The Contractor shall provide and maintain during the performance of this Agreement the insurance described below, which insurance shall be placed with a company or companies authorized to do business in the State of Colorado with an A.M. Best's Insurance Report rating at not less than A-/VI.

§ 15.5.1.3 Prior to commencement of Work, the Contractor shall furnish and deliver to the Owner proof that the following insurance shall be in force and effect for the duration of the Project. All Certificates of Insurance relating to Commercial General Liability, Automobile Liability and Excess Liability, shall list the Owner, its officers and employees, as additional insureds. Additional insured endorsements shall be provided to the Owner by the Contractor's insurance company along with the Certificates of Insurance. The additional insured endorsement for the Comprehensive General Liability insurance shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the required insurance policies.

§ 15.5.1.3.1 Standard Form Commercial General Liability and Property Damage insurance (as provided on an ISO CG 00 01 form) that includes coverage for: (a) Claims for bodily injury, including death, and property damage; and (b) contractual liability on an occurrence basis and shall include fire, explosion, collapse, underground hazard and product/completed operations coverages. Minimum limits: General Aggregate \$2,000,000; Products/Completed Operations Aggregate \$2,000,000; Personal and Advertising Injury \$1,000,000; Each Occurrence \$1,000,000.

§ 15.5.1.3.2 Contractor's workers compensation insurance, at statutory limits, as required by Colorado law, covering all employees working on the site, and Employer's Liability Insurance with the following minimum limits; Each Accident \$500,000; Each Occupational Disease \$500,000; Occupational Disease Aggregate \$500,000.

§ 15.5.1.3.3 Automobile Liability insurance, covering the use, operation and maintenance of any automobiles, trucks, trailers or other vehicle owned, hired, or non-owned by the Contractor providing bodily injury, including death, and property damage coverage. Minimum limits of liability provided by this coverage shall be a Combined Single Limit of \$1,000,000.

§ 15.5.1.3.4 Excess Commercial General Liability Insurance, including products and completed operations, with a minimum limit of \$5,000,000 for each occurrence and aggregate of \$10,000,000.

§ 15.5.1.3.5 Standard, all risk of loss Builder's Risk completed value insurance. The amount of the standard deductible under the Builder's Risk Policy shall not exceed \$10,000.00 and the amount of the deductible for flood and water damage shall not exceed \$25,000.00. The Builder's Risk Insurance shall be carried by the Contractor at 100% of the Contract amount, totaling the Guaranteed Maximum Price.

§ 15.5.1.4 The full aggregate liability policy limits required above shall be available with respect to the Contractor's obligations hereunder, and the Contractor shall obtain a location specific aggregate limited endorsement confirming such coverages as to the Owner and additional insureds. The Contractor agrees to notify the Owner and additional insureds of any substantial claims, paid or resolved, applied against the aggregate of any of the required insurance policies.

§ 15.5.1.5 All insurance provided by the Contractor hereunder shall be primary to any insurance policies held by the Owner and additional insureds. Any insurance carried by the Owner, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The Contractor waives subrogation as to the Owner and its agents, representatives, affiliates, additional insureds, and assigns on all policies carried by the Contractor. 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.

§ 15.5.1.6 All insurance shall include a provision prohibiting cancellation, termination or alteration (so as to affect the intent of this Agreement) without thirty (30) days' prior notice by certified mail to the Owner. In the event of threatened cancellation for nonpayment or nonrenewal, the Owner may pay the same on behalf of the Contractor, at the Owner's discretion, and deduct the same from any amount of payment due to the Contractor hereunder.

§ 15.5.1.7 Payments for services provided will be withheld from the Contractor until acceptable Certificates of Insurance and Additional Insured Endorsements are received by the Owner.

§ 15.5.1.8 No Work will be conducted on the Project site until satisfactory evidence has been submitted that the Contractor has insurance that complies with the specific insurance and indemnity requirements listed in the Contract Documents.

§ 15.5.2 Bonds

§ 15.5.2.1 The Contractor shall furnish a performance bond and payment bond in an amount at least equal to the Contract Sum, as security for the faithful performance and payment of the Contractor's obligations under the Contract, including but not limited to the one-year warranty period provided herein. All bonds shall be in the forms approved by the Town. These bonds shall remain in effect at least until two years after the date of final payment. All bonds shall be in the forms prescribed by the Contract Documents and be executed by such sureties as (i) are licensed to conduct business in the State of Colorado and (ii) are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570, amended, by the Audit Staff, Bureau of Account, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the authority to act. If the surety on any bond furnished by the Contractor is declared bankrupt or becomes insolvent, or its right to do business in the State of Colorado is terminated, or it ceases to meet the requirements of clauses (i) and (ii) of this section, the Contractor shall, within five (5) days thereafter, substitute another bond and surety, both of which shall be acceptable to the Owner.

§ 15.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given
(Paragraphs deleted)

by electronic mail sent to the email address set forth above and shall be deemed effective and delivered upon receipt of a "read receipt" or acknowledgment of receipt by the intended recipient

§ 15.7 Other provisions:

§ 15.7.1 Appropriation of Funds: Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the Owner has appropriated the money necessary to fund this Project. No change order or other form of directive shall be issued by the Owner requiring additional compensable work to be performed, which causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the original contract amount, unless the Owner provides written assurance to the Contractor that lawful appropriations have been made to cover the cost of the additional work or unless such work is covered under the remedy-granting provisions of this Agreement.

§ 15.7.2 Colorado Public Works Act: Notwithstanding any other provision of the Contract Documents, the Owner may withhold funds if required to do so pursuant to the Colorado Public Works Act, C.R.S. §§38-26-101, *et seq.*

§ 15.7.3 Colorado Labor Clause: The Contractor agrees, pursuant to Title 8, Article 17, C.R.S., that Contractor shall employ Colorado labor (as defined below in this paragraph) to perform the Work to the extent of not less than eighty percent of each type or class of labor in the several classifications of skilled and common labor employed under this Agreement. "Colorado labor" as used in this Agreement means any person who is a resident of the state of Colorado, at the time of employment, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification.

§ 15.7.4 Non-Discrimination: The Contractor agrees to comply with the provisions of 24-34-401 through 24-34-406 of Colorado Revised Statutes relating to employment practices. The Contractor particularly agrees to comply with the provisions governing "Unfair Employment Practices," as therein set forth and to insert this nondiscrimination clause, and require compliance therewith, in all subcontracts hereunder.

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§ 15.7.5 Governmental Immunity: Nothing herein shall be construed as a waiver of the limitations on damages or any of the privileges, immunities or defenses provided to, or enjoyed by, the Owner under common law or pursuant to statute, including but not limited to the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as from time to time amended.

§ 15.7.6 Warranty Period. All Work performed by the Contractor and by any Subcontractor or person performing work on its behalf, shall be guaranteed against defective workmanship and materials for a period of two (2) years from the date of Substantial Completion, provided that such two (2) year period shall not begin with respect to any portion of the Work that is not completed on the date of Substantial Completion, but shall begin when the item is subsequently completed and Owner provides written notice of such completion. Notwithstanding the foregoing, the two (2) year warranty may be extended, at the Owner's discretion, by providing written notice to the Contractor for a reasonable period with respect to the portion of the Work, if any, for which remedial or repair work is done during the first two (2) year warranty period.

§ 15.7.7 Project Schedule and Weekly Meetings. The Contractor shall:

1. Prepare and update a consolidated project schedule on a weekly basis until Substantial Completion and provide copies to the Owner and the Architect as soon as the schedule is prepared.
2. Support value-engineering efforts to reduce costs and to identify reasonable equivalent materials and supplies.
3. Conduct weekly Project meetings with the Owner and/or Architect and with any other necessary Project participants.

§ 15.7.8 Clean Premises. The Contractor shall leave the Project site in a reasonably neat, clean, orderly and safe condition at the end of each day during construction of the Work.

§ 15.7.9 Excess Materials. Any purchased materials remaining after completion of the subject portion of the Work (such as, for example, extra paint, wall coverings or carpet) shall be properly stored and provided by the Contractor to the Owner for use in subsequent repairs. Materials should be labeled, sealed, boxed and protected as appropriate to ensure the materials remain in good condition.

§ 15.7.10 Compliance with Facility Rules. The Contractor agrees that, at all times, its employees and agents shall observe and comply with all regulations of the facility, including but not limited to, the no smoking and parking and security regulations. If the Contractor's employees, agents or Subcontractors violate these prohibitions, such person(s) may be denied access to the Project site.

§ 15.7.11 Contractor Knowledge and Expertise. The Contractor represents that it: (1) has sufficient knowledge and expertise to construct the Work in accordance with all applicable codes and regulations; (2) has reviewed, analyzed, and has current knowledge of the site; (3) has reviewed, analyzed and has found sufficient for construction and completion of the Work the Contract Documents listed in this Agreement; any exceptions to this statement have been specifically identified in this Agreement. The Contractor represents and warrants that it can and will complete the Work for the Contract Sum identified in this Agreement, and that no sums additional to the Contract Sum are required for Contractor's completion of the Work.

§ 15.7.12 Costs and Attorney Fees: In the event of litigation enforcing or interpreting the terms of the Agreement, the prevailing party, to the extent permitted by law (recognizing that the Owner is prohibited by the Colorado Constitution, Colorado state law, the Johnstown Home Rule Charter and the Johnstown Municipal Code from agreeing to payment obligations without appropriations in its budget, which it has not made for this Agreement), shall be entitled to an award of reasonable attorney fees and all costs of suit, including expert witness fees, court reporter fees and similar litigation expenses.

§ 15.7.13 Consent. Whenever the Contract Documents reference the requirement to obtain the Owner's or the Architect's approval or consent, such approval or consent must be obtained in writing. The writing requirement referenced herein may be satisfied by email communication properly delivered and received.

ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS

§ 16.1 This Agreement is comprised of the following documents:

- .1 AIA Document A102™–2017, Standard Form of Agreement Between Owner and Contractor, as amended
- .2 [Intentionally omitted]
- .3 AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended
- .4

(Paragraphs deleted)

[Intentionally omitted]

- .5 Drawings

Number	Title	Date
--------	-------	------

- .6 Specifications

Section	Title	Date	Pages
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- .7 Addenda, if any:

Number	Date	Pages
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Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 16.

- .8 Other Exhibits:
(Check all boxes that apply.)

[] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

N/A

[] The Sustainability Plan: N/A

Title	Date	Pages
-------	------	-------

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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- .9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*

(Printed name and title)

CONTRACTOR *(Signature)*

(Printed name and title)



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AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Johnstown Development Services Building
201 Centennial Drive
Johnstown, Colorado 80534

THE OWNER:

(Name, legal status and address)

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

THE CONTRACTOR:

(Name, legal status and address)

Sampson Construction Co., Inc., a Nebraska corporation
4508 Endeavor Drive, Suite 100
Johnstown, Colorado 80534

THE ARCHITECT:

(Name, legal status and address)

D2C Architects, Inc., a Colorado corporation
1212 South Broadway, Suite 250
Denver, Colorado 80210

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ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement (AIA Document 102-2017, as amended) between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2; if no such person is identified, the provisions concerning the Initial Decision Maker shall not apply. The Initial Decision Maker shall not show partiality to the Owner or Contractor.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. Where a conflict occurs between or within the Drawings, Specifications, if any, or any other standards, the Contractor shall promptly notify the Architect in writing concerning the conflict, and the Architect shall decide which stipulation

provides the best installation. The Contractor shall perform the work according to the direction of the Architect, but the Contract Sum and Contract Time may, if warranted at Owner's discretion, be equitably adjusted to the extent necessary to make Contractor whole from the existence of the conflict in the Architect's Instruments of Service.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights; except that, upon full payment by the Owner to the Architect for the Instruments of Service, the Owner shall own the Instruments of Service that relate to the Project. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, by courier providing proof of delivery, or by electronic transmission as provided in the Agreement.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who, to the extent permissible under Colorado law, shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

(Paragraph deleted)

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the Owner has appropriated the money necessary to fund the Project. The amount of money appropriated shall be disclosed to Contractor upon request. No Change Order or other form of directive shall be issued by the Owner requiring additional compensable work to be performed, which causes the aggregate amount payable under this Agreement to exceed the amount appropriated for the original Contract Sum, unless the Owner provides written assurance to the Contractor that lawful appropriations have been made to cover the cost of the additional work or unless such work is covered under the remedy-granting provisions of this Agreement.

§ 2.2.2 [Intentionally omitted]

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 Upon request of the Contractor, to the extent available, the Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. The Contractor shall promptly inform the Owner if the Contractor discovers an error or inconsistency in the information furnished by the Owner.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Contractor shall exercise reasonable judgment in its capacity as a commercial construction contractor as to the accuracy and completeness of information and services furnished by the Owner hereunder.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, and consult with any relevant Subcontractors, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Owner and the Architect any errors, inconsistencies

or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. If the Contractor performs any construction activity knowing it involves an error, inconsistency or omission in the Contract Documents without providing notice of such error, inconsistency or omission to the Architect, the Contractor shall assume responsibility for such construction activity and shall bear the costs attributable to any necessary correction but shall not be responsible for the costs attributable to the creation of the error, inconsistency or omission in the first instance, it being understood that Contractor is not a design professional and is not in any way responsible for the creation of the Contract Documents; it being further understood that the Architect is being compensated to provide Contract Documents that are free of errors, inconsistencies and omissions; it being further understood that the Architect is being reimbursed for providing insurance to protect against errors and omissions.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. Notwithstanding the foregoing, the Contractor shall not be liable for Architect's errors, omissions, or the substandard performance of Architect's contractual or professional obligations unless Contractor is aware of those errors, omissions and substandard performance and fails to notify the Owner and rectify the same, except, as provided in Section 3.2.2 above, Contractor is not liable for the "creation" of the error or omission in the first instance. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Section 12.2.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.3 The Contractor shall and hereby does warrant, and shall require that any and all Subcontractors and Sub-subcontractors shall warrant, to Owner that all Work executed under this Contract will be free from defects of materials and workmanship for the entire two-year warranty period, as extended, if at all, as set forth in the Agreement. This warranty is a remedy available to the Owner in addition to claims the Owner may have arising out of Work or materials found to be non-conforming, out of specification or otherwise in breach of this Contract no matter when discovered. The Contractor further agrees, and shall require any and all Sub-contractors and Sub-subcontractors to agree, that they will, at their own expense, repair and replace all such defective Work and all other Work damaged thereby which becomes defective during the term of the warranty. Whenever guarantees or warranties are provided, in whatever manner, for a longer period than the warranty set forth in Agreement, such period shall govern, and the Owner shall have the full benefit of such longer warranties.

§ 3.5.3.1 Upon discovery of any warranty defect or defects, the Owner shall give written notice thereof to the Contractor. If within ten (10) calendar days after the receipt of such written notice by the Owner to the Contractor, or its agent, requesting such repairs or replacement, the Contractor shall neglect to make or undertake with due diligence to make the same, the Owner may make such repairs at the Contractor's expense along with a ten percent (10%) administrative fee; provided, however, that in the case of emergency where in the judgment of the Owner, delay would cause certain loss or damage, repairs or replacement may be made without prior notice being sent to the Contractor, and the Contractor shall pay the reasonable cost thereof along with a ten percent (10%) administrative fee. Notwithstanding the foregoing, if there is a good faith dispute as to whether warranty work is required to be performed, Contractor shall provide prompt written notice to the Owner and the Owner and the Contractor shall endeavor to resolve the same prior to either party undertaking completion of the warranty work, unless the Owner determines at its discretion that, for the integrity of the Work, the warranty work must be completed in which case the Owner may undertake the warranty work and reserve its legal rights.

§ 3.6 Taxes

The Owner is exempt from Colorado State sales and use taxes on materials and equipment to be incorporated into the Work. Said taxes shall not be included in the Contract Sum. Prior to the purchase of any material to be incorporated into the Work, the Contractor shall ensure that the purchaser, including all Contractors and Subcontractors on the Project, apply to the Department of Revenue, State of Colorado, for an exemption (Form DR-0172) to be used for all Work performed and completed under this Contract. All purchases for the Work shall use the exemption from sales tax. Any costs, taxes or fines that are incurred as a result of a failure to comply with the requirements of this § 3.6 shall be paid by the Contractor, except that, if the Colorado Department of Revenue requires that taxes should have been paid, then the Owner shall be liable for the payment. In addition, the Owner is exempt from sales and use tax imposed by the Town of Johnstown and the County of Weld, and the Contractor shall not pay such amounts or incorporate such

amounts into the Contract Sum. Tariffs and unforeseeable increases in the cost of goods, materials, or equipment are not sales, consumer, use or similar taxes for purposes of this Section 3.6.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. Notwithstanding the foregoing, the Contractor shall not be obligated to pay such fees, except for a business license fee, to the extent imposed by the Owner,

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.7.6 The Contractor shall at all times be fully qualified and licensed under all applicable state and local licensing laws. The Owner shall not be responsible for ensuring that Contractor's Subcontractors are fully qualified and licensed under all applicable state and local licensing laws, and Contractor shall not knowingly enter into subcontracts with Subcontractors that are not qualified and licensed under all applicable state and local licensing laws.

§ 3.7.7 The Contractor has visited the Project site and thoroughly familiarized itself with the local conditions under which the services required hereunder are to be performed and shall correlate its observations of the same with all of the requirements of the Contract Documents.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall at all times be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Communication given to the superintendent shall be as binding as if given to the Contractor. All substantive communications shall be confirmed in writing.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Owner or Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Owner Architect, in writing, of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional,

whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.12.11 Copies of all Shop Drawings, Product Data, Samples and similar submittals as identified in Section 3.12 shall be preserved in an orderly manner and delivered to the Owner upon Final Completion.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees that are expressly identified in the Contract Documents as the Contractor's responsibility. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Owner and Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the Owner and the Architect, and agents and employees of either of them, from and against any and all liabilities, claims, damages, actions, judgments, losses, costs and expenses, including but not limited to attorneys' fees, whether directly incurred by the Owner or any other indemnified party or as a result of third-party claims against the Owner or any other indemnified party, arising out of or resulting from performance or nonperformance of the Work including but not limited to: (a) any accident or occurrence that happens or is alleged to have happened on, in or about the Project site or otherwise relating to the Project or the Work; (b) any breach of or failure to comply with the Contract Documents or to perform or observe any duty or obligation under the Contract Documents; or (c) any breach of any representation or warranty contained in the Contract Documents (collectively an "Indemnity Claim"), whether such Indemnity Claim arises on account of personal injury, bodily injury, sickness, disease or death, injury to or destruction of tangible property, monetary or economic loss, or other injury, loss or damage of any nature or kind but only to the extent attributable to the negligence or fault of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such Indemnity Claim is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18..

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.19 The Contractor hereby represents, promises and warrants that Contractor is financially solvent and possesses sufficient experience, licenses, authority, personnel and working capital to complete the services required hereunder.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement. If the Architect is dismissed or terminated by the Owner during the course of the Project, the Owner may undertake any functions of the Architect listed in the Contract Documents or designate another entity to perform such functions and all references to "Architect" in the Contract Documents shall thereafter be understood to be references to Owner or any such other entity.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's

failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to recommend that the Owner reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 4.2.15 Nothing contained in Article 4.2 shall relieve the Contractor of the obligation to comply with the Contract Documents.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Owner or the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor,

prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

- § 5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that
- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
 - .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for direct, verified, and substantiated increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the

Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work not involving adjustment in the Contract Sum or extension of the Contract Time may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;

- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without

prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.1.5 The date of Final Completion of the Work is the date that the Architect certifies in the Final Certificate for Payment pursuant to Section 9.10.1 that the Work is acceptable under the Contract Documents and the Contract is fully performed.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work. The Contractor agrees that time is of the essence and that the Owner shall suffer substantial damages if the Work is not completed within the Contract Time as adjusted by Change Order, if at all.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other reasonable causes that the Contractor asserts, including but not limited to pandemics, riots, civil disobedience, insurrection, or acts of domestic or international terrorism, then the Contract Time shall be extended for such reasonable time as the Owner and Contractor determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents. The Contractor hereby represents, promises, and warrants that the Contract Sum includes all costs consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the results required by the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.3.3.1 With each Application for Payment, the Contractor shall submit any certificates, lien waivers, releases, and other documents as may be reasonably required by the Owner or the Architect, and shall include, without limitation: (i) a conditional waiver and release in the form required by the Owner or the Architect for all Subcontractors whose Work in the current period payment is sought in the Application of Payment, and (ii) an unconditional waiver and release form in the form required by the Owner or the Architect for all Subcontractors for whose Work payment was made by the Owner in response to the Contractor's preceding Applications for Payment.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make undisputed payments due to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- .7 repeated failure to carry out the Work in accordance with the Contract Documents; or
- .8 Failure to comply with laws, ordinances, regulations, or orders of any public authority having jurisdiction over the performance of the Work.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld. Notwithstanding any provision of the Agreement to the contrary, the Owner may refuse to make payment of the full amount recommended by the Architect because:

- a. Claims have been made against the Owner on account of the Contractor's performance or furnishing of the Work for which the claimant has demonstrated a likelihood of success on the merits, as determined by the Owner, at its discretion; or
- b. Other factors entitling the Owner to a set-off against the amount recommended under the Contract Documents, including, but not limited to, the Owner's reasonable belief that factors enumerated in Section 9.5.1 exist.

If the Owner refuses to make payment of all or any portion of the amount recommended by the Architect, the Owner shall give the Contractor written notice, with a copy to the Architect, stating the reasons for such action. The Owner shall promptly pay the Contractor the amount so withheld, or any adjusted amount agreed upon by the Owner and the Contractor, when the Contractor corrects to the Owner's satisfaction the reasons for the withholding or the Owner

determines that factors warranting the withholding no longer exist. Contractor's continued performance of the Work of the Project shall not be construed to be a waiver of any right to subsequently challenge Owner's act of reducing or withholding a payment hereunder.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.5.5 The Owner shall make monthly progress payments as described in Section 9.4, and set forth in the Agreement, until the scheduled (including time extensions made by Change Orders) time for Substantial Completion. If the Project is not substantially complete at this time, the Owner may, at its discretion, withhold a portion of further progress payments until the Project is substantially complete but only to the extent necessary to protect Owner from costs directly related to the delay in achieving Substantial Completion.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than thirty days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect may, on request and at the Architect's discretion, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage pursuant to Colorado law.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner, (7) operating and maintenance manuals, (8) identification lists of all materials and equipment, (9) inspection certificates, (10) demonstration by the Contractor to the Owner concerning the proper operation and maintenance of all equipment. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

§ 9.10.6 Notwithstanding any other provision on final payment in the Contract Documents, pursuant to C.R.S. §38-26-107, the Owner shall publish a notice of final settlement twice in a public newspaper of general circulation in the County where the Project is located at least ten (10) days before the date and time of final payment. If a claim is filed before the date and time of the final payment, the Owner shall withhold from the final payment sufficient funds to pay the claim until the claim is paid or withdrawn.

§ 9.10.7 If applicable, on the date of final settlement, as advertised, and after the Contractor has submitted a written notice to the Owner that no claims have been filed, final payment shall be made in full. Notwithstanding the foregoing, if any unpaid claim for labor, materials, supplies or equipment is filed with the Owner before payment in

full of all sums due the Contractor on the final settlement date, the Owner shall withhold from the Contractor sufficient funds, if available, to ensure the payment of such claim, until the same is paid or withdrawn. Such payment or withdrawal shall be evidenced by filing with the Owner a receipt of payment in full or an order authorizing withdrawal signed by the claimant or its duly authorized agent or assignee. Such funds shall ordinarily not be withheld longer than ninety (90) days following the date fixed for final settlement with the Contractor as set forth in the published notice of final settlement, unless an action at law has been commenced within that time to enforce such unpaid claim and a notice of lis pendens has been filed with the Owner. At the expiration of the ninety (90) day period, the Owner shall release to the Contractor all funds that are not the subject of such action at law. Notwithstanding the provisions in this section, in the event the Colorado statutory procedure as set forth herein is amended during the term of the Contract for construction, such amended procedure shall be substituted accordingly.

§ 9.10.8 When the Work is complete, the Contractor shall provide one complete set, in hard copy, of Drawings and Specifications upon which is marked in red all modifications made during construction so as to represent the as-built condition of the Project and shall deliver same to the Owner.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use, storage or disposal of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel and in accordance with all applicable laws and regulations.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 10 days after discovery, or such shorter time as may be required by law. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.2.9 Notwithstanding the independent responsibility of Subcontractors or Suppliers, the Contractor shall be responsible for the safety of its Work, materials, equipment, tools, and similar such items on and at the site. The Owner disclaims all responsibilities for the safety of the Work, materials, equipment, tools, and similar such items, or for any damage, which may be done to same, due to theft or any other cause, until such time as the Owner formally accepts the completed Work under Section 9.10, unless the damage is caused by the Owner's negligent or willful conduct.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 The Owner represents that it is prohibited by the Colorado Constitution, the Johnstown Home Rule Charter, the Johnstown Municipal Code and state law from entering into indemnification obligations without appropriations in its budget which it has not made for this Agreement. Accordingly, only to the extent allowed under law, and without in any manner waiving the protections, procedural requirements, defenses and monetary limitations on damages provided for in the Colorado Governmental Immunity Act, § 24-10-101 *et seq.*, C.R.S., as amended, the Owner agrees to indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity. The Owner shall not be required to defend, indemnify or hold harmless the Contractor for any acts, omissions or negligence of the Contractor, its Subcontractors, Sub-subcontractors or their employees or agents.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred, to the extent permitted by law.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7. The Contractor shall refer inquiries from the media to the Owner and shall not address the media with respect to emergencies without the Owner's written consent.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 [Intentionally omitted]

§ 11.2.3 [Intentionally omitted]

§ 11.3 [Intentionally omitted]

(Paragraphs deleted)

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§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss.

(Paragraphs deleted)

§11.5 [Intentionally omitted]

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor may be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within two year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the two-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The two-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The two-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the two-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the

Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law and Venue

The Contract shall be governed by the laws of the State of Colorado, excluding that jurisdiction's choice of law rules. Venue for any legal proceeding shall be in the County of Weld, State of Colorado.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located, as provided by law. For the avoidance of doubt, the Owner shall not be obligated to pay interest on the retainage withheld pursuant to the Contract Documents.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.1.5 Unless payment is otherwise withheld as provided in the Contract Documents, the Contractor may stop all Work if the Owner fails to make payment on a Certificate for Payment within thirty (30) days following the time stated in the Contract Documents. The Contractor may thereafter terminate the Contract if the Owner's failure to make a payment remains uncured for a period of sixty (60) days after the payment first became due unless payment is withheld as provided in the Contract Documents.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;

- .4 receives a stop work order as issued by order of a court or other public authority having jurisdiction over the Project;
- .5 is unable to complete the Work due to a shortage in materials caused by an act of government, such as declaration of national emergency;
- .6 fails to obtain lawfully-required permits or licenses;
- .7 fails to procure and maintain the insurance coverage required by the Contract Documents; or
- .8 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If such costs and damages to finish the Work exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum may include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed in accordance with the Contract Documents and costs directly incurred by reason of the termination, including costs attributable to termination of Subcontracts.

§ 14.4.4 In the event of any termination of the Contract, the Contractor agrees to reasonably cooperate and provide any information requested by Owner in connection with completion of the Project. The Contractor further agrees to remove its property from the site, except as otherwise requested by the Owner.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later, unless a shorter time is otherwise required by law.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 The Contractor is aware that a portion of the Work is scheduled for performance and completion during times when variable and severe weather conditions may be expected to exist and agrees expressly that the Contract Sum is based upon completion of the Work within the Contract Time and under the weather conditions reasonably foreseeable during the allotted time for the Work. For purposes of permitting an extension of time due to abnormal or unusually severe weather conditions, the following conditions shall be considered abnormal or unusually severe:

1. Precipitation exceeding the historical mean for the months of construction by more than one standard deviation;
2. For winter construction, average temperature less than the historical mean for the months of construction by more than one standard deviation;
3. For winter construction, number of days below freezing exceeding the historical mean for the

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4. months of construction by more than one standard deviation; and/or
Isolated abnormal weather occurrences of a severely destructive nature, which in fact caused substantial destruction at the Site.

All statistical calculations under this paragraph shall be based upon data available from the records of the National Weather Service for Weld County, Colorado, and from the State Climatologist for the same area. The Contractor shall submit such historical and current data, together with the calculation showing the necessary standard deviation, at the time of any request for an extension of time due to abnormal or severe weather conditions..

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents. The term "consequential damages" shall not include the cost of any structural repair, dismantling, replacement or waste that is related to the Contractor's, a Subcontractor's, a supplier's or manufacturer's negligence.

§ 15.2 Initial Decision

This Section 15.2 and all other references to the Initial Decision Maker in these General Conditions of the Contract for Construction are only applicable if there is an Initial Decision Maker identified in the Agreement.

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 [Intentionally omitted]

§ 15.3 Mediation

§ 15.3.1 In the event of any dispute or claim arising under or related to the Contract, the parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other as set forth in Section 15.2.1. If such dispute or claim is not settled through negotiations under Section 15.2.1, then the parties agree to attempt in good faith to settle such dispute or claim by mediation conducted under the auspices of the Judicial Arbiter Group (JAG) of Denver, Colorado or, if JAG is no longer in existence, or if the parties agree otherwise, then under the auspices of a recognized established mediation service within the State of Colorado. Such mediation shall be conducted within 60 days following either party's written request for mediation. The costs of mediation shall be shared equally by the parties. If such dispute or claim is not settled through mediation, then either party may initiate a civil action in the District Court of Weld County, Colorado.

§ 15.3.2 [Intentionally omitted]

§ 15.3.3 [Intentionally omitted]

§ 15.3.4 [Intentionally omitted]

§ 15.4 [Intentionally omitted]

(Paragraphs deleted)

§ 15.4.4 [Intentionally omitted]

(Paragraphs deleted)

Date 5-27-2025

To City of Johnstown

RE: Design Development VS Construction Documents

To whom it may Concern

Below are a few items that have changed from Design Development to Construction Documents.

- Furniture Allowance per quote from Workplace Partners in the amount of \$143,000 (added per Doug after the DD estimate)
- We added a \$25,000 allowance for furniture & appliances that wasn't part of the DD estimate (per the direction of Doug)
- Boring from the new building to the existing building for communications in the amount of \$64,000
- The electrical switchgear increased by \$100,000 since the DD Estimate in January
- The steel and wood fence on the landscape plans was previously assumed to be an Ameristar fence or a simple wood fence - \$10,000 increase
- The Site Furnishings shown on the Landscape plans increased by \$56,000. Only 5-6 items were shown on the DD plans and now there are 12-15 items
- Steel fab increased by \$7,000 for AISC requirements
- The Doors frames, and hardware increased by \$90,000 due to Greeley Lock & Key being used in the DD Estimate, and their quote wasn't per specifications.
- The site utilities increase by \$100,000 due to the foundation drain and site utilities being revised between DD and CD phases.
- Added Alternate #1 in the amount of \$28,506.00.
- Added Alternate #3 in the amount of \$87,917.00, plus P&P bonds in the amount of \$415.00.

Regards

Bruce Zink

PROJECT ESTIMATE SUMMARY



Project: Johnstown Development Services Building
Owner: Town of Johnstown
Architect: D2C Architects
Estimate: GMP
Duration: 10 months

Date: May 15th, 2025
Estimator: Rick Vandenberg
Building SF: 9,076
Parking Stalls: 52
Site Area (Acre): 1.75

DIRECT COSTS SUMMARY

Division	Division Description	Cost	Building Cost/SF	% of Building Total
01	General Conditions	\$354,032	\$39.01	9.45%
01	General Requirements	\$83,771	\$9.23	2.24%
02	Existing Conditions	\$6,000	0.66	0.16%
	A. Selective demolition	\$6,000		
	B. Hazardous material abatement	None anticipated		
03	Building Concrete	\$166,595	\$18.36	4.45%
	A. Footings	\$79,991		
	B. Slabs	\$86,605		
04	Masonry	\$252,800	\$27.85	6.75%
	A. Concrete masonry units	\$12,400		
	B. Brick/stone veneer	\$223,500		
	C. Architectural precast	\$16,900		
05	Metals	\$96,712	\$10.66	2.58%
	A. Structural steel	\$70,000		
	B. Misc. steel	\$26,712		
06	Wood, Plastics, Composites	\$336,658	\$37.09	8.99%
	A. Rough carpentry / Framing	\$224,234		
	B. Casework, tops, millwork	\$112,424		
07	Thermal & Moisture Protection	\$396,188	\$43.65	10.58%
	A. Roofing	\$147,379		
	B. Siding	\$109,675		
	C. Sealants, barriers, insulation	\$139,134		
08	Doors & Windows	\$366,365	\$40.37	9.78%
	A. Frames, doors, hardware	\$91,790		
	B. Aluminum framing & glazing	\$213,615		
	C. Alternate 1 Solatubes	\$28,506		
	D. Overhead, sectional, coiling doors	\$32,454		
09	Finishes	\$261,272	\$28.79	6.98%
	A. Metal studs & drywall	\$66,298		
	B. Acoustical ceilings & wall panels	\$86,565		
	C. Resilient, carpet, tile	\$68,120		
	D. Painting	\$40,289		
10	Specialties	\$97,819	\$10.78	2.61%
11	Equipment	\$9,271	\$1.02	0.25%
	A. Appliances	\$9,271		

12	Furnishings		\$184,129	\$20.29	4.92%
	A. Window coverings	\$16,126			
	B. Building Furnishings	\$168,003			
13	Special Construction		\$0	\$0.00	0.00%
14	Conveying Equipment		\$0	\$0.00	0.00%
21	Fire Suppression		\$59,995	\$6.61	1.60%
22	Plumbing		\$144,300	\$15.90	3.85%
23	Heating, Ventilation, Air Conditioning		\$312,750	\$34.46	8.35%
26	Electrical		\$474,927	\$52.33	12.68%
	A. Electrical & Lighting	\$391,915			
	B. Solar Panel Allowance	\$83,012			
27	Communications		\$74,119	\$8.17	1.98%
28	Electronic Safety & Security		\$67,168	\$7.40	1.79%
TOTAL BUILDING COSTS			\$3,744,872	\$412.61	100.00%

Division	Division Description	Cost	Site Cost/Acre	% of Site Total
31	Earthwork	\$369,671	\$211,240.33	32.16%
	A. Site demolition	\$17,075		
	B. Excavation & grading	\$315,514		
	C. Erosion Control	\$37,081		
32	Exterior Improvements	\$504,423	\$288,241.71	43.89%
	A. Concrete paving & sidewalks	\$123,863		
	B. Asphalt paving	\$66,180		
	C. Landscape, hardscape, irrigation, fence	\$314,380		
33	Utilities	\$275,216	\$157,266.30	23.95%
TOTAL SITE COSTS		\$1,149,310	\$656,748.35	100.00%

INDIRECT COSTS SUMMARY

Description		Cost	
Preconstruction services	LS	\$0	
Building permit/Plan review fees		\$0	By Owner
Capital facility/Impact fees		\$0	By Owner
City use tax		\$0	Exempt
State sales tax		\$0	Exempt
Builder's risk insurance	0.40%	\$19,577	
Performance & payment bond	0.50%	\$24,471	
General liability insurance	0.35%	\$17,130	
Cost escalation	0.00%	\$0	
Construction contingency	3.00%	\$146,825	
Sampson fee	2.45%	\$125,004	
TOTAL INDIRECT COSTS		\$333,006	
TOTAL DIRECT & INDIRECT COSTS		\$5,227,188	\$575.94 Per SF of Building

PROJECT ESTIMATE CLARIFICATIONS



Project: Johnstown Development Services Building
Estimate: GMP
Update No: 0

Date: May 16, 2025
Project SF: 9,076
Site area (Acre): 4.3

GENERAL CLARIFICATIONS

- 1 Pricing is based on the following documents:
 - Johnstown Development Services drawings dated 04/15/2025 by D2C Architects.
 - Johnstown Development Center Specifications, Vol. 1 and Vol. 2, dated 04/15/2025 by D2C Architects.
 - Addendum No. 01 dated 04/18/2025.
 - Addendum No. 02 dated 04/28/2025.
 - Addendum No. 03 dated 04/28/2025.
- 2 We have included 10 months of General Conditions and General Requirements for the building construction starting June 2025.
- 3 This estimate assumes all interior material selections are per the Materials Finish Legend on sheet A-701.
- 4 Building and Fire permit and plan review fees are to be paid by the Owner.
- 5 Capital Facility Fees, Tap Fees, etc. are to be paid by the Owner.
- 6 Tax is not included and is considered tax Exempt.
- 7 Any Planning, Zoning, Development, or Tap fees are to be paid by the Owner..
- 8 This price does not included any costs associated with upgrading utilities or infrastructure beyond what is shown on the plans.
- 9 Any utility extension fees are to be paid by the Owner.
- 10 Temporary power, lighting and water is to be billed as a cost of the work and is included in the estimate.
- 11 Site security is not included and will be billed out as a cost of the work if required. This is not anticipated.
- 12 We have included a 6'-0" tall chainlink temporary construction fence around the site.
- 13 We have included Performance & Payment Bonds. If warranty bonds are required, there will be additional costs associated.
- 14 We have included a 3% Construction contingency. All savings will be returned to the Owner.
- 15 3D BIM Coordination drawings are not included, and are not anticipated to be required.
- 16 All 3rd party testing and inspections are to be under a separate contract and paid for by the Owner.
- 17 General Conditions will be billed at actual cost and considered a cost of the work. Any savings will become cost of the work and returned to the owner.
- 18 We have not included any costs for material escalation or delays for any long lead materials due to unquantifiable changes in the current market conditions.
- 19 All allowances include material, labor, equipment and shipping for a complete installation.
- 20 Cost loading and Resource Loading Schedules are not included.
- 21 Any AutoCAD .DWG or REVIT files required by subcontractors shall be made available at no cost to the contractors.
- 23 Alternate #1, adding Solartube Skylights, is included in the GMP.
- 24 Alternate #3, adding Solar Panels is included in the GMP.

SPECIFIC DIVISION CLARIFICATIONS

DIVISION 2 EXISTING CONDITIONS CLARIFICATIONS

- 1 We have included demolition of the existing curb & gutter, etc. as shown on the Civil Plans.
- 2 We have not included any identification and /or removal of asbestos, lead, PCBs, or other hazardous material.
- 3 All salvage is property of the demolition contractors unless noted otherwise in the contract documents.

DIVISION 3 BUILDING CONCRETE CLARIFICATIONS

- 1 All foundations, slab on grade, equipment pads, reinforcing and pumping are included.
- 2 We have included a 4" " slab on grade reinforced with welded wire mesh.
- 3 We have included a 15 mil Stego-type vapor barrier under the building slab.
- 4 We have included a 4" gravel bed under the vapor barrier

DIVISION 4 MASONRY CLARIFICATIONS

- 1 We have included all BR-01 and BR-02 brick, thin limestone, precast concrete, mortar, metal drip edge, cavity drainage materials, weep vents, and metal flashing at the building and monument sign.
- 2 We have included the ground-face CMU walls and cap at the trash enclosure.
- 3 We have included standard gray mortar at all CMU and stone.
- 4 We exclude the State Qualified Masonry Inspector as noted in specification section 04 2113, 1.4.1.
- 5 A steel angle brick ledge has been included to support the thin limestone veneer per email with D2C dated 05/15/2025.

PROJECT ESTIMATE CLARIFICATIONS



DIVISION 5 METALS CLARIFICATIONS

- 1 We have included the structural steel columns, beams, and miscellaneous steel.
- 2 We have included the metal roof access stairs/ladder to provide access to the roof.
- 3 We have not included any Connection Designs or Calculations
- 4 We have not included any allowances for unsized framing or design items not shown in the documents.
- 5 All structural materials will be primed with standard grey oxide. No specialty primers, prep or finish is included.

DIVISION 6 WOODS, PLASTICS, COMPOSITES CLARIFICATIONS

- 1 All backing and blocking is included as required.
- 2 All plastic laminate casework, shelves, cubbies, and tops are included.
- 3 Pricing does not include AWI QCP Certificates, Natural stone, or Stainless Steel in the casework.
- 4 We have not included a mockup for the casework.
- 5 We have included all wood framing and sheathing utilizing panelized walls.
- 6 Wood roof trusses are to be open-web trusses, structurally sloped for drainage, with the associated structural engineering design.
- 7 Soffit and fascia are to be wood framed.
- 8 We have excluded the TREX patio planks per email with D2C dated 05/15/2025.
- 9

DIVISION 7 THERMAL & MOISTURE PROTECTION CLARIFICATIONS

- 1 We have included dampproofing of the foundation walls with 2" rigid insulation. No waterproofing is included.
- 2 We have included R-21 insulation in the exterior walls with a reinforced poly vapor barrier.
- 3 We have included R-13 batt insulation at the interior partitions.
- 4 We have included a 60-mil TPO roof system with 2 layers of 3" polyisocyanurate insulation mechanically attached to the roof deck.
- 5 We have included costs for the spray foam thermal insulation.
- 6 We have included the roof-related sheet metal coping cap, roof edge metal, and other prefinished sheet metal.
- 9 We have included all required sheet metal items for a complete roof system. All items to be 24 and 26 gauge prefinished metal.
- 7 We have included a roof hatch, ladder-up, and roof hatch guardrails.
- 8 We have included joint sealants at the building exterior façade, building interior items, and at the site concrete flatwork.
- 9 We have included the specified Parallel metal wall panels, roof screen, patio fence and trash enclosure gates.
- 10 We have included a fluid-applied membrane air/water barrier in lieu of Tyvek.
- 11

DIVISION 8 DOORS & WINDOWS CLARIFICATIONS

- 1 We have included all hollow metal frames and doors, prefinished wood doors and door hardware.
- 2 We have included the aluminum storefront, aluminum doors with door hardware, glass, glazing and joint sealants.
- 3 We have included low-e glazing where shown.
- 4 We have included the coiling counter door at the transaction countertop.
- 5 We have included access doors where needed.
- 6 We have not included any testing or special inspections, including NFRC Field testing or ASTM water tests.
- 7 The Solartube skylights are included in Alternate #1 at a value of \$26,836.
- 8

DIVISION 9 FINISHES CLARIFICATIONS

- 1 All drywall with accessories is included with square corner bead at all outside corners.
- 2 We have included moisture resistant drywall at all wet locations.
- 3 We have included tile backer board at wall tile locations, typical.
- 4 We have assumed drywall returns at the windows with solid surface window sills.
- 5 Drywall is to be Level 4 finish except behind vinyl wallcoverings, where Level 5 finish will be utilized.
- 6 Fire tape finish at all areas not to be exposed to view, above finished ceilings, mechanical rooms, etc.
- 7 Sheetrock at interior side of exterior walls figured to deck at all locations.
- 8 We have included ceramic wall tile at all walls per the Room Finish Schedule, sheet A-701.
- 9 We have included indicated acoustical panel ceilings and a acoustical treatments where shown..
- 10 Flooring per Floor Finish Plan, sheet I-111 and the Finish Material Legend on sheet A-701. Moisture testing of substrate is excluded. Testing by owners 3rd party inspector.
- 11 All hollow metal frames and doors are to be painted.
- 12 All wood doors are to be factory finished.

PROJECT ESTIMATE CLARIFICATIONS



-
- 13 Paint all exposed structural building elements exposed to view in finished areas.
 - 14 We have included interior and exterior painting and wallcoverings.
 - 15 We have included the sealer at the exposed concrete slabs in the Electrical, Janitor, IT and Fire Riser rooms.

DIVISION 10 SPECIALTIES CLARIFICATIONS

- 1 We have included all interior specialties as shown.
- 2 We have included all toilet and bath accessories as shown.
- 3 We have included the fire protection specialties as required (fire extinguishers and cabinets).
- 4 We have included the Room Identification signs and the Dimensional Letters as shown on the plans.
- 5 We have included frameless wall mirrors at the toilet vanities.
- 6 We have included the exterior wall canopies.
- 7 We have included the traffic signage as per the contact documents.

DIVISION 11 EQUIPMENT CLARIFICATIONS

- 1 We have included a dishwasher and garbage disposal in the construction base bid amount. All other appliances are included in the FF&E Allowance.
- 2 All televisions, AV equipment and supports are to be supplied and installed by owner, and/or purchased through the FF&E Allowance.

DIVISION 12 FURNISHINGS CLARIFICATIONS

- 1 We have included roller shades at the windows shown to receive these.
- 2 We have included quartz and solid-surface countertops where shown.
- 3 All other Furnishings and FF&E are by the owner and will be purchased through the FF&E Allowance..
- 4 Pricing does not include AWI QCP Certificates, Natural stone, or Stainless Steel in the casework.
- 5 We have not included a mockup for the casework.
- 6 There is no common area furniture, pool area furniture, art work, decorations or FF&E included, other than the FF&E Allowance and Furniture quote provided to Sampson by the Town of Johnstown and D2C..

DIVISION 13 SPECIAL EQUIPMENT CLARIFICATIONS

- 1 N/A
- 2

DIVISION 21 FIRE SUPPRESSION CLARIFICATIONS

- 1 We have included costs to install a new wet fire sprinkler system at the interior building areas.
- 2 All piping for the new building is to be schedule 10 and 40 black steel piping with concealed heads in finished ceilings.
- 3 We assume that there will be adequate water available to supply the fire sprinkler system without the use of a fire pump. A fire pump is not included.

DIVISION 22 PLUMBING CLARIFICATIONS

- 1 Assuming 2 psi gas pressure
- 2 PVC Drain, Waste, and Vent below grade, with cast iron above-grade.
- 3 We have included hook-up to the appliances.
- 4 We have included all plumbing fixtures per the contract documents.
- 5 We have included a water hydrant on the roof as noted on sheet P-101.

PROJECT ESTIMATE CLARIFICATIONS



DIVISION 23 HVAC CLARIFICATIONS

- 1 We have included all ductwork, one (1) RTU, insulation, exhaust fans, roof curbs, VAVs, fan-powered VAVs, and electric heaters for a complete HVAC system.
- 2 We have included an automatic temperature control system per the contract documents.
- 3 We have included testing, adjusting and balancing the HVAC system per the contract documents.

DIVISION 26 ELECTRICAL CLARIFICATIONS

- 1 A Fire Alarm system is included.
- 2 We have included costs for Access control, Video Surveillance, data, phone, and electronic door locks.
- 3 We have included the bore and conduit to the existing building for fiber/data per Note 3 on sheet MEP-101.
- 4 We have included all lighting and lighting controls per the contract documents.
- 5 We have included the electric vehicle charging stations as shown on sheet C-301 and conduit for a future EV charging station.

DIVISION 31 EARTHWORK CLARIFICATIONS

- 1 Price includes all survey as needed.
- 2 Price includes Storm water BMP maintenance and monitoring as required
- 3 We have included the overexcavation and compacted fill at the building pad.
- 4 We have included the site grading with compaction per the contract documents.
- 5 No topsoil import is included.
- 6 We have included the building perimeter drain with the drainage rock.

DIVISION 32 EXTERIOR IMPROVEMENTS CLARIFICATIONS

- 1 We have included the asphalt paving with the aggregate base.
- 2 We have included all on-site concrete curb & gutter, sidewalks, and concrete paving.
- 3 We have included all landscaping, irrigation, boulders, plantings, and trees.
- 4 We have included the site furnishings as shown on sheet LS501.
- 5 All parking signage is included.
- 6 All concrete handicap ramps are included.
- 7 We have included the new monument sign and trash enclosure as shown on sheet A-023.
- 8 Pricing includes striping and signage for parking stalls as required.

DIVISION 33 UTILITIES CLARIFICATIONS

- 1 We have included the 6" fireline and tap at the street to the building.
- 2 We have included the 1.25" domestic water service and tap at the street to the building.
- 3 We have included the 1" irrigation tap with service onto the property.
- 4 We have included the asphalt patching in the street at the utility tie-ins per the Town of Johnstown Standards.
- 5 We have included the 4" sanitary sewer service from the building to the City Main in the street.
- 6 We have included all storm sewer drainage with inlets, outlets, etc.

Division 2

Division	Description	Qty.	Unit	Rate	Cost	
2	Existing Conditions					
	A. Selective demolition					
	Relocate Existing Light Pole	1	LS	\$2,500.00	\$ 2,500	
	Relocate Existing Irrigation Boxes	1	LS	\$3,500.00	\$ 3,500	
	SubTotal				\$ 6,000	
	B. Hazardous material abatement					
	None anticipated					

Division 3

Division	Description	Qty.	Unit	Rate	Cost	
3	CONCRETE					
	A. Footings					
	Best Option Concrete Proposal					
	Footings	1	LS	\$ 32,322.60	\$ 32,323	
	Pilasters	1	LS	\$ 2,934.49	\$ 2,934	
	Walls	1	LS	\$ 44,733.64	\$ 44,734	
	Subtotal				\$ 79,991	
	B. Slabs					
	Best Option Concrete Proposal					
	Thickened Edge	1	LS	\$ 6,125.02	\$ 6,125	
	6" SOG	1	LS	\$ 3,527.73	\$ 3,528	
	Stoop Slab	1	LS	\$ 448.04	\$ 448	
	4" SOG	1	LS	\$ 54,943.11	\$ 54,943	
	Insulation, Void form, Pumping	1	LS	\$ 21,560.74	\$ 21,561	
	Subtotal				\$ 86,605	

Division 4

Division	Description	Qty.	Unit	Rate	Cost	
4	MASONRY					
	A. Block					
	MSI Wall Systems					
	CMU 8" trash Enclosure	1	LS	\$12,400.00	\$12,400	
	Subtotal				\$12,400	
	MSI Wall Systems					
	B. Brick					
	Full Brick	1	LS	\$172,000	\$172,000	
	Limestone veneer	1	LS	\$45,000	\$45,000	
	XPS insulation under brick	1	LS	Div 7		
	XPS insulation under metal panels	1	LS	Div 7		
	Metal Flashing	1	LS	\$6,500	\$6,500	
	Brick BR-1	2589.31	SF			
	Brick BR-2	1082.15	SF			
	Limestone Veneer	1021.95	SF			
	Trash enclosure	213	SF			
	Subtotal				\$223,500	
	C. Arch. precast					
	Accessories and precast	1	LS	\$16,900.00	\$16,900	
	Subtotal				\$16,900	

Division 5

Division	Description	Qty.	Unit	Rate	Cost	
5	METALS					
	A. Structural steel					
	Peppertank Proposal	1	LS	\$ 30,000.00	\$30,000	
	Steel Erect Budget	1	LS	\$ 35,000.00	\$35,000	
	AISC Requirements	1	LS	\$ 5,000.00	\$5,000	
	Subtotal				\$70,000	
	B. Misc. steel					
	Misc. steel hardware and gate	1	LS	\$ 7,000.00	\$7,000	
	Add For Brick Ledge	452	LF	\$ 16.00	\$7,232	
	Grout anchor bolts	14	ea	\$ 120.00	\$1,680	
	Sidewalk Chase	1	ea	\$ 4,500.00	\$4,500	
	Handrails			Inc		
	Trash Gates	1	PR	\$ 6,300.00	\$6,300	
	Subtotal				\$26,712	

Division 6

Division	Description	Qty.	Unit	Rate	Cost	
6	WOOD & PLASTICS					
	A. Rough carpentry					
	Backing	824	LF	\$8.00	\$6,592	
	Panelized Material Handling	1	LS	\$10,000.00	\$10,000	
	Wood wall panels - MEAD	1	LS	\$75,866.00	\$75,866	
	Roof Trusses - MEAD	1	LS	\$41,234.00	\$41,234	
	Loose framing					
	Window bucks	794	LF	\$11.00	\$8,734	
	Misc Fence material	1	LS	\$3,000.00	\$3,000	
	Roof curb	80	LF	\$12.00	\$960	
	Parapet cap	335	SF	\$8.50	\$2,848	
	North wall sheathing allowance	1	LS	\$5,000.00	\$5,000	
	Framing installation - Paxton	1	LS	\$66,500.00	\$66,500	
	Roof Curb Sheathing per detail	1	LS	\$3,500.00	\$3,500	
	Subtotal				\$224,234	
	B. Millwork & finish carpentry					
	LA Woodworks	1	LS	\$112,424.00	\$112,424	
	Work Station	2	EA			
	Casework-lowers	80.26	LF			
	Casework-uppers	35.3	LF			
	Quartz tops	140.8	SF			
	solid surface tops	165.4	SF			
	Transaction counter front	68	SF			
	Casework-complete	14	LF			
	Installation Budget Included		Inc			
	Composite Patio Deck			Not Used		
	Shelving	75	LF			
	Subtotal				\$112,424	

Division 7

Division	Description	Qty.	Unit	Rate	Cost
7	THERMAL & MOISTURE PROTECTION				
	A. Roofing				
	Ramos Roofing Proposal	1	LS	\$ 96,934.00	\$96,934
	TPO roofing	8324	SF		
	Walk Pads	34	LF		
	Roof Hatch w/ladder up post	1	LS	\$ 5,445	\$5,445
	Sheet metal flashing and trim	1	LS	\$ 35,000	\$35,000
	Parapet Cap	694	LF		
	Gutters and Downspouts and trim	1	LS	\$ 10,000.00	\$10,000
	Rod Supported Canopies	Division	10		
	Subtotal				\$147,379
	B. Metal Siding, Patio Fence and RTU Screen				
	Roof Check Proposal	1	LS	\$ 104,675.00	\$104,675
	Engineered Drawings	1	LS	\$ 5,000.00	\$5,000
	Mock Up (Not Required per D2C)	1	LS	\$ -	\$0
	Subtotal				\$109,675
	C. Caulking, W/P, barriers. Insulation				
	Dampproofing (ALCAL)	1	LS	\$ 2,780.00	\$2,780
	Building caulking (NPW)	1	LS	\$ 19,497.00	\$19,497
	Pavement sealants		INC		
	Firestopping (Sampson)	2	LS	\$ 5,001.00	\$10,002
	Thermal insulation (Alcal)	1	LS	\$ 31,795.00	\$31,795
	Water repellents	2172	SF	\$ 5.00	\$10,860
	Fluid applied air barriers (MSI)	1	LS	\$ 33,700.00	\$33,700
	Rigid Insulation (MSI)	1	LS	\$ 30,500.00	\$30,500
	Below grade insulation	Division	3		
	Subtotal				\$139,134

Division 8

Division	Description	Qty.	Unit	Rate	Cost
8	DOORS & WINDOWS				
	A. Hollow metal & hardware				
	LaForce Proposal	1	LS	\$84,290.00	\$84,290.00
	Note: Includes ALL Hardware				
	Jaco - Install doors & hardware	1	LS	\$7,500.00	\$7,500.00
	Subtotal				\$91,790
	B. Alum. & glass				
	Glass Masters Proposal	1	LS	\$213,615.00	\$213,615
	451TCG Storefront w/500 series wide style doors			Inc	
	Kawneer Versoleil Sunshade Outrigger System			Inc	
	Exterior glass quotes as 1" insulated tempered			Inc	
	Interior glass quoted as 1/4" glass tempered			Inc	
	Subtotal				\$213,615
	C. Skylites				
	Solatubes Is an Alternate				\$28,506
	Subtotal				\$28,506
	D. Overhead & coiling doors				
	Gold Label Proposal	1	LS	\$29,954.00	\$29,954
	(4) Transaction Doors		INC		
	Access Doors	1	LS	\$2,500.00	\$2,500
	Subtotal				\$32,454

Division 9

Division	Description	Qty.	Unit	Rate	Cost
9 FINISHES					
	A. Metal studs & drywall				
	Schaeffer Drywall Proposal	1	LS	\$60,271.00	\$60,271
	5/8 Type X drywall		Inc		
	5/8 Cement Board		Inc		
	5/8 Moisture Resistant Drywall		Inc		
	HM frame install		Inc		
	Lvl 4 finish		Inc		
	Touch up Paint	1	LS	\$6,027.10	\$6,027
	Subtotal				\$66,298
	B. Acoustic				
	Front Range Ceilings Proposal	1	LS	\$86,565	\$86,565
	ACT-1 and ACT-2		Inc		
	AB-01 Blades		Inc		
	AC-01 Soelberg Clouds		Inc		
	AP-01 Soelberg Muto		Inc		
	Subtotal				\$86,565
	C. Flooring				
	Commercial Flooring Proposal	1	LS	\$68,120.00	\$68,120
	Resilient base and accessories		Inc		
	Resilient tile flooring.		Inc		
	Floor Protection		Inc		
	Tile carpeting		Inc		
	Minor floor prep		Inc		
	Crack isolation membrane		Inc		
	transitions		Inc		
	Monument sign tile		Inc		
	Subtotal				\$68,120
	D. Painting & vinyl wall covering				
	Painting Plus Proposal	1	LS	\$33,789.00	\$33,789
	Painting walls, ceiling		INC		
	Paint openings		INC		
	Sealed Concrete		INC		
	Touch up	1	LS	\$6,500.00	\$6,500
	Subtotal				\$40,289

Division 10

Division	Description	Qty.	Unit	Rate	Cost	
10	SPECIALTIES					
	Dynamic Specialties Proposal	1	LS	\$13,457.00	\$13,457	
	Toilet Compartments	3	EA			
	Toilet accessories	28	EA			
	Mapes Canopy Proposal	1	LS	\$48,721.00	\$48,721	
	Rod Hung Canopies	17	EA			
	Engineered Drawings	1	LS	\$1,500.00	\$1,500	
	Action Signs Proposal	1	LS	\$25,929.00	\$25,929	
	Signage Type A-H	38	EA			
	WC-1 Graphics	1	INC			
	Monument sign	1	INC			
	ABS Proposal	1	LS	\$4,592.00	\$4,592	
	Fire Extinguishers		INC			
	Fire Extinguisher Cabinets		INC			
	Defibrillator Medical Device		INC			
	Defibrillator Cabinet		INC			
	FRP Furnish & Install	1	LS		\$1,581	
	Colorado Specialties Proposal	1	LS		\$2,039	
	Corner Guards					
	CG-1	26	EA			
	CG-1 Installation	26	EA			
	Subtotal				\$97,819	

Division 11

Division	Description	Qty.	Unit	Rate	Cost	
11	EQUIPMENT					
	A. Appliances					
	Refrigerator	2	EA	\$ 2,641	\$5,282	
	Dishwasher	1	EA	\$ 940	\$940	
	Mini Fridge Wellness & Conf.	2	EA	\$ 812	\$1,624	
	Microwave	1	EA	\$ 925	\$925	
	Install	1	LS	\$ 500	\$500	
	Subtotal				\$9,271	

Division 12

Division	Description	Qty.	Unit	Rate	Cost	
12	FURNISHINGS					
	A. Window coverings					
	Ultra Clean Blinds Proposal	1	LS	\$ 16,126	\$16,126	
	Draper Manual Roller Shades					
	RS-1					
	RS-2					
	SubTotal				\$16,126	
	B. Furniture					
	Workplace Partners Proposal	1	LS	\$ 143,003	\$143,003	
	C. Appliances & Furnishings Allowance	1	LS	\$ 25,000	\$25,000	
	SubTotal				\$168,003	

Division 21

Division	Description	Qty.	Unit	Rate	Cost	
21	Fire Suppression					
	Front Range Fire Proposal					
	A. Sprinkler system	1	LS	\$ 59,995.00	\$ 59,995	
					\$ -	
	Subtotal				\$ 59,995	

Division 22

Division	Description	Qty.	Unit	Rate	Cost	
22	Plumbing					
	A. Plumbing & Piping					
	Aggie Plumbing Proposal	1	LS	\$ 144,300	\$ 144,300	
	L-1 Lavatory	QTY	3	EA		
	L-2 Lavatory	QTY	1	EA		
	S-1 Sink	QTY	1	EA		
	WC-1 Water closet	QTY	3	EA		
	WC-2 Water closet	QTY	1	EA		
	UR-1 Urinal	QTY	1	EA		
	JS-1 Janitor Sink	QTY	1	EA		
	EWC-1 Electric Water Cooler	QTY	1	EA		
	RH-1 Roof Hydrant	QTY	1	EA		
	WH-1 Wall Hydrant	QTY	3	EA		
	RCP-1 Recirculation Pump	QTY	1	EA		
	FD-1 Floor Drain	QTY	4	EA		
	FS-1 Floor Sink	QTY	1	EA		
	RD-1 Roof Drain	QTY	4	EA		
	ORD-1 Roof Drain	QTY	4	EA		
	WH-1 Water Heater	QTY	1	EA		
	RPZ Reduced pressure backflow preventer	QTY	1	EA		
	IMB Icemaker supply box	QTY	2	EA		
	DSN Downspout nozzle	QTY	4	EA		
	FGCO Cleanout	QTY	2	EA		
	FCO Floor Cleanout	QTY	3	EA		
	Subtotal				\$ 144,300	

Division 23

Division	Description	Qty.	Unit	Rate	Cost	
23	Heating, Ventilation, Air Conditioning					
	A. HVAC Sheet Metal Systems					
	Air Comfort Proposal	1	LS	\$ 312,750	\$ 312,750	
	RTU with roof curb	1	EA			
	Carrier VAVs	11	EA			
	GRDs	6	EA			
	Slot Diffusers	101	EA			
	Electric Wall Heater	2	EA			
	Electric Ceiling Heaters	1	EA			
	In Line Exhaust Fan	2	EA			
	Ceiling Mounted Exhaust Fan	1	EA			
	Lot of roof mounted duct	3	EA			
	Lot of insulated round and square duct	1	EA			
	DDC Controls	1	EA			
	Crane Fees		INC			
	Start up		INC			
	Air Balance		INC			
	Scissor lift fees		INC			
	Subtotal				\$ 312,750	

Division 26

Division	Description	Qty.	Unit	Rate	Cost		
26	ELECTRICAL						
	A. Power & Lighting						
	Hanna Electric Quote	1	LS	\$ 391,915	\$ 391,915		
	Lighting and Controls per schedule		Inc				
	Power distribution		Inc				
	Required mechanical circuitry		Inc				
	Electrical service from transformer		Inc				
	(2) Data conduits stubbed out of building		Inc				
	(2) future generator conduits stubbed		Inc				
	Ev Chargers conduit and circuits		Inc				
	Low Voltage rough in		Inc				
	Floor boxes for data		Inc				
	light poles		Inc				
	Temp Power		Inc				
	Subtotal				\$ 391,915		
	B. Solar Panels - Alt. #3						
	Solar Panel Allowance	1	LS	\$ 78,825	\$ 78,825		
	Escalation	1	LS	\$ 4,187	\$ 4,187		
	Subtotal				\$ 83,012		

Division 27

Division	Description	Qty.	Unit	Rate	Cost		
27	Communications						
	A. Communications						
	TimberLan Proposal						
	Low Voltage	1	LS	\$ 45,670	\$45,670		
	Boring the underground lines	1	LS	\$ 18,449	\$18,449		
	Low volt coordination	1	LS	\$ 10,000	\$10,000		
	Subtotal				\$74,119		

Division 28

Division	Description	Qty.	Unit	Rate	Cost		
28	Electronic Safety & Security						
	A. Special Systems						
	Hanna Electric Proposal						
	Fire Alarm System	1	LS	\$ 30,500.00	\$30,500.00		
	Greeley Lock and Key Proposal						
	Access Control	1	LS	\$ 36,668.31	\$36,668.31		
	Subtotal				\$67,168.31		

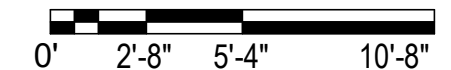
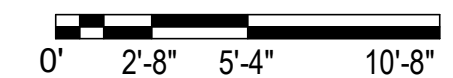
Division	Description	Qty.	Unit	Rate	Cost
31	EARTHWORK				
	Dunrite Earthwork Proposal				
	A. Site demolition				
	Demo pans, curb and gutter	108	LF	\$8.58	\$ 927
	Demo sidewalks and concrete paving	482	SF	\$2.79	\$ 1,345
	Demo trees. (no arborist)	18	EA	\$643.97	\$ 11,591
	Demo existing fences and fence columns	70	LF	\$21.24	\$ 1,487
	Sawcut and demo asphalt	243	SF	\$7.10	\$ 1,725
	Subtotal				\$ 17,075
	B. Excavation & grading				
	Survey	120	HR	\$155.00	\$ 18,600
	Strip and replace topsoil and landscape grade	971	CY	\$13.81	\$ 13,410
	On site cut to fill	3,817	CY	\$4.57	\$ 17,444
	Export Excess soils	3,381	CY	\$8.64	\$ 29,212
	6' building overex w / imported str fill and site soil	4,636	CY	\$20.48	\$ 94,945
	2' hardscape overex w/site soils	2,220	CY	\$6.28	\$ 13,942
	Bldg. Foundation Excavation / Backfill	883	CY	\$29.33	\$ 25,898
	Boulder Seating Excavation / Backfill	30	CY	\$200.89	\$ 6,027
	Curb & gutter, pans, mow band, and edge grading	1,383	LF	\$6.31	\$ 8,727
	Asphalt subgrade prep	1,990	SY	\$4.16	\$ 8,278
	Concrete Paving Subgrade Prep	1,894	SF	\$0.84	\$ 1,591
	Sidewalk, Path, courtyard and Patio Subgrade Prep	6,712	SF	\$0.92	\$ 6,175
	Building Slab Subgrade Prep	8,933	SF	\$0.65	\$ 5,806
	4" Perimeter Drain and Rock	468	LF	\$32.52	\$ 15,219
	Underslab Gravel to fine grade	8,933	SF	\$1.80	\$ 16,079
	Supply and Place Road Base under Asphalt 8"	1,990	SY	\$15.91	\$ 31,661
	Relocate existing light pole	1	LS	\$2,500.00	\$ 2,500
	Subtotal				\$ 315,514
	C. Erosion Control				
	Construction Fencing	1,408	LF	\$7.00	\$ 9,856
	SWPPP Maintenance	10	MO	\$800.00	\$ 8,000
	Filtrex Wattles	412	LF	\$4.18	\$ 1,722
	Rock/Curb sock	4	EA	\$67.35	\$ 269
	Inlet Protection	8	EA	\$211.81	\$ 1,694
	Check dams	1	EA	\$773.22	\$ 773
	Vehicle Tracking Pad with 1 refresh	2	EA	\$5,021.09	\$ 10,042
	Stabilized Staging Area with 6" Base	213	SY	\$14.78	\$ 3,148
	Concrete Washout (no liner) 2 haul offs	1	EA	\$1,575.77	\$ 1,576
	Subtotal				\$ 37,081

Division	Description	Qty.	Unit	Rate	Cost
32	Exterior Improvements				
	A. Concrete Paving & walkways				
	Best Option Concrete Proposal	1	LS	\$120,863.00	\$ 120,863
	Fence Footings	12	EA	\$250.00	\$ 3,000
	Curb and Gutter		Inc		
	Sidewalks		Inc		
	ADA ramps		Inc		
	Crosspans		Inc		
	Light Pole Bases		Inc		
	Bollards		Inc		
	Transformer pad		Inc		
	Sidewalk chase		Inc		
	Stairs		Inc		
	Monument sign pad		Inc		
	Trash enclosure		Inc		
	City Drive approach		Inc		
	Subtotal				\$ 123,863
	B. Asphalt paving				
	Best Option Concrete Proposal	1	LS	\$60,398.00	\$ 60,398
	Asphalt Paving 4-1/2 drive lanes	1,156	SY		
	Asphalt Paving 4" parking	835	SY		
	Mile High Striping Proposal				
	Pavement markings & signage	1	LS	\$5,782.00	\$ 5,782
	Subtotal				\$ 66,180
	C. Landscaping/Grading/Misc.				
	Integrated Site Services Proposal	1	LS	\$314,380.00	\$ 314,380
	Deciduous Tree		INC		
	Deciduous Shrub		INC		
	Perennials		INC		
	Native Seed Prep and install		INC		
	Bluegrass Sod		INC		
	River Rock Mulch (2" - 4")		INC		
	Boulder Seat Wall		INC		
	Wood Mulch Shredded Cedar		INC		
	Irrigation Design Build		INC		
	2x2x6 Site Boulders		INC		
	2x2x4 Site Boulders		INC		
	2x2x3 Site Boulders		INC		
	Site Furnishings and games		INC		
	Subtotal				\$ 314,380

Division	Description	Qty.	Unit	Rate	Cost
33	Utilities				
	A. Utilities				
	Dunrite Utility Proposal				
	Sanitary Sewer				
	Traffic Control for tie in	5	Day	\$ 998.41	\$ 4,992
	Asphalt, curb and walk demo and patch	160	SF	\$ 123.18	\$ 19,709
	4" SDR 35 Sewer Service	1	EA	\$ 16,192.15	\$ 16,192
	Raise 4' manhole to proposed grade	1	EA	\$ 1,102.73	\$ 1,103
	Flow fill backfill for sanitary tie in	160	SF	\$ 84.45	\$ 13,512
	Water Line				
	Traffic Control for tie in	15	Day	\$ 872.59	\$ 13,089
	Asphalt, curb and walk demo and patch	285	SF	\$ 92.27	\$ 26,297
	10x6 Wet tap sleeves and Valve	1	EA	\$ 6,643.13	\$ 6,643
	8x6 Wet tap sleeves and Valve	1	EA	\$ 6,390.97	\$ 6,391
	Fire hydrant assembly	1	EA	\$ 10,895.26	\$ 10,895
	6" fire line to first flange	1	EA	\$ 16,636.83	\$ 16,637
	1" Water Service and Pit	1	EA	\$ 11,840.82	\$ 11,841
	1" Irrigation Water Service and Pit	1	EA	\$ 5,587.69	\$ 5,588
	Water line Testing	2	EA	\$ 1,485.90	\$ 2,972
	Flow fill backfill for water tie in	285	SF	\$ 24.45	\$ 6,968
	Storm Sewer				
	Type 13 Inlet	2	EA	\$ 5,252.90	\$ 10,506
	18" ADS SDR 35 Storm Line	78	LF	\$ 109.74	\$ 8,560
	15" ADS SDR 35 Storm Line	70	LF	\$ 78.99	\$ 5,529
	12" ADS SDR 35 Storm Line	216	LF	\$ 92.51	\$ 19,982
	10" ADS SDR 35 Storm Line	113	LF	\$ 66.75	\$ 7,543
	8" ADS SDR 35 Storm Line and Headwall	31	LF	\$ 141.71	\$ 4,393
	6" ADS SDR 35 Roof Drain	80	LF	\$ 71.75	\$ 5,740
	4" ADS SDR 35 Roof Drain	42	LF	\$ 86.18	\$ 3,620
	Nyoplastic Drain	7	EA	\$ 2,472.05	\$ 17,304
	Rip Rap Pads	75	SF	\$ 18.63	\$ 1,397
	Utility Trench Dewatering Allowance	167	LF	\$ 166.55	\$ 27,814
	Subtotal				\$ 275,216





[illegible]

ISSUE DATE: MAY 14, 2025	CONSULTANTS PROJECT #	
DESIGN BY: Designer	D2C-PROJECT NUMBER 202412	
	DRAWN BY: Author	CKO BY: Checker
	SSUT BY: Approver	PLOT DATE: 5/16/2025 11:21:16 AM
	PLOT SCALE: 1/8" = 1'-0"	FILE NUMBER
	FILE NAME: SIZE: 22" x 34"	



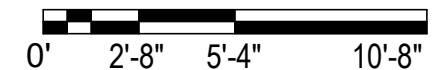
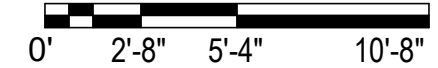
**SHEET
IDENTIFICATION
A-311**

[illegible]

Designer	D2C PROJECT NUMBER	MAY 14, 2025	
	202412	CONSULTANTS PROJECT #	
Author	DRAWN BY:	CKD BY:	SOLICITATION NO.:
	SBMT BY:	PLOT DATE:	CONTRACT NO.:
	PLOT SCALE:	PLOT DATE:	FILE NUMBER:
	1/8" = 1'-0"	11:21:28 AM	
SIZE:		FILE NAME:	
22" x 34"			

STATE OF COLORADO
BRIAN T. DUGGAN
401770
12/16/2025
LICENSED ARCHITECT

**SHEET
IDENTIFICATION
A-312**



**TOWN OF JOHNSTOWN
PROFESSIONAL SERVICES AGREEMENT**

THIS PROFESSIONAL SERVICES AGREEMENT (the "Agreement") is made and entered into this 22 day of January 2025 (the "Effective Date") by and between the Town of Johnstown, Colorado, a Colorado home-rule municipality (the "Town") and Sampson Construction Co., Inc., a Nebraska corporation ("Contractor") (collectively, the "Parties").

RECITALS

WHEREAS, the Town desires to engage the services of Contractor and Contractor desires to provide those services more fully described on Exhibit A, attached hereto and incorporated herein by reference ("Services"), to the Town; and

WHEREAS, the Parties wish to memorialize their contractual relationship.

AGREEMENT

NOW, THEREFORE, incorporating the foregoing Recitals herein and in consideration of the mutual promises, agreements, undertakings and covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby mutually agree as follows:

SECTION 1: PARTIES

1.01 Town. The Town is a home-rule municipality located in Johnstown, Colorado.

1.02 Contractor. Contractor is a private, independent business entity who will exercise discretion and judgment of an independent Contractor in the performance and exercise of its rights and obligations under this Agreement.

SECTION 2: SERVICES, COMPENSATION AND TERM

2.01 Services. Contractor agrees to perform the Services for the Town.

2.02 Compensation. In consideration of Contractor's performance of the Services contemplated herein, the Town agrees to pay Contractor the compensation set forth on Exhibit A. Contractor shall submit detailed invoices reflecting the portion of the Services completed to the date of the invoice. The Town shall provide payment for Services to Contractor within thirty (30) days of receipt of the invoice. In its discretion, the Town may withhold payment for disputed portions of invoices on the condition that the Town provides written notice to Contractor of the dispute. Upon delivery of notice, the Town and Contractor shall promptly endeavor to resolve such dispute.

2.03 Expenses: Contractor shall not incur any expense or debt on behalf of the Town without the Town's prior written authorization.

2.04 Term. Unless otherwise terminated in accordance with Section 5, the term of this Agreement shall be from the Effective Date through March 31, 2025, and shall not extend beyond that date absent the written approval of the Town.

SECTION 3: OPERATIONS

3.01 Contractor Status. Contractor avers that it has the background, expertise and education to provide the Services. Contractor shall be responsible for the proper performance of the Services in accordance with the terms hereof. Contractor shall obtain the necessary permits, if any, and maintain all required licenses, including but not limited to a Town business license.

3.02 Schedule. Unless otherwise set forth in Exhibit A, Contractor shall provide the Services in accordance with the timeline requested by the Town

SECTION 4: INSURANCE AND INDEMNITY PROVISIONS

4.01 Insurance.

A. — Contractor understands and agrees that Contractor shall have no right of coverage under any existing or future Town comprehensive or personal injury liability insurance policies. As a material term of this Agreement, Contractor agrees to maintain and keep in force during the term of this Agreement one or more policies of insurance written by one or more responsible insurance carrier(s) authorized to do business in the State of Colorado 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 ONE MILLION DOLLARS (\$1,000,000.00) each occurrence and TWO MILLION DOLLARS (\$2,000,000.00) 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 Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the Services. In the event that Contractor's insurance does not cover non-owned automobiles, the requirements of this paragraph shall be met by each employee of Contractor 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. Contractor shall procure and maintain the minimum insurance coverages listed herein. All coverages shall be continuously maintained to cover all liability, claims,

demands and other obligations assumed by Contractor 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. Except for workers compensation insurance, the Town shall be listed as an additional insured party on Contractor's insurance policies.

C. A certificate of insurance shall be completed by Contractor's insurance agent(s) as evidence that policies providing the required coverages, conditions and minimum limits are in full force and effect, and, upon request by the Town, shall be subject to review and approval by the Town. 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 thirty (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 provided to the Town.

4.02 Damage and Indemnity. Contractor assumes full responsibility for any and all damages caused by Contractor's exercise of its activities, or failures to act, under this Agreement. Contractor agrees that it will at all times protect, defend, indemnify and hold harmless the Town, its elected officials, employees, agents, and their successors and assigns, from and against all liabilities, losses, claims, demands, actions and costs (including reasonable attorneys' fees), arising from or related to loss or damage to property or injury to or death to any persons arising from or resulting in any manner from the actions or failures to act of Contractor or any invitees, guests, agents, employees or contractors of Contractor, whether brought by any of such persons or any other person.

SECTION 5: TERMINATION

5.01 Termination. The Town may terminate this Agreement, with or without cause, by providing thirty (30) days prior written notice to Contractor. 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 Contractor effective immediately.

SECTION 6: INDEPENDENT CONTRACTOR

6.01 Independent Contractor. Contractor understands and agrees that Contractor is an independent contractor and not an employee of the Town. The Town shall not provide benefits of any kind to Contractor. The Town shall not be responsible for withholding any portion of Contractor's compensation for the payment of Federal Insurance Contributions Act (FICA) tax, workers' compensation, or other taxes or benefits. CONTRACTOR IS NOT ENTITLED TO UNEMPLOYMENT COMPENSATION COVERAGE FROM THE TOWN. CONTRACTOR 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, Contractor may engage in any other lawful business activities during the term of this

Agreement.

SECTION 7: NOTICE

7.01 Notices. All notices required under this Agreement shall be in writing and shall be: 1) hand-delivered; 2) sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the Parties herein set forth; or 3) sent by electronic mail ("email") return receipt or written acknowledgment requested and received. All notices by hand-delivery shall be effective upon receipt. All notices by mail shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. All notices by email shall be effective upon delivery, on the condition that the intended recipient acknowledges receipt thereof. Either party, by notice to be given, may change the address to which future notices shall be sent.

TO THE TOWN:

Town of Johnstown
Attn: Matt LeCerf, Town Manager
450 S. Parish Avenue
P.O. Box 609
Johnstown, CO 80534
Email: notices@johnstownco.gov

TO CONTRACTOR:

Sampson Construction Co., Inc
Attn: Rick Fleming
4508 Endeavor Drive, Suite 100
Johnstown, CO 80534
Email: rick.fleming@sampson-construction.com

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 budgeted, appropriated and otherwise made available. This Agreement shall be terminated effective January 1 of the first fiscal year for which funds are not budgeted and appropriated.

8.03 Laws and Regulations. In the conduct of the Services, Contractor shall comply with all applicable laws, rules and regulations, and the directives or instructions issued by the Town or its designated representatives.

8.04 Assignment: Third Party Rights. Contractor may not assign, delegate or subcontract any part of its rights, duties or obligations under this Agreement. 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 the Parties. Course of performance, no matter how long, shall not constitute an amendment to this Agreement.

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, except that, in the event any state or federal governmental agency or court determines that the relationship between the Town and Contractor is one of employment rather than independent Contractor, this Agreement shall become null and void in its entirety.

8.07 Waiver. No consent or waiver, express or implied, by the Town to or of any breach or default by Contractor in the performance by Contractor of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default by the Town. Failure on the part of the Town to complain of any act or failure to act or to declare Contractor in default, irrespective of how long such failure continues, shall not constitute a waiver by the Town 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.*, C.R.S., as amended from time to time, or otherwise available to the Town, its elected officials, employees or agents.

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 an action for injunctive relief, the Parties shall submit the matter to mediation prior to commencing legal action and shall share equally in the cost of the mediation.

8.11 Costs and Attorney's Fees. If any judicial proceedings may hereafter be brought to enforce any of the provisions of this Agreement, 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.

8.12 Public Official Personal Liability. Nothing herein shall be construed as creating any personal liability on the part of any elected official, employee or agent of the Town.

8.13 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.

8.14 Entire Agreement. The provisions of this Agreement represent the entire and integrated agreement between the Town and Contractor and supersede all prior negotiations, representations and agreements, whether written or oral.

8.15 Controlling Document. In the event of a conflict between the provisions in this Agreement and Exhibit A, the provisions in this Agreement shall control.

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.

8.17 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same instrument.

8.18 Waiver of Right to Jury Trial. To the fullest extent permitted by law, each party hereto waives its respective rights to a trial by jury of any claim or cause of action based upon, arising out of or related to this agreement.

8.19 Data Security. If Contractor has access to personal identifying information during the term of this Agreement, Contractor shall, pursuant to Section 24-73-101, *et seq.*, C.R.S., destroy all paper and electronic documents containing such personal identifying information within six months of termination of this Agreement, unless otherwise required by law. During the term of this Agreement, Contractor shall implement and maintain reasonable security procedures that are appropriate to the nature of the personal identifying information disclosed or maintained and that are reasonably designed to help protect the information from unauthorized access, use, modification, disclosure or destruction. If Contractor discovers or is informed of a security breach, Contractor shall give the Town notice in the most expedient time and without unreasonable delay, no later than ten (10) calendar days after it is determined a security breach occurred. Contractor shall cooperate with the Town in the event of a security breach that compromises computerized data, if misuse of personal information about a Colorado resident occurred or is likely to occur. Cooperation includes sharing with the Town information relevant to the security breach.

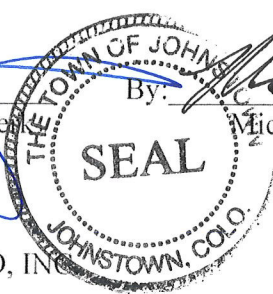
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IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: Meghan Martinez Meghan Martinez, Town Clerk
By: Michael P. Duncan Michael P. Duncan, Mayor



SAMPSON CONSTRUCTION CO, INC

By: Justin Sanford
Name: Justin Sanford
Title: VP
Nebraska
STATE OF COLORADO)
) ss
COUNTY OF Lancaster

SUBSCRIBED AND SWORN to before me this 15 day of January, 20 25, by Justin Sanford as the vice president of Sampson Construction Co., Inc.

WITNESS my hand and official seal.

My commission expires: 12/12/27

Steffany J. Kobes
Notary Public

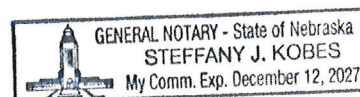


EXHIBIT A SERVICES

CONSTRUCTION MANAGER AT RISK CMAR CONSTRUCTION PHASE SERVICES

TOWN OF JOHNSTOWN DEVELOPMENT SERVICES BUILDING PROJECT

SCOPE OF SERVICES

The Town and Contractor (CMaR Firm) will enter this Pre-Construction Phase CMAR contract, at a cost of \$22,250. This will culminate with the CMaR Firm offering a Guaranteed Maximum Price (GMP). The Town will have the option to either:

1. Accept the GMP as presented and award a construction contract agreement; or
2. Engage with an independent 3rd party to evaluate the GMP proposed. If the independent 3rd party price is within 10% of the CMaR GMP, the Town will have final discretion to either award a construction contract agreement to the CMaR Firm or publicly bid the project.

These services shall include the following:

- Constructability Reviews
- Attendance of Design Meetings
- Value Engineering
- Project Scheduling
- Project Phasing
- Budgeting of Schematic and Design Development Packages
- Recommendation of early work packages
- GMP Preparation based on Final Construction Documents
- Subcontractor Engagement/Solicitation



Town of Johnstown

April 2025

Building Permit Statistics

Single Family Residential

Current Month: 64 Issued ytd: 214

Commercial

*New Building Issued ytd 4

Duplex	3-plex	4-plex	5-plex	6-plex	7-plex	Apartment Bldgs
9	0	0	0	0	0	0

Other Residential

(basements/alterations/additions)

Issued ytd 342

Other Commercial

* (tenant finish/alterations/additions)

Issued ytd 43

Fees collected at permit issuance	Residential YTD	Commercial YTD
Construction Valuation	\$79,977,112.98	\$14,483,147.00
Building permit fees	\$572,553.73	\$179,649.03
F&F or F&F Credit	\$0.00	\$0.00
Paving	\$0.00	\$0.00
Water Upgrade	\$0.00	\$0.00
Water & Sewer Reimbursement	\$0.00	\$0.00
Raw Water Development Fee	\$1,264,491.00	\$0.00
Water Meter	\$101,599.00	\$0.00
Water Tap	\$1,461,201.00	\$0.00
Sewer Tap	\$1,871,913.00	\$0.00
Regional Sewer Development fees	\$846,000.00	\$0.00
Sewer Inspection Fee	\$20,100.00	\$0.00
Park	\$100,500.00	\$0.00
Use Tax	\$1,259,326.29	\$267,491.41
Larimer Use Tax	\$140,224.43	\$13,065.73
Open Space Impact Fee	\$283,899.00	\$0.00
Library Impact Fee	\$272,973.00	\$0.00
Public Facilities Impact Fee	\$377,795.00	\$0.00
Police Facilities Impact Fee	\$171,969.00	\$0.00
Transportation Facilities Impact Fee	\$660,361.00	\$0.00
402 Interchange Fee	\$41,035.00	\$0.00
High Plains Blvd Reimbursement Fee	\$0.00	\$0.00
West Water Fee	\$144,530.00	\$0.00
Reinspection Fee	\$6,800.00	\$200.00
TOTAL FEES (YTD)	\$ 9,595,070.45	\$460,406.17

The Community That Cares

www.TownofJohnstown.com

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

Building permits issued for individual dwelling units - 1991 to (date)

Single family, duplex, 3-plex, 4-plex, 5-plex, 6-plex, 7-plex*						
Year	Issued	Month avg		Year	Issued	Month avg
1961 - 90	165	0.0		2016	132	11.00
1991	2	0.17		2017	140	11.67
1992	5	0.42		2018	126	10.50
1993	7	0.75		2019	87	7.25
1994	47	3.92		2020	108	9.75
1995	106	8.83		2021	184	15.33
1996	145	12.00		2022	446	37.16
1997	143	11.92		2023*	411	41.10
1998	175	14..58		2024	526	43.84
1999	145	12.08		2025	214	53.50
2000	134	11.92				
2001	152	12.67		TOTAL	6808	
2002	262	21.92				
2003	284	24.17				
2004	331	27.67				
2005	375	31.33				
2006	180	15.75				
2007	160	133.42				
2008	97	8.00				
2009	89	7.42				
2010	124	10.33				
2011	184	15.34				
2012	310	25.84				
2013	378	31.50				
2014	272	22.67				
2015	162	13.50				

*Starting in 2023, number represents total number of units constructed including all single-family type structures. This number does not include apartments. Prior to 2023, the number represents single-family units only.

The Community That Cares

www.TownofJohnstown.com

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

DISTRICT COURT, WATER DIVISION NO. 1 COLORADO Weld County Courthouse 901 9th Avenue P. O. Box 2038 Greeley, Colorado 80632 (970) 351-7300	
CONCERNING THE APPLICATION FOR WATER RIGHTS OF COULSON EXCAVATING COMPANY, INC. IN LARIMER AND WELD COUNTIES	▲ COURT USE ONLY ▲
Peter J. Ampe, No. 23452 Hill & Robbins, P.C. 3401 Quebec St., Suite 3400 Denver, CO 80207 Phone: 303-296-8100 Fax: 303-296-2388 E-mail: peterampe@hillandrobbsins.com	Case Number: 2019CW3157 Ctrm/Div: _____
STATEMENT OF OPPOSITION OF THE TOWN OF JOHNSTOWN	

1. **Name, mailing address, telephone number of Objector:**

Town of Johnstown
 450 S. Parish Ave.
 Johnstown, CO 80534

2. **State facts as to why the application should not be granted or why it should be granted only in part or on certain conditions:**

- A. Objector owns vested water rights and shares, including shares in the Consolidated Hillsborough Ditch Company, that may be adversely affected if the application is granted, or if the application is granted without terms and conditions to prevent injury.
- B. The Applicant must be placed on strict proof of each element of the application, including, but not limited to, the following, which Objector places at issue:
 - (1) Whether the Applicant can prove that it has satisfied all applicable requirements of the Water Right Determination and Administration Act of 1969, sections 37-92-101, C.R.S., *et seq.* and other relevant requirements of Colorado law and is entitled to the decree it requests;
 - (2) Whether the Applicant has a legal right to use all land and structures associated with its claimed water right;
 - (3) Whether the Applicant has a need for the water claimed for its claimed water right;
 - (4) Whether the Applicant has the requisite specific plan and intent to divert, store, and use all of the water claimed in the application for all claimed purposes;
 - (5) Whether the Applicant has the requisite specific intent to fully consume all water claimed in the application;
 - (6) Whether the Applicant can prove that the claimed appropriation is not speculative;
 - (7) Whether the Applicant can and will complete the claimed appropriation and apply water to beneficial use within a reasonable time;
 - (8) Whether the Applicant can prove that use of the claimed water right will not cause injury to owners and users of vested water rights and decreed conditional water rights and, if so, the terms and conditions that must be imposed to prevent such injury;
 - (9) That all of the actions required to constitute the first step of its claimed appropriations have been taken;
 - (10) Applicant's need for the water claimed for its appropriations;
 - (11) That the appropriations were initiated as of the date claimed in the application;
 - (12) That the Applicant has lawfully acquired or can and will lawfully acquire the right and authorization to use all lands and facilities that are described in the application for its claimed appropriations;

- (13) That Applicant has lawfully acquired or can and will lawfully acquire the right to use water rights appropriated through lands and facilities not owned by the Applicant;
 - (14) That the Applicant can and will comply with any applicable rules, regulations, bylaws and agreements pertaining to or affecting its right to use lands and facilities described in the application;
 - (15) That the claimed water rights will not cause injury to owners and users of vested water rights and decreed conditional water rights and, if so, the terms and conditions that must be imposed to prevent such injury;
 - (16) That the application complies with all elements and factors of section 37-92-305(9)(b), C.R.S., including but not limited to, proof of the availability of water in priority in the amounts claimed;
 - (17) That the claimed water rights will not cause injury to owners and users of vested water rights and decreed conditional water rights and, if so, the terms and conditions that must be imposed to prevent such injury;
 - (18) That the claimed Plan for Augmentation including Water Exchange Project is sufficient to prevent injury to vested senior water rights;
 - (19) Whether the water rights and associated plan for augmentation claimed in the application can be and will be adequately accounted for and administered;
 - (20) Whether Applicants have adequate water handling and measuring devices to ensure that use of the changed rights can be accounted for and administered.
- C. The foregoing grounds of opposition to the application are based upon the general statement of the case contained in the resume notice of the application. Objector reserves the right to raise additional grounds of opposition as more specific facts become known.
- D. Objector respectfully requests that this Statement of Opposition be considered to be continuing in nature and to apply to any additional amended application which may be filed in this case or in any numbered case filed by Applicant with relation to this matter.
- E. This Statement of Opposition is intended to be continuing in nature and to apply to the original application and all amendments to it regardless of form. Objector respectfully requests leave of the Court for this Statement of Opposition to apply equally to any such amended application that may be allowed herein, so that no further Statement of Opposition need be filed.

Dated: May , 2025.

Respectfully submitted,

signed original on file at Hill & Robbins, P.C.

Peter J. Ampe

**VERIFICATION AND ACKNOWLEDGMENT OF APPLICANT OR OTHER PERSON
HAVING KNOWLEDGE OF THE FACTS STATED IN THIS APPLICATION**

VERIFICATION

I declare under penalty of perjury under the law of Colorado that the foregoing is true and correct.

Executed on the 13 day of May, at Johnstown, Colorado
(city or other location, and state OR country)

Matthew LeCerf
Printed Name



Signature

The person signing this verification is the Town Manager for the Town of Johnstown.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the day of May 2025, service of the foregoing
STATEMENT OF OPPOSITION OF THE TOWN OF JOHNSTOWN was made via CCE upon all
parties listed therein.

/s Peter J. Ampe
Pcter J. Ampe

March 18, 2025

Prior to meeting, we were joined by Past Director Pat Betz and husband Steve, Past Trustee Cheryl Peppler, and long time Librarian Anna Geisenhoff to celebrate our 20th Birthday with cake, ice cream and reminiscing. On March 21, 2005, the American flag was raised at 400 South Parish to signify the opening of our new location.

The regular meeting of the Glenn A. Jones, M.D. Memorial Library Board was called to order at 7:25 pm. Chad Young, Debi Sauer, Sheryl Ballard and Director Kristi Plumb were in attendance. Jenna Hall and Heather Farquhar were on Spring Break.

The February minutes were approved. The February financial report was reviewed, and approved as follows:

February beginning balance	\$ 262,692.39	Petty Cash beginning balance	\$ 2,105.01
Inflow	173,544.81		-0-
Outflow	282,295.73 (250,000 to CO Trust)		-0-
Ending balance	\$ 153,941.47		\$ 2,105.01
CO Trust: \$ 11,105,943.53			

Director's Report: Artist-in-Residence: Natasha Psenicka displays her hand-crafted quilted unique creations.

Collections: 180.3 pounds to Milliken Food Pantry. 35 pairs of eyeglasses to Lion's Club.

Building: Circulation desk floor will be replaced on March 20th by Berthoud Flooring. Unblemished Adult high table is in place. The three front landscape bridges will be replaced with new, improved specimens built locally by Mr. Mike's Maintenance and Repair. Roof repairs above the MakerSpace are complete.

Summer Reading Program: For the fifth year in a row, Fransen Pittman has returned as a sponsor. They will be sponsoring two magic shows and two foam parties. New sponsor Jackie Jackson of Northern Colorado Insurance will be funding the Two-by-Two Petting Zoo. The committees have been very busy with preparations for 'Color Our World'.

Happenings: The Elementary Art Show will cover the walls with creativity April 5th-26th. We will be hosting Milliken Elementary and Pioneer Ridge for their 'I Love to Read' events. Kristi traveled to KQA for their reading event. Debi brought information regarding HazAdapt, "Your on-the-go hazard guide" and flyers to post in the entryway.

Milliken Public Library-new name for our new location! Architectural firm Studiotrope presented the working design and answered questions from staff during Staff Day. Design Development meetings are progressing and currently focused on firewall specifics.

Dee Property-previously referred to as 'Yellow House': Letter posted on March 1, 2025.

Meeting was adjourned at 8:45 pm. Next meeting will be April 15, 2025 at 6:30 pm.

February statistics: Johnstown: door count—8080	circulation—8365
Milliken: door count—335	circulation—353

Respectfully submitted, Sheryl Ballard - Secretary

BEGINNING PETTY CASH BALANCE		\$ 2,105.01				
	Outreach	\$ -				
ENDING PETTY CASH BALANCE		\$ 2,105.01				
	<i>COLORADO TRUST INVESTMENT</i>		Y-T-D			
BEGINNING BALANCE		\$ 11,105,943.53				
	Dividend - 4.4005%	\$ 41,580.46	\$ 120,250.72			
	<i>Contribution</i>	\$ -				
	<i>Withdrawal</i>	\$ -				
ENDING BALANCE		\$ 11,147,523.99		FUNDS IN RESERVE	\$	1,218,500.00

2025 Q1 Report for the Town of Johnstown

From the Johnstown Downtown Development Association

JDDA Financials

2025 Q1 Financials – Attachments Included

Starting Balance:	\$ 14,634.23
Cash In:	\$ 10,986.80 (1) Monthly Quarterly Treasurer's Report
Expenditures:	\$ 11,905.74 (2) Monthly Quarterly Treasurer's Report
Change in Credit Card	\$ 1,166.46
Ending Balance:	\$ 12,548.83

Strategic plan to revitalize the Town's historic downtown.

1. We are continuing to work with Sarah and that partnership is Great!!
2. Sharing photos of the downtown through Social Media platforms

Events

1. Previous Events including the Results/Outcome of the Event: These events continue to keep people engaged and emotionally invested in our town rather than traveling outside for the same services.
 - a. No events yet this year

Upcoming Events for 2025:

1. We have locked in the same 4 events as previous years.
 - a. Cinco De Mayo on May 3rd from 1-5pm
 - b. Fall Fest will be on September 13th from 1-5pm.
 - c. Trick or Treat Street will be on October 25th from 10am-1pm.
 - d. Johnstown Jingle will be on December 7th from 2-5pm.

Other than events, things we are doing to position downtown as the focal point of Johnstown:

1. The JDDA Board has had two Strategic Planning sessions with the Town to solidify what our vision and mission are as well as what our focal point needs to be moving forward.
2. Welcome Bags – This program is still very successful, and we are now delivering more than 60 welcome bags to new residents monthly. The RHS Interact Club works with us to help pack the bags and deliver them to the new residents.

3. We are continuing to gain membership, and we are putting more efforts and energies towards networking events as well as workshops. Both are things that our members are wanting and asking for!
4. We launched the JDDA Connect in January, and we do monthly meeting/networking at different locations around Johnstown. We give town updates, JDDA updates and allow time to network and connect!
5. We have a Marketing firm that is working to promote all our members, promote our events, create our downtown marketing for our events that align with the downtown brand!
6. Mountain Wave Marketing has been activity working on Cinco along with our board.
7. HRx did an amazing HR workshop to advise small businesses on new Colorado Laws. We intend to have this company present to JDDA annually because it is a valuable resource and extremely helpful for small businesses.

Community Give Back/Involvement

1. It is important to us as a board that we support our community and especially our youth. We sponsor the Teen Impact Awards that Rotary hosts at the YMCA for scholarships for our local kids.

Social Media/Website

1. We continue to work with Tiffany from Mountain Wave Marketing, and she is amazing and really has grown our social media presence significantly!

JDDA Members

JDDA Members:

1. We currently have 61 members for 2024

Member Pricing:

1. \$125 Downtown Members – Brick and Mortar Businesses located in our JDDA Boundaries
2. \$250 Community Partners – Businesses outside the JDDA Boundaries with a vested interest in Downtown Johnstown
3. \$65 Non-Profit Members – Must submit a 501-C3

Member Benefits:

1. Business listing on our website VisitDowntownJohnstown.com
2. Opportunity to include information in the Community Welcome Bags
3. Social Media Networking and Marketing each month
4. Event Discounts for the JDDA Hosted Downtown Events and

5. Workshop Benefits
6. Group Marketing Opportunities
7. Sponsorship opportunities

JDDA Board Position:

1. We currently have one open Board Position and are actively looking for a board member
2. Board members
 - a. Amy Roe
 - b. Donna Derrera
 - c. Tami Kramer
 - d. Stephanie Podtburg
 - e. Austin Foss
 - f. Juntin Tuttle
 - g. Sarah Grosboll
 - h. Larry Williams

What the Members want from the JDDA

We sent out a survey to all of our members and to our downtown members to really understand what they want to receive from the organization. Based on the results the following are the most important things that our members want to see!

1. Events
2. Business After Hours
3. Town advocacy
4. Member Workshops



Johnstown Downtown Development Association
Quarterly Treasurer's Report
For 1st QTR 2025

Beginning Cash	\$ 14,634.23
Cash In	\$ 10,986.80 (1)
Cash Out	\$ 11,905.74 (2)
Change in Credit card	\$ 1,166.46

Ending Cash	\$ 12,548.83
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(1)

Cash In :

Event booth income, Dues income, workshop income, Town of Johnstown

(2)

Cash out :

Marketing, event expenses, quickbooks fees, donations
accounting fees, storage rent, workshop expenses

* NET DECREASE IN CASH in 1st quarter \$918.94

Johnstown Downtown Development Association

Statement of Financial Position

As of March 31, 2025

	TOTAL
ASSETS	
Current Assets	
Bank Accounts	
BBQ Days acct 8128	0.00
General Fund	12,548.83
Petty Cash	0.00
Total Bank Accounts	\$12,548.83
Accounts Receivable	
Accounts Receivable (A/R)	-121.07
Total Accounts Receivable	\$ -121.07
Other Current Assets	
Undeposited Funds	0.00
Total Other Current Assets	\$0.00
Total Current Assets	\$12,427.76
Fixed Assets	
Furniture and Equipment	1,092.77
Total Fixed Assets	\$1,092.77
TOTAL ASSETS	\$13,520.53
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Credit Cards	
FNBO CREDIT CARD 1366	-35.93
Total Credit Cards	\$ -35.93
Other Current Liabilities	
BBQ Days holding account	0.00
Total Other Current Liabilities	\$0.00
Total Current Liabilities	\$ -35.93
Total Liabilities	\$ -35.93
Equity	
Retained Earnings	14,475.40
Net Revenue	-918.94
Total Equity	\$13,556.46
TOTAL LIABILITIES AND EQUITY	\$13,520.53

Johnstown Downtown Development Association

Statement of Activity

January - March, 2025

	TOTAL
Revenue	
Designated Contributions	3,483.97
Dues income	2,788.75
Event Income	4,050.00
Unapplied Cash Payment Revenue	556.42
Workshops	107.66
Total Revenue	\$10,986.80
GROSS PROFIT	\$10,986.80
Expenditures	
Advertising	19.56
Marketing	4,500.00
Website	24.00
Total Advertising	4,543.56
Bank Charges	184.80
Donations	1,000.00
Event Expenses	3,131.13
Insurance	500.00
Interest Expense	40.75
Legal, Accounting and Professional	1,446.00
Meals	195.71
Office Supplies	88.73
Rent	208.06
Uncategorized Expense	67.00
Workshop Expenses	500.00
Total Expenditures	\$11,905.74
NET OPERATING REVENUE	\$ -918.94
NET REVENUE	\$ -918.94