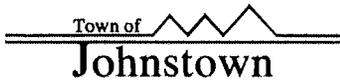


TOWN COUNCIL

MEETING

PACKET

September 7, 2016



Town Council

Agenda
Wednesday September 7, 2016
Town Hall, Council Chambers
450 So. Parish Avenue
7:00 PM



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

Members of the audience are invited to speak at the Council meeting. Public Comment (item No. 5) is reserved for citizen comments on items not contained on the printed agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position. If you wish to speak at the Town Council meeting, please fill out a sign-up sheet and present it to the Town Clerk.

- 1) **CALL TO ORDER**
 - A) Pledge of Allegiance
- 2) **ROLL CALL**
- 3) **AGENDA APPROVAL**
- 4) **RECOGNITIONS AND PROCLAMATIONS**
 - A) Recognizing 2016 Colorado Cities and Towns Week in September
- 5) **PUBLIC COMMENT (three-minute limit per speaker)**

*The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to have an item discussed or if there is public comment on those ordinances marked with an *asterisk. The Council member may then move to have the subject item removed from the Consent Agenda for discussion separately.*

- 6) **CONSENT AGENDA**
 - A) Town Council Meeting Minutes –August 15, 2016
 - B) Memorandum of **Understanding** – Weld County Commissioners on behalf of the Weld County Department of Human Services' Area Agency Aging's Senior Nutrition Program
- 7) **STAFF REPORTS**
- 8) **OLD BUSINESS**
- 9) **NEW BUSINESS**
 - A) Consider Tavern Liquor License Renewal - Leo's Place
 - B) Consider Beer and Wine Liquor License Renewal – Huang Garden
 - C) ***Public Hearing (First Reading)** – An Ordinance Prohibiting the Operation of Recreational Marijuana Establishments and Marijuana Consumption Establishments; Superseding Ordinance No. 2013-12
 - D) Consider Water and Sewer Service Agreement for Lockard Industrial Park at 2534
- 10) **COUNCIL REPORTS AND COMMENTS**
- 11) **MAYOR'S COMMENTS**
- 12) **ADJOURN**

WORK SESSION

- 1) Discussion of Police Substation



NOTICE OF ACCOMODATION

If you need special assistance to participate in the meeting, please contact the Town Clerk at (970) 587-4664. Notification at least 72 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to the meeting.

AGENDA ITEM 4A

PROCLAMATION

**(Recognizing 2016 Colorado Cities and
Towns Week in September)**

PROCLAMATION

PROCLAMATION

Recognizing 2016 Colorado Cities and Towns Week in September

WHEREAS, Town government is the government closest to residents and the one with the most direct daily impact on residents' lives; and

WHEREAS, Colorado Cities and Towns Week is a statewide initiative of the Colorado Municipal League to recognize the essential role that municipal government plays in our lives; and

WHEREAS, Municipal government is truly government for and by the people, and those people are our neighbors, friends, business owners and community leaders; and

WHEREAS, During the week of September 12-18, cities and towns will showcase some of the key services they provide to residents, such as public safety, street maintenance, storm-water, drainage, water treatment and distribution; and

WHEREAS, Johnstown is participating in the week with outreach to residents via website and social media, featuring a photo contest highlighting what makes Johnstown a unique and great place to live; and

WHEREAS, Cities and Towns Week also provides an opportunity to convey to residents that their civic involvement influences their community, and we urge Johnstown residents to participate in their town government.

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

I, Gary Lebsack, Mayor Pro Tem of the Town of Johnstown, Colorado, on the 7th day of September, 2016, on behalf of the Mayor and Town Council of the Town of Johnstown, do hereby recognize the week of September 12-18, 2016, Colorado Cities and Towns Week in the Town of Johnstown, Colorado.

PASSED, SIGNED, APPROVED, AND PROCLAIMED this 5th day of September 2016.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor Pro Tem

AGENDA ITEMS 6A-B

CONSENT

AGENDA

- **Council Minutes – August 15, 2016**
- **Memorandum of Understanding
(Weld County Commissioners)
(Senior Nutrition Program)**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 7, 2016

ITEM NUMBER: 6A-B

SUBJECT: Consent Agenda

ACTION PROPOSED: Approve Consent Agenda

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: The following items are included on the Consent Agenda, which may be approved by a single motion approving the Consent Agenda:

- A) Town Council Minutes-August 15, 2016
- B) *Memorandum of Understanding – Weld County Commissioners on behalf of the Weld County Department of Human Services’ Area Agency on Aging’s Senior Nutrition Program

*An intergovernmental agreement between the Town and Weld County to facilitate the Weld County Senior Nutrition Program, which provides meals to seniors on a weekly basis at the Johnstown Community Center. The agreement has been reviewed by the Town Attorney.

LEGAL ADVICE: The entire Consent Agenda may be approved by a motion of the Town Council approving the Consent Agenda, which automatically approves each and every item listed on the Consent Agenda. If a Council member wishes to have a specific discussion on an individual item included with the Consent Agenda, they may move to remove the item from the Consent Agenda for discussion.

FINANCIAL ADVICE: N/A

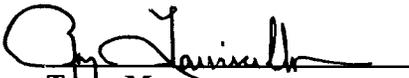
RECOMMENDED ACTION: Approve Consent Agenda

SUGGESTED MOTION:

For Approval: I move to approve the Consent Agenda.

For Denial:

Reviewed:


Town Manager

**COUNCIL
MINUTES**

The Town Council of the Town of Johnstown met on Monday, August 15, 2016 at 7:00 p.m. in the Council Chambers at 450 S. Parish Avenue, Johnstown.

Mayor James led the Pledge of Allegiance.

Roll Call

Those present were: Councilmembers Davis, Lebsack, Mitchell, Mellon and Young

Those absent: Councilmember Molinar Jr

Also present: Avi Rocklin, Town Attorney, Roy Lauricello, Town Manager, John Franklin, Town Planner, Brian Phillips, Chief of Police and Diana Seele, Town Clerk/Treasurer

Agenda Approval

Councilmember Lebsack made a motion seconded by Councilmember Mellon to approve the Agenda as submitted. Motion carried with a unanimous vote.

Consent Agenda

Councilmember Mellon made a motion seconded by Councilmember Lebsack to approve the Consent Agenda with the addition of Item 9D Consider Pipe Line Crossing License Agreement between the Town of Johnstown and Great Western Railway of Colorado, LLC

- August 1, 2016 Town Council Meeting Minutes
- Payment of Bills
- July Financial Statements
- Resolution No. 2016-07, Concerning Responsible Energy Development

Motion carried with a unanimous vote.

New Business

A. Consider Award of Professional Services Agreement to Inertia Automation Inc., for Upgrading the Water Plant's Supervisory Control and Data Acquisition Systems (SCADA) - Updating the Town's Supervisory Control and Data Acquisition (SCADA) system was one of the recommendations included in the Town's recently adopted Water Master Plan. A proposal to provide design/build services to affect major control upgrades for the water treatment plant, distribution pump house, north water storage tank, town lake raw water pump station and Lonetree raw water pump station was submitted by Inertia Automation Inc. The project is planned to be executed in three overlapping phases; 1. Design Phase, 2. Procurement Phase, 3. Installation Phase. The cost of the project is \$160,000. Councilmember Mellon made a motion seconded by Councilmember Davis to award the contract to Inertia Automation, Inc., for upgrading the water plant's SCADA system in a total amount not to exceed \$160,000, materials invoiced shall be at cost +15% and authorize the Mayor to sign the agreement. Motion carried with a unanimous vote.

B. Consider Contract between the Town of Johnstown and Great Western Railway of Colorado, LLC for Relocation and Upgrading Highway/Railroad Grade Crossing Surface, Track and Warning Devices on Larimer County Road 3 – The Town and Lomas-Somerset Meadows, LLC (Developer) entered into a Subdivision Development and Improvement Agreement for the development known as Thompson Crossing II, Filing No. 1. The Development Agreement requires the Developer to construct certain public improvements to Larimer County Road 3 and the railroad crossing. To complete the roadway improvements within the railroad’s right of way, Great Western Railway of Colorado is requiring the Town execute a contract between the Town and Great Western Railway for relocation and upgrading the highway/railroad grade crossing surface. Councilmember Lebsack made a motion seconded by Councilmember Young to approve the Contract between the Town of Johnstown and Great Western Railway of Colorado, LLC for Relocation and Upgrading Highway/Railroad Grade Crossing Surface, Track and Warning Devices on Larimer County Road 3 and authorize the Mayor to sign it. Motion carried with a unanimous vote.

C. Consider First Amendment to Subdivision Development and Improvement Agreement between the Town of Johnstown and Lomas-Somerset Meadows, LLC – Lomas Somerset Meadows, LLC (Developer) agrees to assume the Town’s obligations under the Railroad Agreement, to make the required payments in the Railroad Agreement and to be the Town’s designated “Contractor” under the Railroad Agreement. Councilmember Mellon made a motion seconded by Councilmember Davis to approve the First Amendment to Subdivision Development and Improvement Agreement between the Town of Johnstown and Lomas-Somerset Meadows, LLC and authorize the Mayor to sign it. Motion carried with a unanimous vote.

D. Consider Pipeline Crossing Agreement between the Town of Johnstown and Great Western Railway of Colorado, L.L.C. – As per the Subdivision Development and Improvement Agreement for the development known as Thompson Crossing II, Filing No. 1, the Development Agreement requires the Developer (Lomas-Somerset Meadows, LLC) to construct certain improvements to Larimer County Road 3. As part of the roadway improvements, the Developer has agreed to replace a storm sewer pipeline and water pipeline situated under the railroad crossing on Larimer County Road 3. Great Western Railway is requiring the Town execute a Pipe Line Crossing License Agreement. Councilmember Mellon made a motion seconded by Councilmember Young to approve the Pipe Line Crossing Agreement between the Town of Johnstown and Great Western Railway of Colorado, L.L.C. and authorize the Mayor to sign it. Motion carried with a unanimous vote.

There being no further business to come before the Council the meeting adjourned at 8:04 p.m.

Mayor

Town Clerk/Treasurer

**MEMORANDUM
OF
UNDERSTANDING**

Memorandum of Understanding

AGREEMENT

THIS AGREEMENT, made and entered into this 1st Day of January 2016, by and between the County of Weld, State of Colorado, by and through the Board of County Commissioners of Weld County, on behalf of the Weld County Department of Human Services' Area Agency on Aging's Senior Nutrition Program, hereinafter referred to as the "Program", and **Johnstown Community Center**, located at **101 W. Charlotte, Johnstown, Colorado 80534** hereinafter referred to as the "Site".

WITNESSETH:

WHEREAS, the parties hereto desire to work together for the express purpose of providing nutrition services and a congregate meal site to Weld County senior citizens sixty (60) years of age and older and other eligible individuals: and

WHEREAS, to implement these goals, the parties desire to establish an agreement for the use of the Site for the Weld County Senior Nutrition Program;

NOW THEREFORE, in consideration of the premises, the parties hereto covenant and agree as follows:

1. Program Responsibilities:

- a. Inspect or make provisions for inspections of the meal site to insure the health and safety of the meal participants.
- b. Work in conjunction with an approved food vendor to provide meals for the site.
- c. Train volunteers in the policies and procedures related to the congregate meal program including but not limited to such items as the reservation process, food handling and food safety.
- d. Provide, when not otherwise available or funds allow, the usual equipment needed to serve meals such as meal carriers, serving equipment, eating utensils, paper products, meal trays, record keeping supplies, tables and chairs. Such equipment shall remain the property of the Weld County Senior Nutrition Program. The Site may not use any of the Program's supplies for non-related senior nutrition functions.

2. Site Responsibilities:

- a. Allow the Program the use of its kitchen, including equipment and dining area at no cost to the Program as a congregate meal site, **Wednesday between the hours of 9:00 am – 3:00 pm.**

- b. To work collaboratively with all regulatory entities such as Administration on Aging, Department of Human Services State Unit on Aging, Department of Public Health and Environment or other like agencies. Notify the Program of closures of the dining room facility on a scheduled meal day (3) weeks in advance of the closure to allow the Program time to notify the food and transportation vendors. It will be responsibility of the Site to notify senior participants of the closure dates. Notification must be given to the Program office in writing. Please refer to the Area Agency on Aging's Policy and Procedure for Site Cancellation of Meals for more details.
Repeated cancelation requests could jeopardize the ongoing status of the meal site.
- c. Provide oversight and maintenance of the facility to include regular cleaning of the site kitchen and dining area, frequent removal of trash and garbage, repairs to the building and grounds, snow removal and extermination services when necessary.
- d. The Site must adhere to all of the following rules, regulations and procedures set forth in the following resources: (1) the Weld County Senior Nutrition Program regulations; (2) the Weld County Senior Nutrition Policy and Procedure Handbook; (3) all applicable local fire code regulations; and (4) Volume 10 of the Colorado Department of Human Services Code of Regulations (12 CCR 2510-1).

3. Terms of the Agreement:

- a. This agreement shall begin on **January 1, 2016** and be ongoing as long as both parties desire to maintain the agreement.
- b. Changes or modification of this Agreement require 30 days notice and shall be in writing and signed by both parties.
- c. Both parties will retain an executed copy of this Agreement on file at their premises.

4. Assurances:

- a. The Program agrees that it is an independent contractor and that its officers, employees, clients, and volunteers do not become employees of the Site, and therefore are not entitled to any employee benefits as Site employees, as a result of the execution of this agreement.
- b. The Site agrees that it is an independent contractor and that its officers, employees, clients, and volunteers do not become employees of the Program, and therefore are not entitled to any employee benefits as Program employees, as a result of this Agreement.
- c. The Site, its officers and employees, shall not be held liable for injuries or damages caused by any negligent acts or omissions of the Program, its employees, volunteers, or agents while performing functions as described in this Agreement.
- d. The Program, by and through Weld County, the Board of Commissioners of Weld County, its officers and employees, shall not be held liable for injuries or damages caused by negligent acts or omissions of the Site, its employees, volunteers, or agents

while performing this Agreement. The Site must carry property and liability insurance in such amounts as needed to protect Weld County, and shall provide evidence of such coverage to Weld County.

- e. The Site shall be solely responsible to provide such liability, worker's compensation and property insurance, as it deems appropriate and necessary to protect its facility, and its officers, members, employees, volunteers, agents, Weld County and the citizens served by the Site. The Program shall have no responsibility, fiscal or otherwise, to cover any loss or damage experienced by the Site or any damage loss or injury to any of the Site's officers, members, employees, volunteers, agents or citizens served by the Site.
- f. No officer, member, or employee of the Site and no member of their governing body shall have any pecuniary interest, direct or indirect, in the approved Agreement or proceeds thereof.
- g. The Program and the Site assure compliance with Title VI of the Civil Rights Act of 1986, and that no person shall, on the grounds of race, creed, color, sex, handicap, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the approved Agreement.
- h. No portion of this Agreement shall be deemed to constitute a waiver of any immunities the parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care with respect to any persons not party to this Agreement.

5. Termination:

- a. This Agreement may be terminated upon thirty (30) days written notice by either the Program or the Site.
- b. This Agreement may become null and void if the Site changes their location. A new contract will be offered when the Site completes all Program, regulatory and code requirements.

6. Entire Agreement:

This Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof, and may not be changed or modified except as stated in paragraph 3 herein.

7. Severability:

If any section, subsection, paragraph, sentence, clause, or phrase of this Agreement for any reason held or decided to be unconstitutional, such decision shall not affect the validity of the remaining portions. The parties hereto declare that they would have entered into this Agreement and each and every section, subsection, paragraph, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections,

subsections, paragraphs, sentences, clauses, or phrases might be declared unconstitutional or invalid.

8. Non-Appropriation:

No portion of this Agreement shall be deemed to create an obligation on the part of the county of Weld, State of Colorado, to expend funds not otherwise appropriated in each succeeding year.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the day, month, and year first written above.

Town of Johnstown

Scott James, Town Mayor

Address 1: 450 S. Parish Ave_____

Address 2: Johnstown_____

State: CO_____ Zip 80534_____

Tel: 970-587-4664 Fax: 970-587-0141_____

Email: SJames@townofjohnstown.com

WELD COUNTY AREA AGENCY ON AGING

Eva M. Jewell, Division Head

ATTEST:
Weld County Clerk to the Board

**BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO**

BY: _____
Deputy Clerk to the Board

Mike Freeman, Chair

APPROVED AS TO FUNDING:

APPROVED AS TO SUBSTANCE:

Controller

Judy Griego, Director, Weld County
Department of Human Services

APPROVED AS TO FORM:

Director of General Services

AGENDA ITEM 9A

**TAVERN
LIQUOR LICENSE
RENEWAL
(Leo's Place)**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 7, 2016

ITEM NUMBER:

SUBJECT: Consider Tavern Liquor License Renewal - Leo's Place

ACTION PROPOSED: Approve Tavern Liquor License Renewal

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: Mercy Rivera, operating manager of Leo's Place, has submitted a renewal application to the Town Clerk for a tavern liquor license (malt, vinous, and spirituous) for Leo's Place located at 19 ½ So. Parish Ave., Johnstown. The required fees have been submitted to the Town. According to the Johnstown Police Department, the establishment has cooperated with law enforcement officials and there have been no violations of the liquor code during the last licensing period (refer to attachment).

The Town Council acts as the Local Licensing Authority and is responsible for reviewing and issuing liquor licenses.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

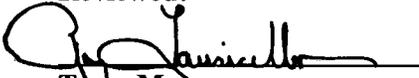
RECOMMENDED ACTION: Approve the tavern liquor license renewal.

SUGGESTED MOTIONS:

For Approval: I move to approve the tavern liquor license renewal for Leo's Place.

For Denial: I move to deny approval of the tavern liquor license renewal for Leo's Place.

Reviewed:


Town Manager

**RENEWAL
APPLICATION**

**RETAIL LIQUOR OR 3.2 BEER
 LICENSE RENEWAL APPLICATION**

LEO'S PLACE
 600 CHARLOTTE
 JOHNSTOWN CO 80534

Fees Due	
Renewal Fee	\$500.00
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	500.00

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name RIVERA MERCY I		DBA LEO'S PLACE		
Liquor License # 41873750000	License Type Tavern (city)	Sales Tax License # 41873750000	Expiration Date 09/20/2016	Due Date 08/06/2016
Operating Manager	Date of Birth	Home Address		
Manager Phone Number		Email Address mercyrivera70@gmail.com		
Street Address 19 1/2 S PARISH JOHNSTOWN CO 80534-9099				Phone Number 9705874866
Mailing Address 600 CHARLOTTE JOHNSTOWN CO 80534				

- Do you have legal possession of the premises at the street address above? YES NO
 Is the premises owned or rented? Owned Rented* *If rented, expiration date of lease _____
- Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. YES NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. YES NO
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. YES NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. YES NO

AFFIRMATION & CONSENT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business Mercy I Rivera	Title owner
Signature 	Date 8-10-2016

REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. THEREFORE THIS APPLICATION IS APPROVED.

Local Licensing Authority For	Date
Signature	Title
	Attest

**POLICE
REPORTS**

TOWN OF JOHNSTOWN POLICE DEPARTMENT

Information 3.2% Beer or Liquor Application

- Name and address of Applicant} Mercy Rivera
600 Charlotte Street
Johnstown, CO 80534
1. Trade Name and Address} Leo's Place
19 ½ S. Parish
Johnstown, CO 80534
2. Date of Application: 08/12/2016
3. Type of Application: Tavern License
4. Documents Accompanying Application
A. Local and State License Fees} Submitted with application
B. Evidence of Correct Zoning} CBD
C. Building Plans and or Sketch of Interior} N/A
D. Distance from School as per State} N/A
E. Deed or Lease or Assignment of Lease or Ownership} Owned
5. Evidence of Public Notice
A. Posting of Premises} N/A
B. Legal Publication } N/A
6. Investigation: Police Department Case#}
A. Applicant has made application for renewal of their Tavern License
B. Leo's Place has operated legally during its last license period.
C. Cooperation with law enforcement has been good.
8. Findings of fact:
A. Leo's Place presently holds license 41873750000 that expires September 20, 2016
B. The required fees were submitted.
C. It is my recommendation that the renewal be approved.


CHIEF OF POLICE


DATE

**JOHNSTOWN POLICE DEPT.
LIQUOR LICENSE RENEWAL INFORMATION SHEET**

APPLICANT: **Leo's Place**

ADDRESS: **19 ½ S. Parish**

TYPE LICENSE: **Tavern**

POLICE CALLS FOR SERVICE AT THIS LOCATION:

LIQUOR VIOLATIONS AT THIS LOCATION:

ARRESTS DUE TO ALCOHOL AT THIS LOCATION:

JPD RECOMMENDATION FOR RENEWAL: YES XXX NO _____

REPORTING OFFICER: *B. [Signature]*

DATE: *8/17/16*

EMPLOYEES ATTENDED ALCOHOL TRAINING CLASSES: *ONE (1)*
EMPLOYEE.

AGENDA ITEM 9B

**BEER /WINE
LIQUOR LICENSE
RENEWAL
(Huang Garden)**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 7, 2016

ITEM NUMBER: 9B

SUBJECT: Consider Beer & Wine Liquor License Renewal – Huang Garden

ACTION PROPOSED: Approve Beer & Wine Liquor License Renewal

PRESENTED BY: Town Clerk, Police Chief

AGENDA ITEM DESCRIPTION: Mr. Liang A. Huang, operating manager of Huang Garden, has submitted a renewal application to the Town Clerk for a beer and wine liquor license (malt and vinous) for Huang Garden located at 257 Johnstown Center Drive, Johnstown. The required fees have been submitted to the Town. According to the Johnstown Police Department, the establishment has cooperated with law enforcement officials.

The Town Council acts as the Local Licensing Authority and is responsible for reviewing and issuing liquor licenses.

LEGAL ADVICE: N/A

FINANCIAL ADVICE: N/A

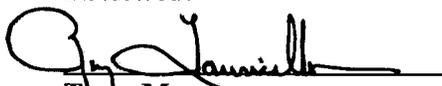
RECOMMENDED ACTION: Approve the beer and wine liquor license renewal.

SUGGESTED MOTIONS:

For Approval: I move to approve the beer and wine liquor license renewal for Huang Garden.

For Denial: I move to deny approval of the beer and wine liquor license renewal for Huang Garden.

Reviewed:


Town Manager

**LICENSE
RENEWAL
APPLICATION**

**RETAIL LIQUOR OR 3.2 BEER
 LICENSE RENEWAL APPLICATION**

Fees Due	
Renewal Fee	\$351.25
Storage Permit \$100 x _____	_____
Optional Premise \$100 x _____	_____
Related Resort \$75 x _____	_____
Amount Due/Paid	

HUANG GARDEN
 6363 W 120TH AVE STE 322
 BROOMFIELD CO 80020-0300

Make check payable to: Colorado Department of Revenue.
 The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

PLEASE VERIFY & UPDATE ALL INFORMATION BELOW

RETURN TO CITY OR COUNTY LICENSING AUTHORITY BY DUE DATE

Licensee Name HUANG GARDEN INC		DBA HUANG GARDEN		
Liquor License # 25525410000	License Type Beer & Wine (city)	Sales Tax License # 25525410000	Expiration Date 10/27/2016	Due Date 09/12/2016
Operating Manager <i>Liang Huang</i>	Date of Birth <i>5-21-1977</i>	Home Address <i>487 Expedition Ln Johnstown Co. 80534</i>		
Manager Phone Number	Email Address			
Street Address 257 JOHNSTOWN CNTR DR UNIT 114 JOHNSTOWN CO 80534				Phone Number 7205872363
Mailing Address 6363 W 120TH AVE STE 322 BROOMFIELD CO 80020-0300				

- Do you have legal possession of the premises at the street address above? YES NO
 Is the premises owned or rented? Owned Rented* *If rented, expiration date of lease *8-1-2017*
- Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. YES NO
NOTE TO CORPORATION, LIMITED LIABILITY COMPANY AND PARTNERSHIP APPLICANTS: If you have added or deleted any officers, directors, managing members, general partners or persons with 10% or more interest in your business, you must complete and return immediately to your Local Licensing Authority, Form DR 8177: Corporation, Limited Liability Company or Partnership Report of Changes, along with all supporting documentation and fees.
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. YES NO
- Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. YES NO
- Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. YES NO

AFFIRMATION & CONSENT

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business <i>Liang Huang</i>	Title <i>owner</i>
Signature <i>Liang Huang</i>	Date <i>8/16/16</i>

REPORT & APPROVAL OF CITY OR COUNTY LICENSING AUTHORITY

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 12, Articles 46 and 47, C.R.S. **THEREFORE THIS APPLICATION IS APPROVED.**

Local Licensing Authority For	Date
Signature	Title
	Attest

**POLICE
REPORTS**

TOWN OF JOHNSTOWN POLICE DEPARTMENT

Information 3.2% Beer or Liquor Application

- Name and address of Applicant} Liang A. Huang
487 Expedition Lane
Johnstown, CO 80534
1. Trade Name and Address} Huang Garden Inc.
257 Johnstown Center Drive Unit 114
Johnstown, CO 80534
2. Date of Application: 08/16/2016
3. Type of Application: Beer and Wine Liquor License
4. Documents Accompanying Application
A. Local and State License Fees} Submitted with application
B. Evidence of Correct Zoning} CBD
C. Building Plans and or Sketch of Interior} N/A
D. Distance from School as per State} N/A
E. Deed or Lease or Assignment of Lease or Ownership} Leased
5. Evidence of Public Notice
A. Posting of Premises} N/A
B. Legal Publication } N/A
6. Investigation: Police Department Case#}
A. Applicant has made application for renewal of their Beer and Wine License
B. Huang Garden has operated legally during its last license period.
C. Cooperation with law enforcement has been good.
8. Findings of fact:
A. Huang Garden presently holds license 25525410000 that expires October 27, 2016
B. The required fees were submitted.
C. It is my recommendation that the renewal be approved.


CHIEF OF POLICE

8/17/16
DATE

**JOHNSTOWN POLICE DEPT.
LIQUOR LICENSE RENEWAL INFORMATION SHEET**

APPLICANT: **Huang Garden**

ADDRESS: **257 Johnstown Center Drive Unit 114**

TYPE LICENSE: **Beer and Wine**

POLICE CALLS FOR SERVICE AT THIS LOCATION:

LIQUOR VIOLATIONS AT THIS LOCATION:

ARRESTS DUE TO ALCOHOL AT THIS LOCATION:

JPD RECOMMENDATION FOR RENEWAL: YES XXX NO _____

REPORTING OFFICER: *B. Hoff*

DATE: *8/17/16*

EMPLOYEES ATTENDED ALCOHOL TRAINING CLASSES: *ONE (1)*
EMPLOYEE.

AGENDA ITEM 9C

**PROHIBITING
RECREATIONAL MARIJUANA
AND
MARIJUANA CONSUMPTION
ESTABLISHMENTS
(Ordinance No. 2016-143)
(*Public Hearing – First Reading)**

**** PUBLIC HEARING PROCEDURE-Ordinance No. 2016-143 (First Reading) An Ordinance Prohibiting the Operation of Recreational Marijuana Establishments and Marijuana Consumption Establishments; Superseding Ordinance No. 2013-126***

- 1. Open public hearing.**
- 2. Receive information from staff.**
- 3. Ask to hear from anyone who supports Ordinance No. 2016-143.**
- 4. Ask to hear from anyone who opposes Ordinance No. 2016-143.**
- 5. Close the public hearing.**
- 6. Ask for discussion.**
- 7. Make decision and/or motion from Council.**
 - a. Need motion to approve or deny Ordinance No. 2016-143 on first reading.**

(SUGGESTED MOTIONS):

For Approval:

I move to approve Ordinance No. 2016-143 on first reading, An Ordinance Prohibiting the Operation of Recreational Marijuana Establishments and Marijuana Consumption Establishments; Superseding Ordinance No. 2013-126.

For Denial:

I move to deny approval of Ordinance No. 2016-143 on first reading.

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 7, 2016

ITEM NUMBER: 9B

SUBJECT: *Public Hearing – (First Reading) Consider Ordinance No. 2016-143, An Ordinance Prohibiting the Operation of Recreational Marijuana Establishments and Marijuana Consumption Establishments; Superseding Ordinance No. 2013-126

ACTION PROPOSED: Approve Ordinance No. 2016-143 on first reading

PRESENTED BY: Town Attorney

AGENDA ITEM DESCRIPTION: Article XX, Section 6, of the Colorado Constitution and State statutes, including, but not limited to C.R.S. § 31-15-401, provide the Town with broad authority to exercise police powers to promote and protect the health, safety, and welfare of the community and the residents. The Town's police powers include the power to regulate the nature and type of businesses allowed within the community. Article XVIII, Section 16, of the Colorado Constitution specifically authorizes a municipality to enact ordinances and regulations prohibiting the operation of recreational marijuana establishments.

Ordinance 2016-143 prohibits the operation of recreational marijuana establishments and marijuana consumption establishments in the Town. Recreational marijuana establishments include marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities and retail marijuana stores as those terms are defined in Article XVIII, Section 16, of the Colorado Constitution. Marijuana consumption establishments include organizations, businesses, clubs or commercial operations that allow members or guests to burn, smoke, inhale the vapors of or otherwise consume marijuana in any form on the premises, and is intended to prohibit marijuana social clubs operating on a commercial level.

In 2013, the Town Council adopted Ordinance No. 2013-126, prohibiting marijuana retail establishments in the Town. Ordinance No. 2013-126 codified the prohibition at Section 10-253 of the Johnstown Municipal Code. The Code contains a Section 10-253 that is different and distinct from the prohibition set forth in Ordinance No. 2013-126. Ordinance 2016-143 would alleviate the confusion that may be caused by the prior codification.

LEGAL ADVICE: Ordinance No. 2016-143 was prepared by the Town Attorney.

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve Ordinance No. 2016-143 on first reading.

SUGGESTED MOTION:

For Approval: I move to approve Ordinance No. 2016-143, An Ordinance Prohibiting the Operation of Recreational Marijuana Establishments and Marijuana Consumption Establishments and Superseding Ordinance No. 2013-126, on first reading.

For Denial: I move to deny approval of Ordinance No. 2016-143.

Reviewed:


Town Manager

ORDINANCE

No. 2016-143

TOWN OF JOHNSTOWN, COLORADO

ORDINANCE NO. 2016-143

**AN ORDINANCE PROHIBITING THE OPERATION
OF RECREATIONAL MARIJUANA ESTABLISHMENTS
AND MARIJUANA CONSUMPTION ESTABLISHMENTS;
SUPERSEDING ORDINANCE NO. 2013-126**

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

WHEREAS, the Town Council, in the interest of the health, safety and welfare of the Town and its residents, desires to prohibit business uses related to marijuana in the Town; and

WHEREAS, Article XX, Section 6, of the Colorado Constitution and State statutes, including, but not limited to C.R.S. § 31-15-401, provide the Town with broad authority to exercise police powers to promote and protect the health, safety, and welfare of the community and the residents; and

WHEREAS, the Town's police powers include the power to regulate the nature and type of businesses allowed within the community; and

WHEREAS, Article XVIII, Section 16, of the Colorado Constitution authorizes a municipality to enact ordinances and regulations prohibiting the operation of recreational marijuana establishments; and

WHEREAS, the Town Council hereby finds and determines that it is in the best interest of the Town and its residents to prohibit the operation of recreational marijuana establishments and marijuana consumption establishments in the Town; and

WHEREAS, the Town Council previously adopted Ordinance No. 2013-126, prohibiting marijuana cultivation facilities, marijuana testing facilities, marijuana product manufacturing facilities and retail marijuana stores in the Town; and

WHEREAS, Ordinance No. 2013-126 codified the prohibition at Section 10-253 of the Johnstown Municipal Code; and

WHEREAS, the Johnstown Municipal Code contains a Section 10-253 that is different and distinct from the prohibition set forth in Ordinance No. 2013-126; and

WHEREAS, the Town Council, to alleviate confusion, desires that this Ordinance shall supersede and replace Ordinance No. 2013-126.

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

Section 1. Section 16-12 of the Johnstown Municipal Code shall be amended to include the following definitions in alphabetical order to read as follows:

Sec. 16-12. Specific words and phrases.

Marijuana or recreational marijuana means all parts of the plant of the genus *cannabis*, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin, including marijuana concentrate. *Marijuana* includes marijuana products as defined herein. *Marijuana* does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of the plant, sterilized seed of the plant which is incapable of germination or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.

Marijuana consumption establishment means an organization, business, club or commercial operation that allows its members or guests to burn, smoke, inhale the vapors of or otherwise consume marijuana in any form on the premises.

Marijuana cultivation facility shall have the meaning set forth in Article XVIII, Section 16, of the Colorado Constitution and includes without limitation any real property used for or upon which there is any type of structure associated with cultivating, preparing or packaging marijuana.

Marijuana products means concentrated marijuana products and marijuana products that are comprised of marijuana and other ingredients and are intended for use or consumption, such as, but not limited to, edible products, ointments and tinctures.

Marijuana product manufacturing facility shall have the meaning set forth in Article XVIII, Section 16, of the Colorado Constitution and includes without limitation any real property used for or upon which there is any type of structure associated with manufacturing, preparing or packaging marijuana.

Marijuana testing facility shall have the meaning set forth in Article XVIII, Section 16, of the Colorado Constitution and includes without limitation any real property used for or upon which there is any type of structure associated with analyzing and certifying the safety and potency of marijuana.

Recreational marijuana establishment means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility or a retail marijuana store.

Retail marijuana store shall have the meaning set forth in Article XVIII, Section 16, of the Colorado Constitution and includes without limitation any real property used for or upon which there is any type of structure associated with the sale of marijuana to consumers.

Section 2. Article III of Chapter 16 of the Johnstown Municipal Code shall be amended by the addition of Section 16-26, which shall read as follows:

Sec. 16-26. Recreational marijuana prohibitions.

- (a) Intent, authority and applicability.
 - (1) Intent. The intent of this Section is to prohibit business uses related to recreational marijuana in the Town.
 - (2) Authority. The Town Council has authority to prohibit business uses related to recreational marijuana in the Town, deriving from, among other sources, Article XX, Section 6, of the Colorado Constitution, State statutes, including but not limited to C.R.S. § 31-15-401, and Article XVIII, Section 16, of the Colorado Constitution.
 - (3) Applicability. This Section shall apply to all property in the Town.
- (b) Uses prohibited.
 - (1) It shall be unlawful for any person to operate, cause to be operated or permit to be operated a recreational marijuana establishment in the Town.
 - (2) It shall be unlawful for any person to operate, cause to be operated or permit to be operated a marijuana consumption establishment in the Town.

Section 3. Repeal. Existing or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 4. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published and posted as required by the Town Charter and the adoption, posting and publication shall be authenticated by the signature of the Mayor and the Town Clerk and by the Certificate of Publication. This Ordinance shall become effective upon final passage as provided by the Home Rule Charter of the Town of Johnstown, Colorado. Copies of the entire Ordinance are available at the office of the Town Clerk.

INTRODUCED, AND APPROVED on first reading by the Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2016.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Scott James, Mayor

PASSED UPON FINAL APPROVAL AND ADOPTED on second reading by the
Town Council of the Town of Johnstown, Colorado, this ___ day of _____, 2016.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Scott James, Mayor

AGENDA ITEM 9D

WATER/SEWER

SERVICE

AGREEMENT

(Lockard Industrial Park at 2534)

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: September 7, 2016

ITEM NUMBER: 9D

SUBJECT: Consider Water and Sewer Service Agreement for Lockard Industrial Park at 2534

ACTION PROPOSED: Consider Approval of Water and Sewer Service Agreement for Lockard Industrial Park at 2534

PRESENTED BY: Town Attorney

AGENDA ITEM DESCRIPTION: In compliance with the Town's water rights dedication ordinance, Lockard Industrial Park submitted to the Town a Water and Sewer Demand Analysis on or about June 3, 2016, and it has been accepted by the Town upon a review by the Town's Water Resources Engineer. Based upon the analysis with the proposed construction of a beverage warehouse and distribution operation with offices, the average in-building water demand for Lockard Industrial Park at 2534 is calculated to be 0.27±acre-feet per year. The landscaping (raw water) irrigation demand is calculated to be 0.45 ±acre-feet per year.

The water requirement for this project is 0.72 ± acre-feet per year. Water credits for the in-building demand and the irrigation will come from Gerrard Family Limited Partnership LLLP and Thompson Ranch Development Company who previously dedicated water rights into a "water bank" under a prior agreement with the Town.

LEGAL ADVICE: The attached Water and Sewer Service Agreement was drafted by the Town's Water Attorney, Peter Ampe.

FINANCIAL ADVICE: N/A

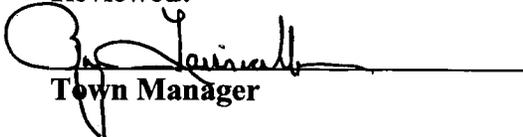
RECOMMENDED ACTION: Approve the Water and Sewer Service Agreement as drafted.

SUGGESTED MOTIONS:

For Approval: I move to approve the Water and Sewer Service Agreement for Lockard Industrial Park at 2534 and authorize the Mayor to sign it.

For Denial: I move to deny approval of the Water and Sewer Service Agreement for Lockard Industrial Park at 2534.

Reviewed:


Town Manager

AGREEMENT

WATER AND SEWER SERVICE AGREEMENT

THIS WATER AND SEWER SERVICE AGREEMENT is made and entered into this 2 day of August, 2016, by and between **EWS CAPITAL, LLC** (“Developer”) and **THE TOWN OF JOHNSTOWN**, a Colorado municipal corporation, (“Town”), collectively sometimes referred to as the “Parties”.

WITNESSETH:

WHEREAS, the Developer owns land within the Northeast Quarter Section 14, Township 5 North, Range 68 West of the 6th P.M., also described as Lot 7, Block 10, 2534 Filing No. 6 (“Subject Property”); and

WHEREAS, the Subject Property has been annexed to the Town and was the subject of an Annexation Agreement dated December 17, 2000; and

WHEREAS, the Subject Property is being developed as a two buildings with office and warehouse space (“Project”) the location of which is more particularly described in Exhibit A; and

WHEREAS, on February 23, 2005 the Town Council of the Town of Johnstown approved the Final Plat for 2534; and

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

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

1. Water and Sewer Demand Studies. In compliance with the Town Water Rights Dedication Ordinance, Chapter 13, Sections 13-61 through 13-72, inclusive, of the Johnstown Municipal Code, as amended, (“Ordinance”), Developer has submitted to the Town a preliminary Water and Sewer Demand Analysis. Said analysis was received by the Town on or about June 3, 2016, is on file with the Town and, subject to the revisions made by the Town water engineer, is hereby accepted by the Town. The analysis provided by Developer addresses the projected water and sewer demands for the Project as follows:

Development Component	Demand (AF/YR)	Consumption (AF/YR)
In-Building	0.269	0.013
Landscape Irrigation (non-potable)	0.453	0.385
Total	0.722	0.398

2. Water Rights Dedication.

a. Potable Supply. As a result of prior dedications associated with the 2534 Development, there is currently a surplus dedication credit with the Town of approximately 116.37 acre-feet per year of potable water. The Parties and the Gerrard Family Limited Partnership, LLLP and Thompson Ranch, LLLP have agreed that this credit shall be applied to meet the potable water demands of the Project. Evidence of the agreement is attached as Exhibit B.

b. Non-Potable Supply. As a result of prior dedications associated with the 2534 Development, there is currently a surplus dedication credit with the Town of approximately 225.71 acre-feet per year of non-potable water under shares from the Farmers Canal. The Parties and the Gerrard Family Limited Partnership, LLLP and Thompson Ranch, LLLP have agreed that this credit shall be applied to meet the non-potable water demands of the Project. Evidence of the agreement is attached as Exhibit B.

3. Surplus dedication credit.

a. Potable. The use of the prior surplus dedication credit of approximately 116.37 acre-feet per year of potable water will leave additional credit in the potable portion of the 2534 Water Bank. The potable portion of the Water Bank will have a surplus dedication credit with the Town of approximately 116.10 acre-feet per year of potable water. The credit is calculated as follows:

Prior Surplus Dedication Credit (Potable):	116.37 acre-feet
LESS Estimated demand:	0.27 acre-feet
Net current surplus credit:	116.10 acre-feet

Upon notice and written approval of the Town, said credit may be utilized to offset increased demands, if any, which are not currently projected, subject to approval by the Town in subsequent agreement(s) in accordance with the requirements of the applicable Town's Ordinance and approval of the Gerrard Family Limited Partnership, LLLP and Thompson Ranch, LLLP.

b. Non-Potable. The use of the prior surplus dedication credit of approximately 225.71 acre-feet per year of non-potable water will leave additional credit in the 2534 non-potable portion of the Water Bank. The non-potable portion of the Water Bank will have a surplus dedication credit with the Town of approximately 225.26 acre-feet per year of potable water. The credit is calculated as follows:

Prior Surplus Dedication Credit (Potable):	225.71 acre-feet
LESS Estimated demand:	0.45 acre-feet
Net current surplus credit:	225.26 acre-feet

Upon notice and written approval of the Town, said credit may be utilized to offset increased demands, if any, which are not currently projected, subject to approval by the Town in subsequent agreement(s) in accordance with the requirements of the applicable Town's Ordinance and approval of the Gerrard Family Limited Partnership, LLLP and Thompson Ranch, LLLP.

4. Commitment to serve. Subject to Developer's performance of all the covenants contained herein and payment of all required fees, the Town commits to provide to the Subject Property up to 0.27 acre-feet per year of potable water supply together with the corresponding sewer service and up to 0.45 acre-feet per year non-potable water supply for landscape irrigation.

5. Future review of water usage and dedication requirements. In accordance with Section 13-68(h) of the Ordinance, the Town reserves the right to review actual water usage within the Subject Property, at a point in time after water usage has been established, to confirm the adequacy of the water demand projections made by the Developer, and to require additional water rights dedication and/or cash-in-lieu payments based on actual water usage.

6. Payment of Water Court Transfer fees. The Water Court transfer fee for both the potable water supply and non-potable water supply was previously paid to the Town as part of the 2534 Water Bank. However, in accordance with the Ordinance, additional fees may be required in connection with future development of any property to which all or any portion of the surplus dedication credit is subsequently assigned pursuant to a future mutual agreement of the parties in accordance with the Town's Ordinance.

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

TO DEVELOPER:

EWS Capital, LLC
 Attn: Edwin Lockard
 264 Dean Circle
 Loveland, CO 80537

TO THE TOWN:

Town of Johnstown
 c/o Town Clerk
 450 S. Parish Ave.
 Johnstown, CO 80534

WITH A COPY TO
 THE TOWN ATTORNEYS:

Avi Rocklin, Esq.
Johnstown Town Attorney
19 Old Town Square, Suite 238
Fort Collins, CO 80524

Peter J. Ampe
Hill & Robbins, P.C.
1660 Lincoln St., Suite 2720
Denver, CO 80264

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

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

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

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

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

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

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

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

15. Choice of laws. This agreement and the rights and obligations of the Parties hereto shall be governed by the laws of the State of Colorado.

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

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

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

Signatures follow on separate pages

EWS Capital, LLC

By: Edwin Edwin Lockard

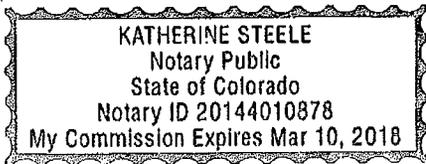
Print Name: Edwin Lockard

Title: Managing Member

STATE OF COLORADO)
) ss
COUNTY OF DENVER)

SUBSCRIBED AND SWORN to before me this 2 day of August, 2016 by Edwin Lockard of EWS Capital, LLC.

Witness my hand and official seal.



K Steele
Notary Public

1125 17TH ST, Denver, CO 80202
Address
303.244.3278
Telephone

My Commission Expires: 03/10/2018

TOWN OF JOHNSTOWN, COLORADO,
a municipal corporation

By: _____
Scott James, Mayor

ATTEST:

By: _____
Town Clerk

APPROVED AS TO FORM:

Avi Rocklin
Johnstown Town Attorney

**RAW
WATER
CREDIT
ACKNOWLEDGMENT**

RAW WATER CREDIT ALLOCATION ACKNOWLEDGMENT

This is to acknowledge and agree that the Town of Johnstown may allocate raw water credit from the Gerrard Family Limited Partnership, LLLP and Thompson Ranch Development Company raw water credit account held by the Town of Johnstown, known as the "2534 Water Bank," to provide water service to the development known as Lockard Industrial, and any successor occupant of the premises at the same location, pursuant to the Water and Sewer Service Agreement between Lockard Development Group and the Town of Johnstown dated _____, 20___. The amount of such allocated raw water credit is calculated to be 0.27 acre-feet per year for In-Building Use and 0.45 acre-feet per year for Irrigation Use, subject to adjustment pursuant to the terms of the Water Sewer Service Agreement.

GERRARD FAMILY LIMITED PARTNERSHIP, LLLP



Nathan Gerrard, Partner
Gerrard Family Limited Partnership, LLLP

Dated: 8/22/16

THOMPSON RANCH DEVELOPMENT COMPANY



Todd Williams, Vice President
Thompson Ranch Development Company

Dated: 8/22/16

