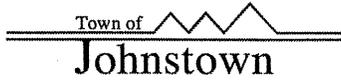


***TOWN COUNCIL***  
***MEETING***  
***PACKET***

**December 4, 2017**



## Town Council

*Agenda*  
Monday, December 4, 2017  
Town Hall, Council Chambers  
450 So. Parish Avenue  
7:00 PM



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**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."*

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*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**
- 5) **PUBLIC COMMENT (three-minute limit per speaker)**

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*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.*

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- 6) **CONSENT AGENDA**
    - A) Town Council Meeting Minutes – November 20, 2017
    - B) Resolution No. 2017-11, Committing Funds for the Construction of Improvements to the Interchanges at Interstate 25 and U.S. 34 and State Highway 402
  - 7) **STAFF REPORTS**
  - 8) **OLD BUSINESS**
  - 9) **NEW BUSINESS**
    - A) Resolution No. 2017-12, A Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Town of Johnstown, Colorado for the Calendar Year Beginning on the First Day of January, 2018 and Ending on the Last Day of December, 2018
    - B) Resolution No. 2017-13, A Resolution Appropriating Sums of Money to the Various Funds and Spending Agencies in the Amounts and for the Purposes as Set Forth, for the Town of Johnstown, Colorado for the 2018 Budget Year
    - C) Resolution No. 2017-14, A Resolution Levying General Property Taxes for the Year 2018 Help Defray the Costs of Government for the Town of Johnstown, Colorado for the 2018 Budget Year
    - D) **\*Public Hearing** (First Reading) Ordinance No. 2017-150, An Ordinance Amending Sections 2-4, 2-4.1 and 2-9 of the Johnstown Municipal Code to Correlate Certain Election Procedures with those set forth in the Colorado Municipal Code of 1965
    - E) Water and Sewer Service Agreement -Mountain View West
    - F) **\*Public Hearing** –Mountain View West Final Plat
    - G) Consider Subdivision Development and Improvement Agreement –Mountain View West
  - 10) **COUNCIL REPORTS AND COMMENTS**
  - 11) **MAYOR'S COMMENTS**
  - 12) **ADJOURN**
-



**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 ITEMS 6A-B**

**CONSENT**

**AGENDA**

- **Council Minutes – November 20, 2017**
- **Commitment of Funds for I-25, U.S. 34  
and State Highway 402 Interchange  
Improvements  
(2017-11)**

**TOWN COUNCIL AGENDA COMMUNICATION**

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**AGENDA DATE:** December 4, 2017

**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:

- Council Meeting Minutes – November 20, 2017
  - \* Resolution 2017-11, Committing Funds for Improvements to the Interstate 25 and U.S. Highway 34 and State Highway 402 Interchanges as Part of the Colorado Department of Transportation's North I-25 Design-Build Project
- \* On or about August 7, 2017 the Town Council approved an amendment to an intergovernmental agreement between the Town and the State of Colorado, for the use and benefit of CDOT, committing \$6,000,000 toward the cost of the improvements to the Interstate 25 and U.S. Highway 34 and State Highway 402 interchanges, which payment is due on December 31, 2020. To ensure funds are available in 2020 and because budgeting for that time period would be premature, the Town Council may set aside and commit \$2,000,000 from the unassigned fund balance for the General Fund for the eventual payment.

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**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.

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**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** Approve Consent Agenda

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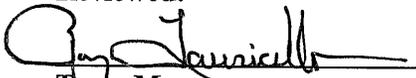
**SUGGESTED MOTION:**

**For Approval:** I move to approve the Consent Agenda.

**For Denial:**

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**Reviewed:**

  
Town Manager

**COUNCIL  
MINUTES**

The Town Council of the Town of Johnstown met on Monday, November 20, 2017 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, Mellon, Molinar Jr., Tallent and Young

Also present: Avi Rocklin, Town Attorney, Roy Lauricello, Town Manager, John Franklin, Town Planner, Aaron Sanchez, Police Commander and Diana Seele, Town Clerk/Treasurer

### Agenda Approval

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

### Consent Agenda

Councilmember Lebsack made a motion seconded by Councilmember Mellon to approve the Consent Agenda with the following items included:

- November 6, 2017 Council Meeting Minutes
- Payment of Bills
- October Financial Statements
- Resolution No. 2017-10, A Resolution Authorizing the Town Manager to Execute Certain Contracts on Behalf of the Town of Johnstown
- Resolution 2017-10A, A Resolution Authorizing a Mail Ballot Election for the Town of Johnstown's Regular Municipal Election Scheduled for April 3, 2018

Motion carried with a unanimous vote.

### New Business

A. Public Hearing – Presentation of 2018 Proposed Budget – Colorado Revised Statutes (C.R.S. 29-1-108(1)) states, in part, the following: “The governing body of the local government shall hold a hearing to consider the adoption of the proposed budget, at which time objections of the electors shall be considered.”

Mayor James opened the Public Hearing at 7:13 p.m. and having no public comments closed the hearing at 7:32 p.m.

Council member Lebsack made a motion seconded by Councilmember Davis to approve the 2018 proposed budget. Motion carried with a unanimous vote.

B. Water and Sewer Service Agreement for Coral Bay Wine and Spirits at 2534 – Belfiore Properties West, LLC submitted to the Town a Water and Sewer Demand Analysis and based upon the analysis with the proposed construction of a retail building, the average in-

building water demand for Coral Bay Wine & Spirits at 2534 is calculated to be 1.76 acre feet per year. Water credits for the building will come from the water rights in the "Water Bank" previously dedicated to the town from Gerrard Family Limited Partnership LLLP and Thompson Ranch Development Company.

There being no further business to come before the Council the meeting adjourned at 7:45 p.m.

Mayor

Town Clerk/Treasurer

# **RESOLUTION**

**No. 2017-11**

**TOWN OF JOHNSTOWN, COLORADO  
RESOLUTION NO. 2017-11**

**COMMITTING FUNDS FOR IMPROVEMENTS TO THE  
INTERSTATE 25 AND U.S. HIGHWAY 34 AND STATE HIGHWAY 402  
INTERCHANGES AS PART OF THE COLORADO DEPARTMENT OF  
TRANSPORTATION'S NORTH I-25 DESIGN-BUILD PROJECT**

**WHEREAS**, the Town of Johnstown, Colorado 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 Colorado Department of Transportation ("CDOT") intends to make improvements to Interstate 25 in Northern Colorado, including improvements to the Interstate 25 and U.S. Highway 34 and State Highway 402 interchanges, with construction commencing in 2018 and ending in 2020 ("North I-25 Design-Build Project"); and

**WHEREAS**, by Resolution No. 2017-07, the Town Council affirmed its support for including the interchange improvements in the scope of the North I-25 Design-Build Project and indicated its intent to contribute funds toward the cost of the interchange improvements; and

**WHEREAS**, on or about August 7, 2017, the Town Council approved an amendment to an intergovernmental agreement between the Town and the State of Colorado, for the use and benefit of CDOT, committing \$6,000,000 toward the cost of the interchange improvements ("Amended IGA"); and

**WHEREAS**, the Amended IGA provides that the \$6,000,000 is due on December 31, 2020; and

**WHEREAS**, to ensure funds are available in the 2020 calendar year and because budgeting for that time period would be premature, the Town Council desires to set aside and commit funds for the eventual payment to the State of Colorado; and

**WHEREAS**, the Town Council has determined that Two Million Dollars (\$2,000,000) should be committed from the unassigned fund balance of the General Fund to support the payment to the State of Colorado for the interchange improvements.

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

1. The Town Council hereby sets aside and commits Two Million Dollars (\$2,000,000) in support of the payment to the State of Colorado for the construction of improvements to the Interstate 25 and U.S. Highway 34 and State Highway 402 interchanges, which is due on December 31, 2020.

2. To satisfy the commitment, the Town Council hereby commits Two Million Dollars (\$2,000,000) from the unassigned fund balance of the General Fund.

PASSED, SIGNED, APPROVED, AND ADOPTED this \_\_\_\_ day of November, 2017.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Diana Seele, Town Clerk

By: \_\_\_\_\_  
Scott James, Mayor



**AGENDA ITEM 9A**

**ADOPTION  
OF  
2018  
BUDGET  
(Resolution No. 2017-12)**

**TOWN COUNCIL AGENDA COMMUNICATION**

---

**AGENDA DATE:** December 4, 2017

**ITEM NUMBER:** 9A

**SUBJECT:** Resolution No. 2017-12, A Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Town Of Johnstown, Colorado for the Calendar Year Beginning on the First Day of January, 2018 and Ending on the Last Day of December, 2018

**ACTION PROPOSED:** Approve Resolution No. 2017-12

**PRESENTED BY:** Town Clerk/Treasurer

**AGENDA ITEM DESCRIPTION:** On November 20, 2017 a public hearing was conducted by the Town Council to consider the adoption of the 2017 proposed budget.

Section 12.7 of the Town Charter, states, in part, the following:

"The Council shall adopt the budget for the next fiscal year by ordinance or resolution on or before the final day of the current fiscal year."

The adoption of the 2018 budget for the Town of Johnstown must be formalized and made official by approval of Resolution No. 2017-12.

**LEGAL ADVICE:** N/A

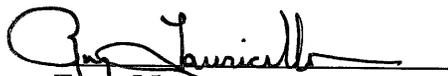
**FINANCIAL ADVICE:** N/A

**RECOMMENDED ACTION:** Approve Resolution No. 2017-12.

**For Approval:** I move to approve Resolution No. 2017-12, A Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Calendar Year Beginning on the First Day of January 2018 and Ending on the Last Day of December 2018.

**For Denial:** I move to deny approval of Resolution No. 2017-12, A Resolution Summarizing Expenditures and Revenues for Each Fund and Adopting a Budget for the Calendar Year Beginning on the First Day of January 2018 and Ending on the Last Day of December 2018.

**Reviewed:**

  
Town Manager

**RESOLUTION**

**No. 2017-12**

**A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES**

**RESOLUTION 2017-12**

**A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES FOR EACH FUND AND ADOPTING A BUDGET FOR THE TOWN OF JOHNSTOWN, COLORADO, FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY, 2018 AND ENDING ON THE LAST DAY OF DECEMBER, 2018.**

**WHEREAS**, the Town Council of the Town of Johnstown has appointed Diana Seele, Town Clerk to prepare and submit a proposed budget to said governing body at the proper time; and

**WHEREAS**, Diana Seele, Town Clerk has submitted a proposed budget to this governing body on December 4, 2017 for its consideration, and;

**WHEREAS**, upon due and proper notice, published or posted in accordance with the law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held, and interested taxpayers were given the opportunity to file or register any objections to said proposed budget, and;

**WHEREAS**, whatever increases may have been made in the expenditures, like increases were added to the revenues so that the budget remains in balance, as required by law.

**NOW, THEREFORE, BE IT RESOLVED BY THE** Town Council of the Town of Johnstown, Colorado:

Section 1. That estimated expenditures for each fund are as follows:

General Fund	\$30,183,600
Water Fund	\$ 1,711,300
Wastewater Fund	\$ 2,023,200
Conservation Trust Fund	\$ 219,000
Impact Fee Fund	\$ 272,700
Drainage Fund	\$ 354,200
Use Tax Capital Improvement Fund	\$ 8,017,500
Contingent Fund	\$ 1,855,500
Community Recreation Center Fund	\$28,000,000
Equipment Replacement Fund	\$ 276,100
Johnson's Corner Capital Imp. Fund	\$ 114,900
Street Maintenance Fund	\$ 300,000
Library Fund	\$ 813,000
Total Estimated Expenditures	\$74,141,000

Section 2. That estimated revenues for each fund are as follows:

General Fund	
From unappropriated surpluses	\$19,976,800
From sources other than general property tax	\$ 5,956,800
From the general property tax levy	\$ 4,250,000
Total General Fund	\$30,183,600
Water Fund	
From unappropriated surpluses	\$ -0-
From sources other than general property tax	\$ 1,711,300
Total Water Fund	\$ 1,711,300
Wastewater Fund	
From unappropriated surpluses	\$ 138,200
From sources other than general property tax	\$ 1,885,000
Total Wastewater Fund	\$ 2,023,200
Conservation Trust Fund	
From unappropriated surpluses	\$ -0-
From sources other than general property tax	\$ 219,000
Total Conservation Trust Fund	\$ 219,000
Impact Fee Fund	
From unappropriated surpluses	\$ -0-
From sources other than general property tax	\$ 272,700
Total Impact Fee Fund	\$ 272,700
Drainage Fund	
From unappropriated surpluses	\$ -0-
From sources other than general property tax	\$ 354,200
Total Drainage Fund	\$ 354,200
Use Tax Capital Improvement Fund	
From unappropriated surpluses	\$ 6,892,500
From sources other than general property tax	\$ 1,125,000
Total Use Tax Capital Improvement Fund	\$ 8,017,500
Contingent Fund	
From unappropriated surpluses	\$ 1,623,300
From sources other than general property tax	\$ 232,200
Total Contingent Fund	\$ 1,855,500

Community Recreation Center Fund	
From unappropriated surpluses	\$28,000,000
From sources other than general property tax	\$ -0-
Total Community Recreation Center Fund	\$28,000,000
Equipment Replacement Fund	
From unappropriated surpluses	\$ -0-
From sources other than general property tax	\$ 276,100
Total Equipment Replacement Fund	\$ 276,100
Johnson's Corner Capital Improvement Fund	
From unappropriated surpluses	\$ 2,300
From sources other than general property tax	\$ 112,600
Total Johnson's Corner Capital Improvement Fund	\$ 114,900
Street Maintenance Fund	
From unappropriated surpluses	\$ -0-
From sources other than general property tax	\$ 300,000
Total Street Maintenance Fund	\$ 300,000
Library Fund	
From unappropriated surpluses	\$ -0-
From sources other than general property tax	\$ -0-
From the general property tax levy	\$ 813,000
Total Library Fund	\$ 813,000

Section 3. That the budget as submitted, amended, and herein above summarized by fund, hereby is approved and adopted as the budget of the Town of Johnstown, Colorado for the year stated above.

Section 4. That the budget hereby approved and adopted shall be signed by the Mayor and Town Clerk and made a part of the public records of the Town.

ADOPTED, THIS 4th day of December, 2017.

ATTEST

TOWN OF JOHNSTOWN, COLORADO

BY:

Mayor

Clerk/Treasurer



**AGENDA ITEM 9B**

**APPROPRIATION  
OF  
FUNDS  
(Resolution No. 2017-13)**

**TOWN COUNCIL AGENDA COMMUNICATION**

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**AGENDA DATE:** December 4, 2017

**ITEM NUMBER:** 9B

**SUBJECT:** Resolution No. 2017-13, A Resolution Appropriating Sums of Money to the Various Funds and Spending Agencies in the Amounts and for the Purposes as Set Forth, for the Town of Johnstown, Colorado for the 2018 Budget Year.

**ACTION PROPOSED:** Approve Resolution No. 2017-13

**PRESENTED BY:** Town Clerk/Treasurer

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**AGENDA ITEM DESCRIPTION:** An appropriation is the legal spending limit authorizing the expenditures set forth by the Town Council. The Council through an official action, either a resolution or ordinance, must enact the appropriation.

The budget is merely a financial plan for the coming year, while the appropriation is the legal authority to spend the money.

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**LEGAL ADVICE:** N/A

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**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** Approve Resolution No. 2017-13

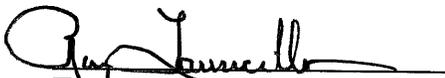
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**For Approval:** I move to approve Resolution No. 2017-13, A Resolution Appropriating Sums of Money to the Various Funds and Spending Agencies in the Amounts and for the Purposes as Set Forth, for the Town of Johnstown, Colorado for the 2018 Budget Year.

**For Denial:** I move to deny approval of Resolution No. 2017-13, A Resolution Appropriating Sums of Money to the Various Funds and Spending Agencies in the Amounts and for the Purposes as Set Forth, for the Town of Johnstown, Colorado for the 2018 Budget Year.

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**Reviewed:**

  
Town Manager

**RESOLUTION**

**No. 2017-13**

**RESOLUTION TO APPROPRIATE SUMS OF MONEY**

**RESOLUTION 2017-13**

**A RESOLUTION APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES IN THE AMOUNTS AND FOR THE PURPOSE AS SET FORTH BELOW, FOR THE TOWN OF JOHNSTOWN, COLORADO FOR THE 2018 BUDGET YEAR**

**WHEREAS**, the Town Council has adopted the annual budget in accordance with the Local Government Budget Law, on December 4th, 2017 and;

**WHEREAS**, the Town Council has made provision therein for revenue in an amount equal to or greater than the total proposed expenditures as set forth in said budget, and;

**WHEREAS**, it is not only required by law, but also necessary to appropriate the revenues provided in the budget to and for the purposes described below, so as not to impair the operations of the Town.

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

Section 1. That the following sums are hereby appropriated from the revenue of each fund, to each fund, for purposes stated:

General Fund	\$ 30,183,600
Water Fund	\$ 1,711,300
Wastewater Fund	\$ 2,023,200
Conservation Trust Fund	\$ 219,000
Impact Fee Fund	\$ 272,700
Drainage Fund	\$ 354,200
Use Tax Capital Improvement Fund	\$ 8,017,500
Contingent Fund	\$ 1,855,500
Community Recreation Center Fund	\$ 28,000,000
Equipment Replacement Fund	\$ 276,100
Johnson's Corner Capital Imp. Fund	\$ 114,900
Street Maintenance Fund	\$ 300,000
Library Fund	\$ 813,000
Total Estimated Expenditures	\$ 74,141,000

ADOPTED THIS 4th day of December, 2017.

**TOWN OF JOHNSTOWN**

BY:

Mayor

ATTEST

Town Clerk/Treasurer



**AGENDA ITEM 9C**

**LEVYING  
GENERAL PROPERTY  
TAXES  
(Resolution No. 2017-14)**

**TOWN COUNCIL AGENDA COMMUNICATION**

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**AGENDA DATE:** December 4, 2017

**ITEM NUMBER:** 9C

**SUBJECT:** Resolution No. 2017-14, A Resolution Levying General Property Taxes for the Year 2018, to Help Defray the Costs of Government for the Town of Johnstown, Colorado for the 2018 Budget Year.

**ACTION PROPOSED:** Approve Resolution No. 2017-14

**PRESENTED BY:** Town Clerk/Treasurer

**AGENDA ITEM DESCRIPTION:** If a local government needs property tax revenue to balance its proposed budget, it must take official action, by ordinance or resolution, to set and certify a mill levy. It must then certify the mill levy to the Board of County Commissioners.

Based upon the Town's adopted 2018 budget, it is recommended that the mill levy for the Town of Johnstown for the 2018 budget year be set at 23.947 mills.

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**LEGAL ADVICE:** N/A

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**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** Approve Resolution No. 2017-14

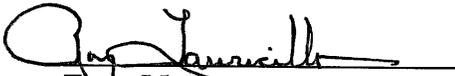
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**For Approval:** I move to approve Resolution No. 2017-14, A Resolution Levying General Property Taxes for the Year 2018, to Help Defray the Costs of Government for the Town of Johnstown, Colorado for the 2018 Budget Year.

**For Denial:** I move to deny approval of Resolution No. 2017-14, A Resolution Levying General Property Taxes for the Year 2018, to Help Defray the Costs of Government for the Town of Johnstown, Colorado for the 2018 Budget Year.

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**Reviewed:**

  
Town Manager

**RESOLUTION TO SET MILL LEVIES**

**RESOLUTION 2017-14**

**A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2018 TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE TOWN OF JOHNSTOWN, COLORADO FOR THE 2018 BUDGET YEAR**

**WHEREAS**, The Town Council of the Town of Johnstown has adopted the annual budget in accordance with the Local Government Budget Law, on December 4th, 2017, and;

**WHEREAS**, the amount of money necessary to balance the budget for general operation expenses is \$4,250,000, and;

**WHEREAS**, the amount of money necessary to balance the budget for the library operation expenses is \$450,000, and;

**WHEREAS**, the 2018 valuation for assessment for the Town of Johnstown, Colorado as certified by the County Assessors is \$237,000,062.

**NOW THEREFORE, BE IT RESOLVED BY THE** Town Council of the Town of Johnstown, Colorado:

Section 1. That the purpose of meeting all general operation expenses of the Town of Johnstown during the 2018 budget year, there is hereby levied a tax of 23.947 mills upon each dollar for the total valuation for assessment of all taxable property within the Town of Johnstown for the year 2017.

Section 2. That the Town Clerk/Treasurer is hereby authorized and directed to immediately certify to the County Commissioners of Weld County and Larimer County, Colorado, the mill levies for the Town of Johnstown, Colorado as herein above determined and set.

ADOPTED THIS 4th day of December, 2017.

TOWN OF JOHNSTOWN, COLORADO

BY:

Mayor

ATTEST

Clerk/Treasurer



**AGENDA ITEM 9D**

**AMENDING  
MUNICIPAL CODE  
(Election Procedures)  
(Ordinance No. 2017-150)  
(First Reading)  
(\*Public Hearing)**

***\* PUBLIC HEARING PROCEDURE (First Reading)–Ordinance No. 2017-150, An Ordinance Amending Sections 2-4, 2-4.1 and 2-9 of the Johnstown Municipal Code to Correlate Certain Election Procedures with those set forth in the Colorado Municipal Code of 1965***

1. Open public hearing
2. Receive information from staff
3. Ask to hear from anyone who supports the Ordinance
4. Ask to hear from anyone who opposes the Ordinance
5. Close the public hearing
6. Ask for discussion
7. Make decision and/or motion from Council.
  - a. Need motion to approve or deny the Ordinance

**(SUGGESTED MOTIONS):**

**For Approval:**

**I move to approve Ordinance No. 2017-150, An Ordinance Amending Sections 2-4, 2-4.1 and 2-9 of the Johnstown Municipal Code to Correlate Certain Election Procedures with those set forth in the Colorado Municipal Election Code of 1965.**

**For Denial:**

**I move to deny approval of Ordinance No. 2017-150.**

**TOWN COUNCIL AGENDA COMMUNICATION**

---

**AGENDA DATE:** December 4, 2017

**ITEM NUMBER:** 9D

**SUBJECT: \*Public Hearing – (First Reading)** Ordinance No. 2017-150, An Ordinance Amending Sections 2-4, 2-4.1 and 2-9 of the Johnstown Municipal Code to Correlate Certain Election Procedures with those set forth in the Colorado Municipal Election Code Of 1965

**ACTION PROPOSED:** Approve Ordinance No. 2017-150 on first reading

**PRESENTED BY:** Town Attorney and Town Clerk

**AGENDA ITEM DESCRIPTION:** Except as otherwise provided in the Home Rule Charter or by ordinance, Town elections are governed by state statutes, including the Colorado Municipal Election Code of 1965, C.R.S. §§ 31-10-101, *et seq.* (“Municipal Election Code”). The Colorado General Assembly recently amended the Municipal Election Code to include mail ballot provisions at C.R.S. §§ 31-10-907 thru 31-10-913, and made corresponding revisions that correlate the timing of certain election related matters with the timing of the mail ballot procedure.

Town Council may consider updating the following provisions of the Johnstown Municipal Code (“Code”) to be consistent with the provisions of the Municipal Election Code:

- Section 2-4 of the Code provides that write-in candidate affidavits must be submitted no later than 20 days before an election; the Municipal Election Code provides that the affidavits must be submitted at least 64 days before the election.
- Section 2-4.1 of Code provides that elections may be cancelled 19 days before an election; the Municipal Election Code provides that elections may be cancelled 64 days before an election.
- Section 2-9 of the Code provides that candidate nomination petitions may be circulated between 77 and 57 days before an election and filed with the Town Clerk no later than 57 days before the election; the Municipal Election Code provides that the petitions must be circulated between 91 and 71 days before an election and filed with the Town Clerk no later than 71 days before the election.

The Municipal Election Code also provides a deadline for the correction and replacement of signatures on a candidate nomination petition and for a candidate’s withdrawal, which provisions are set forth in the proposed ordinance.

The timeframes contained in the Municipal Election Code recognize the additional time needed to have mail ballots ordered and printed. A benefit of the extended time period is that it allows elections to be cancelled prior to ordering and printing the ballots, allowing for a significant cost savings.

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**LEGAL ADVICE:** Ordinance No. 2017-150 was prepared by the Town Attorney.

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**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** Approve Ordinance No. 2017-150 on first reading.

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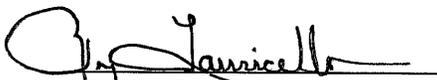
**SUGGESTED MOTION:**

**For Approval:** I move to approve Ordinance No. 2017-150, an Ordinance Amending Sections 2-4, 2-4.1 and 2-9 of the Johnstown Municipal Code to Correlate Certain Election Procedures with those set forth in the Colorado Municipal Election Code Of 1965.

**For Denial:** I move to deny approval of Ordinance No. 2017-150.

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**Reviewed:**

  
Town Manager

**ORDINANCE**

**No. 2017-150**

**TOWN OF JOHNSTOWN, COLORADO  
ORDINANCE NO. 2017-150**

**AN ORDINANCE AMENDING SECTIONS 2-4, 2-4.1 AND 2-9 OF  
THE JOHNSTOWN MUNICIPAL CODE TO CORRELATE CERTAIN  
ELECTION PROCEDURES WITH THOSE SET FORTH IN THE  
COLORADO MUNICIPAL ELECTION CODE OF 1965**

**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**, except as otherwise provided in the Home Rule Charter or by ordinance, Town elections are governed by state statutes, including the Colorado Municipal Election Code of 1965, C.R.S. §§ 31-10-101, *et seq.* (“Municipal Election Code”); and

**WHEREAS**, the Colorado General Assembly recently amended the Municipal Election Code to include mail ballot provisions at C.R.S. §§ 31-10-907 thru 31-10-913, and made corresponding revisions that correlate the timing of certain election related matters with the timing of the mail ballot procedure, including the date by which to nominate candidates for a mail ballot election, C.R.S. § 31-10-909, submit write-in candidate affidavits, C.R.S. §31-10-306, and cancel elections, C.R.S. § 31-10-507; and

**WHEREAS**, the Town Council desires to update the Johnstown Municipal Code to designate time frames for election procedures that are consistent with those set forth in Municipal Election Code; and

**WHEREAS**, the Town Council deems it to be in the best interests of the Town of Johnstown to amend the Johnstown Municipal Code as set forth herein.

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

**Section 1.** Section 2-4 of the Johnstown Municipal Code shall be amended in full to read as follows:

**Sec. 2-4. Write-in candidate’s affidavit.**

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

**Section 2.** Subsection (a) of Section 2-4.1 of the Johnstown Municipal Code shall be amended to read as follows:

**Sec. 2-4.1. Election may be cancelled; when.**

- (a) If the only matter before the voters is the election of persons to office and if, at the close of business on the sixty-fourth (64<sup>th</sup>) day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent as set forth in Section 2-4, the Town Clerk shall certify such fact to the Town Council. Town Council shall thereafter hold a meeting and, by resolution, instruct the Town Clerk to cancel the election and declare the candidates elected.

**Section 3.** Section 2-9 of the Johnstown Municipal Code shall be amended in full to read as follows:

**Sec. 2-9. Councilmember elections; terms of office; nomination of candidates in mail ballot elections.**

- (a) Councilmember election and terms of office. At each regular municipal election, three (3) members of the Town Council shall be elected to serve four (4) year terms.
- (b) Candidate nomination procedures for mail ballot elections. Any person who desires to be a candidate in a mail ballot election conducted during a regular municipal election shall comply with the nominating procedures set forth in the Colorado Municipal Election Code of 1965, except that:
- (1) Candidate nomination petitions may be circulated and signed beginning on the ninety-first (91<sup>st</sup>) day prior to the day of election and ending on the seventy-first (71<sup>st</sup>) day prior to the day of the election.
  - (2) Each candidate nomination petition shall be filed with the Town Clerk no later than the seventy-first (71<sup>st</sup>) day prior to the day of the election.
  - (3) Any candidate nomination petition may be amended to correct or replace those signatures which the Town Clerk finds are not in apparent conformity with the requirements of the Colorado Municipal Election Code by filing such changes no later than the close of business on the sixty-sixth (66<sup>th</sup>) day before the election.
  - (4) Any person who has been nominated and who has accepted a nomination may cause his or her name to be withdrawn from such nomination by a filing a written and signed affidavit withdrawing from such nomination with the Town Clerk at any time prior to sixty-three (63) days before the election. If the only matter before the voters is the election of persons to office and if the withdrawal results in there not being more candidates than offices to be filled at such election, then the election may be cancelled as set forth in Section 2-4.1.

**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 \_\_\_\_\_, 2017.

**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 \_\_\_\_\_, 2017.

**TOWN OF JOHNSTOWN, COLORADO**

**ATTEST:**

By: \_\_\_\_\_  
Diana Seele, Town Clerk

By: \_\_\_\_\_  
Scott James, Mayor



**AGENDA ITEM 9E**

**WATER/SEWER  
SERVICE  
AGREEMENT  
(Mountain View West)**

## TOWN COUNCIL AGENDA COMMUNICATION

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**AGENDA DATE:** December 4, 2017

**ITEM NUMBER:** 9E

**SUBJECT:** Consider Water and Sewer Service Agreement for Mountain View West

**ACTION PROPOSED:** Consider Approval of Water and Sewer Service Agreement for Mountain View West

**PRESENTED BY:** Town Attorney

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**AGENDA ITEM DESCRIPTION:** This agreement pertains to property located generally east of South Parish Avenue and north of Centennial Dr. (CR 46-1/2). The property is within the original Parish LLC Annexation.

In accordance 2008 Settlement Agreement between the Town and Colorado Sweet Gold, LLC the Town granted the Owner A.C. Gilbert 20 acre-feet of water credit for commercial and landscaping use.

In compliance with the Town's water rights dedication ordinance, the Developer submitted to the Town a Water and Sewer Demand Analysis on or about September 25, 2017, 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 acres of retail commercial and acres of residential with landscape irrigation, the average water demand is calculated to be 59.44 acre-feet per year.

The water requirement for this filing is 59.44 acre-feet per year. The Owner will dedicate sufficient shares of Home Supply and CBT to meet demand over and above the 20 acre-feet of credit.

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

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**FINANCIAL ADVICE:** The Town will receive a water court transfer fee.

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

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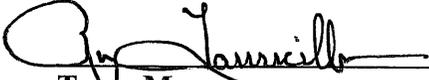
**SUGGESTED MOTIONS:**

**For Approval:** I move to approve the Water and Sewer Service Agreement for Mountain View West.

**For Denial:** I move to deny approval of the Water and Sewer Service Agreement for Mountain View West...

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**Reviewed:**

  
Town Manager

# **AGREEMENT**

## WATER AND SEWER SERVICE AGREEMENT

THIS WATER AND SEWER SERVICE AGREEMENT is made and entered into this 28<sup>th</sup> day of November, 2017, by and between PARISH LLC, a Colorado limited liability corporation ("Developer"), and THE TOWN OF JOHNSTOWN, a Colorado municipal corporation, ("Town"), collectively sometimes referred to as "Parties."

### RECITALS:

**WHEREAS**, the Developer is the owner of a portion of Section 9, Township 4 North, Range 67 West of the Sixth Principal Meridian, Town of Johnstown, County of Weld, State of Colorado, as more particularly described in Exhibit A ("Subject Property"); and

**WHEREAS**, the Subject Property was annexed into the Town on or about April 7, 2014 (Annexation Ordinance 2014-133 second reading on April 21, 2014); and

**WHEREAS**, the Subject Property is being developed as a mix of multi-family residential units and commercial properties; and

**WHEREAS**, the Developer and the Town desire to set forth their agreement concerning the Developer's dedication of water, use of the Town's water, water demand and supply for potable and out-of-building use, preliminary projections of water and sewer demand and a commitment by the Town for water and sewer service for the Subject Property.

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

1. **Recitals.** The Recitals are incorporated into the Agreement as if fully set forth herein.

2. **Water and Sewer Demand Studies.** In compliance with the Section 13-65 of the Johnstown Municipal Code, as amended, the Developer submitted a preliminary water and sewer demand analysis, dated September 25, 2017, to the Town for the water needs of the Subject Property ("Preliminary Analysis"). The Preliminary Analysis, as modified by the Town Engineer, is hereby accepted by the Town and provides an estimated average annual water demand of the Subject Property as follows:

Development Component	Demand (AF/YR)	Consumption (AF/YR)
Residential In-Building Use	29.74	1.49
Commercial In-Building Use	15.35	0.77
Xeriscape Irrigation (5.04 acres)	5.04	5.04

Turf Irrigation (3.725 acres)	9.31	7.91
<b>Total</b>	<b>59.44</b>	<b>15.21</b>

Notwithstanding the foregoing, in accordance with Section 13-68(h) of the Johnstown Municipal Code, 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 contained in the Preliminary Analysis. If the Preliminary Analysis is subsequently determined to understate the water demand, the Developer shall be required to dedicate additional water to the Town.

3. **Water dedication requirement.** Developer must dedicate sufficient water rights to the Town to satisfy the Water Demand estimates within 10 days of approval of this Agreement by the Johnstown Town Council. Developer intends to dedicate the water rights listed below to satisfy this requirement. If Developer fails to dedicate such sufficient water rights at the time the plat is recorded with the Weld County Clerk and Recorder for the Subject Property, this Agreement will become null and void without further action necessary by the Town.

A. Two (2) shares of the Consolidated Home Supply Ditch and Reservoir Company (Certificate No. 6813) decreed for municipal use within the Town of Johnstown, representing 16 acre-feet.

B. One (1) share of the Consolidated Home Supply Ditch and Reservoir Company (Certificate No. 6811) not decreed for municipal use within the Town of Johnstown, representing 6.4 acre-feet.

C. Raw water credit subject to the terms of the Agreement among Colorado Sweet Gold, LLC, A.L. Gilbert Company and the Town of Johnstown dated March 3, 2008 ("Joint Agreement"), which water may only be used for landscaping and commercial uses that generate sales tax revenue and/or employment opportunities as provided therein, evidence of Developer's right to dedicate said water is attached as Exhibit B, representing 20 acre-feet.

D. Raw water credit from Stroh Farm Filing 7, evidence of Developer's right to dedicate said raw water credit is attached as Exhibit C, representing 3.05 acre-feet.

E. Forty (40) Units of Colorado Big Thompson ("CBT") water providing approximately 14.2 acre-feet of raw water. These 40 Units of CBT water are currently being held by Northern Water Conservancy in a holding account for the benefit of Colorado Sweet Gold, LLC. Colorado Sweet Gold, LLC and Parish, LLC are both subsidiaries of A.L. Gilbert Company. The 40 Units of CBT shall be transferred to the account of Developer for transfer to the Town prior to the time the plat is recorded for the Subject Property.

4. **Surplus Dedication Credit.** The dedication of the Water Stock, raw water credit and CBT Units listed in Paragraph 3, above, will provide raw water credits in excess of the water demand projected for the Subject Property. Developer will have a surplus dedication credit with the Town of approximately 0.21 acre-feet of water not decreed for municipal use within the Town of Johnstown. The credit is calculated as follows:

Credit for Home Supply shares decreed for municipal use:	16.00
Credit for Home Supply shares not decreed for municipal use:	6.40
Credit for water from Stroh Farm Filing 7 decreed for municipal use:	3.05
Credit per Joint Agreement for landscaping and commercial use:	20.00
Credit for water from the 40 CBT units:	14.20
Total:	59.65
Estimated demand:	59.44 acre-feet
<b>Net current surplus credit:</b>	<b>0.21 acre-feet</b>

Upon notice and written approval of the Town and payment of the appropriate Water Court Transfer Fee, said credit may be utilized by Developer anywhere within the Town's water service area to offset increased demands, if any, which are not currently projected or to acquire water service, subject to approval by the Town in subsequent agreement(s) in accordance with the then requirements of the applicable Town's Ordinance.

5. **Commitment to Provide Water and Sewer.** Subject to the Developer's performance of all the covenants contained herein, payment of all required fees and the issuance of a certificate of occupancy, the Town commits to provide to the Subject Property up to 59.44 acre-feet per year of water supply (45.09 acre-feet per year for in-building demand and 14.35 acre-feet per year for out-of-building irrigation), subject to the terms of the Joint Agreement, together with the corresponding sewer service for in-building uses.

6. **Water and Sewer Taps.** Except as may otherwise be provided in the Joint Agreement, water taps and sewer taps will be issued by the Town upon payment of the water and sewer tap fees.

7 **Payment of Water Court Transfer Fees.** Upon execution of this Agreement, Developer must pay to the Town the sum of nine thousand, three hundred and forty-five dollars (\$9,345.00) as payment of the water court transfer fees required by Section 13-68 of the Johnstown Municipal Code, as amended. This payment is for 59.44 acre-feet per year of estimated water demand, excluding payment for the raw water credit provided pursuant to the Joint Agreement, and estimated consumptive use of 15.21 acre-feet per year (119 SFE). If the actual demand for the Subject Property increases based on actual water usage, the Developer shall pay additional water court transfer fees upon the dedication of additional water. If the parties subsequently agree that a downward adjustment is appropriate, the water court transfer fee shall also be adjusted and remitted proportionately back to the Developer. The Water Court Transfer Fee is calculated as follows:

Source	SFE	Transfer Fee
Colorado-Big Tompson Units \$0.00 per SFE	28.6	\$0.00
Credit per Joint Agreement \$0.00 per SFE	40	\$0.00
Decreed for Municipal Uses \$150.00 per SFE	38.5	\$5,775.00
Not Decreed for Municipal Uses \$300.00 per SFE	11.9	\$3,570.00
<b>Total</b>	<b>119.0</b>	<b>\$9,345.00</b>

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

TO THE DEVELOPER:

Parish, LLC  
Attention: A.L. Gilbert  
304 N. Yosemite Avenue  
P.O. Box 38  
Oakdale, CA 95361

WITH A COPY TO:

David Wyatt, Esq.  
Wyatt Law, LLC  
P.O. Box 1114  
Fort Collins, CO 80522

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.  
Law Office of Avi S. Rocklin, LLC  
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.

9. **Default.** In the event of default by either Party hereunder, the non-defaulting Party shall notify the defaulting Party in writing of such default(s), specifying the nature and

extent thereof. If such default is not cured within thirty (30) days, the non-defaulting Party shall be entitled to such remedies as are provided by law, including the Town's ordinances.

10. **Successors and Assigns.** The benefits of this Agreement and the burdens hereunder shall respectively inure to and be binding upon the Developer's successors and assigns to the extent the successors and assigns occupy the Subject Property.

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

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

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

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

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

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

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

18. **Findings.** The Town hereby finds and determines that execution of this Agreement is in the best interests of the public health, safety and general welfare of the citizens of the Town and the provisions of this Agreement are consistent with the laws, regulations and policies of the Town.

*Signatures follow on separate pages*



## EXHIBIT A

### *Mountain View West Subdivision* Legal Description

A portion of the Northwest Quarter of Section 9, Township 4 North, Range 67 West of the Sixth Principal Meridian, Town of Johnstown, County of Weld, State of Colorado, being more particularly described as follows:

Commencing at the southwest corner of said northwest corner of Section 9:  
Thence, N00°28'15"W, along the west line of said northwest quarter of section 9 a distance of 1327.68 feet to the north 1/16<sup>th</sup> corner of said Section 9;

Thence, N00°28'15"W continuing along said line, a distance of 91.42 feet to the boundary line of the Johnstown Colony Addition to the Town of Johnstown, recorded March 23, 1935 in Book 7, Page 3 at the Weld County Clerk and Records Office;

Thence, S89°29'12"E, along the south line of said addition a distance of 30.00 feet to the Point of Beginning.

Thence from the Point of Beginning N89°29'12"E, continuing along said south line a distance of 381.35 feet;

Thence N00° 10'54"W along the east line of said addition a distance of 501.47 feet to the south boundary line of the Purvis Addition to the Town of Johnstown recorded April 18, 1984 in book 8 page 4 at the Weld County Clerk and Records Office;

Thence S88°43'02"E along the south line of said addition a distance of 1004.35 feet to a point on the westerly right-of-way line of the Great Western Railroad and a point on a non-tangent curve to the right;

Thence along said westerly right-of-way line the following two (2) courses:

1) Thence 395.20 feet along the arc of said curve having a radius of 1870.10 feet, a Delta angle of 12° 06'29" and being subtended by a chord bearing S10°38'36"E a distance of 394.48 feet to a point of tangency;

2) Thence S04° 35'21"E along said westerly right-of-way a distance of 1515.63 feet to a point on a line that is 30 feet northerly of and parallel the southerly line of said Northwest quarter of Section 9;

Thence N89°01'19"W along said parallel line a distance of 1546.77 feet to a point on a line 30 feet easterly of and parallel with the west line of said Northwest Quarter of Section 9;

Thence N00° 28'15"W along said parallel line a distance of 1389.87 feet to the Point of Beginning.



**AGENDA ITEM 9F**

**MOUNTAIN VIEW**

**WEST**

**(Final Plat)**

**(\*Public Hearing)**

**\* PUBLIC HEARING PROCEDURE – *Mountain View West Final Plat***

- 1. Open public hearing**
- 2. Receive information from staff**
- 3. Ask to hear from anyone who supports the final plat**
- 4. Ask to hear from anyone who opposes the final plat**
- 5. Close the public hearing**
- 6. Ask for discussion**
- 7. Make decision and/or motion from Council.**
  - a. Need motion to approve or deny the final plat**

**(SUGGESTED MOTIONS):**

**For Approval:**

**I move to approve the Mountain View West Final Plat (subject to the following conditions...)**

**For Denial:**

**I move to deny approval of the Mountain View West Final Plat**

**TOWN COUNCIL AGENDA COMMUNICATION**

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**AGENDA DATE:** December 4, 2017

**ITEM NUMBER:** 9F

**SUBJECT:** \*Public Hearing- Mountain View West – Final Plat

**ACTION PROPOSED:** Consider Approval of Final Plat

**PRESENTED BY:** Mr. John Franklin, Town Planner

**AGENDA ITEM DESCRIPTION:** The applicant, Parish LLC, has submitted a request for approval of a final subdivision plat for a parcel of land located east of south Parish Avenue and north of Centennial Drive (CR 46-1/2). The property is the development portion of the Parish LLC Annexation and PUD-B zoning which was approved in 2014. The Annexation Agreement provides for Performance Standards and administrative review of Site Development Plans for commercial and residential developments, similar to 2534. The Guidelines envision an extension of the downtown

The plat encompasses approximately 62 acres. The property slopes gently to the south and east. The southeast corner of the property is within the Little Thompson Floodplain. The development will be constructed in phases. The public land dedication has been met through dedication of the ‘sticker stadium’ parcel to the Thompson Rivers Parks and Recreation District and the Little Thompson River Corridor between CR 46-1/2 and CR 19 to the Town.

The Planning and Zoning Commission held a public hearing on August 23, 2017 and voted to recommend approval of the Final Plat and Design Guidelines subject to conditions:

1. The Owner will need to work with the residents adjoining Molinar Street to ensure access during development.
2. The Owner will need to receive Front Range Fire Authority and Town Engineer approval of civil drawings prior to development.
3. The Town will prepare a Water and Sewer Service Agreement and the owner will dedicate water rights for in-building and irrigation for Council consideration with the final plat.
4. The Town will prepare a Public Improvements Development Agreement for Council consideration with the final plat.

A Water and Sewer Service Agreement was approved previously. The Design Guidelines will be considered at a subsequent meeting.

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**LEGAL ADVICE:** N/A

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**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** The Planning and Zoning Commission has recommended approval subject to conditions.

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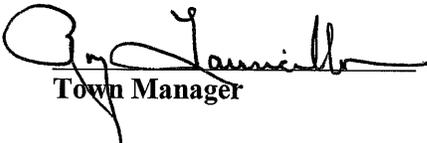
**SUGGESTED MOTIONS:**

**For Approval:** I move to approve the Mountain View West Final Plat (subject to the following condition(s)...).

**For Denial:** I move to deny approval of the Mountain View West Final Plat.

---

**Reviewed:**

  
Town Manager

**PLANNING AND ZONING  
COMMISSION**

**SUMMARY MINUTES**

**SUMMARY MINUTES  
PLANNING & ZONING COMMISSION  
WEDNESDAY, AUGUST 23, 2017  
COUNCIL CHAMBERS  
450 S. PARISH AVE.**

- 1. CALL TO ORDER:** *Chair Dowling called the meeting to order at 7:05pm*
- 2. ROLL CALL:** *Present were Commissioners Geisendorfer, Storms, Kingsolver, Dowling, Montez, Eady and Tepper.*
- 3. PUBLIC COMMENTS REGARDING ITEMS NOT ON THE AGENDA:** *None*

**4. PUBLIC HEARINGS:**

**A. Preliminary/Final Plat and Design Guidelines for Mountain View West:** *Chair Dowling opened the hearing at 7:08pm. Town Planner franklin introduced the item and presented the staff report. Chris Maurer, representing the owner, presented the request and answered questions.*

*Commissioner questions:*

*Commercial versus residential delineated on map? (Yes)*

*South Street is Molinar? (Yes)*

*Are the plat and Guideline truly consistent? (Yes)*

*Public Comment:*

*Ken Zeti, 2550 Black Duck, spoke in favor of the application as the construction will employ many people.*

*Charles Raudonis, 476 Grange, asked if the road to CR 46-1/2 would line up with Johnstown Farms 2. (Yes)*

*Chair Dowling closed the hearing at 7:45pm and asked for discussion and a motion. After discussion, motion by Commissioner Storms, seconded by Commissioner Montez to recommend approval of the Preliminary/Final Plat and Design Guidelines for Mountain View West with the following condition(s):*

- 1. The Owner will need to work with the residents adjoining Molinar Street (South Street) to ensure access during development.*
- 2. The Owner will need to receive Front Range Fire Authority and Town Engineer approval of civil drawings and revised final plat prior to development.*
- 3. The Town will prepare, and owner will execute a Water and Sewer Service Agreement and the owner will dedicate water rights for in-building and irrigation for Council consideration with the final plat.*
- 4. The Town will prepare, and owner will execute a Public Improvements Development Agreement for Council consideration with the final plat.*

*Unanimous.*

**5. NEW BUSINESS:**

**A. Approval of Minutes of August 9, 2017:** *Motion by Commissioner Storms, seconded by Commissioner Kingsolver to approve the minutes as corrected. (Approval of May 24, 2017 Minutes)*

**B. County Referrals:** *The Larimer County Stroh Gravel Pit is now an active application again.*

**6. STAFF REPORT:** *Town Planner Franklin discussed the following items:*

**A. Recent Town Council Actions (Attachment)**

**B. Applications in Review (Attachment)**

**C. Project and Program Updates:**

**7. COMMISSIONERS' ITEMS:** *The Commissioners discussed the conduct of hearings.*

**8. ADJOURN:** *Chair Dowling adjourned the meeting at 8:15.*

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Respectfully submitted by John Franklin, Secretary to the Planning and Zoning Commission

**STAFF REPORT  
TO  
PLANNING AND ZONING  
COMMISSION**

## AGENDA MEMORANDUM

**TO:** Johnstown Planning and Zoning Commission  
**FROM:** John Franklin, AICP, Town Planner   
**DATE:** For August 23, 2017  
**SUBJECT:** Public Hearing Regarding a Preliminary/Final Plat and Design Guidelines for Mountain View West

### Property Information

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**Applicant:** Parish, LLC

**Owner:** Same

**Location:** North of CR 46-1/2 and east of South Parish Ave.

**Property Size:** 62.47±acres

**Comprehensive Plan Designation:** Downtown

**Current Zoning:** PUD-B Planned Unit Development - Business

**Current Use(s) of Property:** Agricultural

**Surrounding Land Uses/Zoning:**

- North: Single family residential, Paradise Village Mobile Home Park, Weld County Maintenance Yard/ SF-1, MH
- South: CR 46-1/2, Agriculture/ PUD-R residential
- East: Great Western Railroad tracks, Colorado Sweet Gold industrial/ Weld County Industrial- 3
- West: South Parish Avenue, Town Library, Police and Town Hall/ PUD-R

**Summary of Application:** The owner of the property has requested Town approval of a Preliminary/Final Plat and Design Guidelines for a commercial and residential development.

**Prior Actions:** In 2008 the Town and Colorado Sweet Gold/A.L. Gilbert Company signed an agreement which resolved a long-standing dispute regarding water use. The agreement provided that the Town would annex the Parish LLC property, 'sticker stadium' would be deeded to the parks district, and the Little Thompson River Corridor south of Sweet Gold dedicated to the Town. The Town agreed to provide 20 acre-feet of raw water to the property for commercial taps and for project landscaping. The property was annexed and zoned in 2014.

## Technical Analysis

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**Relationship to Town Vision and Strategic Plan:** The proposed development was envisioned in the Comprehensive Plan and Downtown Master Plan as a major contributor to the expansion of the historic downtown by providing commercial and residential opportunities.

**Public Health and Safety Impacts:** Residential areas along the railroad track will need to be separated for safety. While existing properties do not front on the roadway, the extension of Molinar Street will need to minimize adverse effects on existing residents due to added traffic.

**Access and Traffic:** Primary commercial access to the site is from South Parish Avenue (Arterial), with secondary access from CR 46-1/2. The Owner proposed to extend Molinar St. (South St.) east as a local street to serve the residential area. South Parish Ave. will need 30' additional right of way dedicated and be improved on the east side along the development with curb, gutter sidewalk, landscaping. Molinar Street would be extended to the east and require additional right of way dedicated on the south side local street improvements. CR 46-1/2 (minor arterial) requires additional right of way and improved as an interim arterial with two paved lanes plus curb, gutter, sidewalk, landscaping.

**Utilities:** The property is within the Town's service area. By prior agreement, the Town granted 20 acre-feet of water rights for commercial use and overall landscaping. Wastewater will gravity flow and be collected at the Johnstown Farms regional lift station and treated at the Central Wastewater Treatment Plant. Stormwater is to be collected, detained in the on-site private detention facility and then directed towards the Little Thompson River. A stormwater development fee of \$1100 per acre is due at time of plat.

**Mineral Interests and Operations:** A well was recently closed. There are no oil/gas wells or production facilities approved for the site.

**Parks and Open Space:** The owner dedicated 'sticker stadium' to the Thompson Rivers Parks and Recreation District, and the portion of Little Thompson River Corridor between CR 46-1/2 and CR 19 to the Town. This has satisfied the public land dedication requirements. On-site private common area and street landscaping will be provided on South Parish and CR 46-1/2 (Centennial Drive) and privately maintained.

**Architectural Design:** The property will be developed in accordance with the proposed Design Guidelines, which generally follow the Downtown Design Guidelines for non-residential, and Prairie Craftsman style for the residential. Individual projects. Future site development plans will be subject to Town staff approval.

**Landscaping:** The Parish Ave. landscaping will include wide walks and tree planters. Landscaping shall comply with Johnstown Landscape Standards and Specifications, and the Design Guidelines.

**Fencing and Screening:** Subject to Final Site Development Plan. Perimeter fencing is likely along the border with the Colony and other residential and non-residential uses to the north, and the railroad to the east. Commercial uses, parking and loading areas may need to be screened from the Colony residential.

**Lighting and Street Furniture:** Subject to Final Site Development Plan. The Town will look for decorative lighting along the South Parish commercial frontage.

**Signage:** Signage shall conform the Town Sign Code and Guidelines.

**Phasing:** The property is to be developed in phases, depending upon market.

**Attachments:** Final Plat, Design Guidelines, referral comments.

**Crucial Referral Responses:** None

### **Staff Report**

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**Technical Findings:**

- The plat layout is generally consistent with the original outline development plan.
- The proposed Guidelines are generally consistent with the Downtown Design Guidelines and follows a similar format to other developments such as 2534.
- The Owner will need to work with the Colony residents adjoining Molinar to minimize adverse impacts during street improvements.
- The Owner will need to address comments from the Front Range Fire Authority prior to development.

- The Owner will need to address Town Engineer comments prior to development.

**Staff Recommendation:**

Staff recommends approval with conditions, as follows.

1. The Owner will need to work with the residents adjoining Molinar Street to ensure access during development.
2. The Owner will need to receive Front Range Fire Authority and Town Engineer approval of civil drawings prior to development.
3. The Town will prepare a Water and Sewer Service Agreement and the owner will dedicate water rights for in-building and irrigation for Council consideration with the final plat.
4. The Town will prepare a Public Improvements Development Agreement for Council consideration with the final plat.

## **Planning Commission Action**

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**1. Recommendation:**

“I move that the Commission recommend approval of the Preliminary/Final Plat and Design Guidelines for Mountain View West.”

Or,

**2. Recommendation with Conditions:**

“I move that the Commission recommend approval of the Preliminary/Final Plat and Design Guidelines for Mountain View West with the following condition(s):

- a) \_\_\_\_\_;
- b) Etc.”

Or,

**3. Recommend denial:**

“I move that the Commission recommend denial of the Preliminary/Final Plat and Design Guidelines for Mountain View West for the following reasons:

- a) \_\_\_\_\_;
- b) \_\_\_\_\_;
- c) Etc.”

# **FINAL PLAT**







**AGENDA ITEM 9G**

**SUBDIVISION  
DEVELOPMENT  
AND  
IMPROVEMENT  
AGREEMENT  
(Mountain View West)**

**TOWN COUNCIL AGENDA COMMUNICATION**

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**AGENDA DATE:** December 4, 2017

**ITEM NUMBER:** 9G

**SUBJECT:** Consider Subdivision Development and Improvement Agreement – Mountain View West

**ACTION PROPOSED:** Consider Approval of Subdivision Development and Improvement Agreement for Mountain View West

**PRESENTED BY:** Avi Rocklin, Town Attorney and John Franklin, Town Planner

**AGENDA ITEM DESCRIPTION:** The Final Plat for Mountain View West was approved earlier in this meeting. The Agreement requires the Developer to develop the property in accordance with the subdivision plat that was approved previously by the Council. The Agreement requires the Developer to install public and private improvements at the Developer's cost in accordance with the Town's specifications. The commercial and residential development will occur in phases. Phase 1 is intended to support the 10.02± acre lot to be acquired by the Town for the Community Recreation Center

**LEGAL ADVICE:** The Town Attorney drafted the attached public improvements development agreement.

**FINANCIAL ADVICE:** N/A

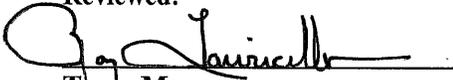
**RECOMMENDED ACTION:** Consider approval of the public improvements development agreement.

**SUGGESTED MOTIONS:**

**For Approval:** I move to approve the public improvements development agreement for Mountain View West (with conditions...).

**For Denial:** I move to deny approval of the public improvements development agreement for Mountain View West.

**Reviewed:**

  
Town Manager

# **AGREEMENT**

**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT  
FOR  
TOWN OF JOHNSTOWN  
(MOUNTAIN VIEW WEST SUBDIVISION)**

**This Subdivision Development and Improvement Agreement** (“Agreement”), made and entered into by and between the **Town of Johnstown, Colorado**, a municipal corporation (the “Town”) and **Parish, LLC**, a Colorado limited liability company (the “Developer”).

**WITNESSETH:**

**WHEREAS**, Developer is the owner of a parcel of land situated in the Town of Johnstown, County of Weld, State of Colorado, the description of which is set forth on **Exhibit A** attached hereto and incorporated herein by this reference (the “Property”); and

**WHEREAS**, Developer seeks to develop the Property and to designate such development as Mountain View West Subdivision (“Development”); and

**WHEREAS**, Developer has submitted a final plat depicting the Development, which final plat is attached hereto as **Exhibit B-1** and incorporated herein by this reference (“Final Plat”); and

**WHEREAS**, the Town Council approved the Final Plat by passage of Resolution \_\_\_\_\_, containing terms and conditions of approval of the Final Plat, which Resolution is attached hereto as **Exhibit B-2** and incorporated herein by this reference (“Resolution”); and

**WHEREAS**, Developer understands and agrees that, as a further condition of approval of the Final Plat, Developer is required to construct certain subdivision improvements to the Property, that Developer is responsible for the costs and expenses of those subdivision improvements unless otherwise provided herein, and that the subdivision improvements contemplated herein are reasonable, necessary, appropriate, and directly benefit the Development; and

**WHEREAS**, Developer agrees to undertake and complete the Development in accordance with this Agreement, the Final Plat, the Resolution, the Town’s ordinances, resolutions and regulations and all other applicable laws and regulations.

**NOW, THEREFORE**, in consideration of the premises cited above and the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the Town and Developer agree as follows:

## DEFINITIONS

For the purposes of this Agreement, the following words and terms shall be defined as follows:

1.1 “**Approved Plans**” shall mean: (1) with respect to the Public Improvements, the approved “Civil Engineering Construction Plans” related to the Development and on file with Town; and (2) with respect to the Private Improvements, the approved “the Site Development Plan” related to the Development and on file with Town.

1.2 “**Developer**” shall mean the owner(s) of the Property described in **Exhibit A** and any heirs, successors, assigns or transferees of any of the Property described in **Exhibit A**.

1.3 “**Civil Engineering Construction Plans**” shall mean the approved engineering plans for construction, installation and improvement of the Public Improvements.

1.4 “**Development**” shall mean all the Property, property rights and subdivision improvements within the legal description in **Exhibit A**.

1.5 “**Dry Utilities**” shall mean electricity, natural gas, cable and telephone.

1.6 “**Maintenance Guarantee**” shall mean a guarantee that the Subdivision Improvements constructed shall be free from defects and failures as more fully described in Paragraphs 5.2 and 5.4 below.

1.7 “**Private Improvements**” shall mean, without limitation, the construction, installation and improvement of privately owned and maintained common improvements including, but not limited to, stormwater improvements, landscaping, irrigation, fencing, entry signs, street signs and posts, street lighting, parks and open space, trails, postal service boxes and school bus stop shelters.

1.8 “**Public Improvements**” shall mean, without limitation, the construction, installation, improvement and dedication of public improvements, including, but not limited to public thoroughfares and streets, sanitary sewer facilities, water line facilities, drainage facilities, irrigation structures and other public facilities and improvements to serve the Development.

1.9 “**Site Development Plan**” shall mean the approved plans for the construction, installation and improvement of the Private Improvements.

1.10 “**Subdivision Improvements**” shall mean the Public Improvements, Private Improvements and Dry-Utilities.

1.11 “**Town**” shall mean the Town of Johnstown, Colorado.

1.12 “**Town Engineer**” shall mean the professional engineer designated by the Town Manager to perform the obligations set forth in this Agreement.

1.13 “**Town Manager**” shall include the Town Manager and his authorized designees.

1.14 “**Town Official**” shall include the Town Manager, Town Attorney, Town Treasurer, Town Engineer, Town Planner and their authorized designees.

## **SUBDIVISION IMPROVEMENTS**

### **2. Public Improvements**

#### ***2.1 Pre- Construction***

a. **Engineering Services**: Developer shall furnish, at its own expense, all engineering services in connection with construction, installation and improvement of the Public Improvements. Engineering services shall be performed by a professional engineer registered in the State of Colorado. Engineering services shall consist of, but not be limited to, survey, designs, plans and profiles, specifications, drawings, estimates, construction administration, and the furnishing of necessary documents in connection therewith, including but not limited to final engineering drawings, final sewer and water design plans and final drainage plans (the “Civil Engineering Construction Plans”).

b. **Civil Engineering Construction Plans**: Prior to commencing construction of the Public Improvements, Developer shall submit the Civil Engineering Construction Plans to the Town Engineer for review. Construction of the Public Improvements shall not commence until the Town provides written notice of approval of the Civil Engineering Construction Plans. Developer shall not thereafter modify the approved Civil Engineering Construction Plans without the written approval of the Town. The Town’s review and approval of the Civil Engineering Construction Plans shall not limit or affect Developer’s responsibility or liability for design, construction and installation of the Public Improvements, and Developer agrees to save and hold the Town harmless from any claims, fault or negligence attributable to such design, construction and installation, other than negligent designs which are required by the Town over Developer’s written objection.

c. **Rights-of-Way, Easements, Permits and Use Tax**: Prior to commencing construction of the Public Improvements, Developer shall acquire, at its own expense, good and sufficient rights-of-way or easements, clear of any encumbrances, on all lands and facilities, if any, traversed by the proposed Public Improvements. All such rights-of-way and easements shall be conveyed to the Town and the documents of conveyance shall be furnished to the Town Manager for recording. At the Town’s request, Developer shall provide at its sole expense a policy of title insurance insuring title in the Town, free and clear of all liens and encumbrances, for all land, property and easements dedicated or conveyed to the Town or for public use. In addition, Developer

shall obtain all the requisite permits and licenses necessary for construction of the Public Improvements. Developer shall also pay all applicable use tax due and owing to the Town.

2.2 **Construction of Public Improvements:** Upon satisfaction of the conditions set forth in Paragraph 2.1, Developer shall construct the Public Improvements at its own expense in accordance with this Agreement, the Final Plat, the Resolution, the Civil Engineering Construction Plans, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations. All Public Improvements shall be installed and constructed within the rights-of-way or easements dedicated to the Town. Unless otherwise approved by the Town in writing, all materials used for constructing the Public Improvements shall be new and both workmanship and materials shall be of good quality.

2.3 **Construction Schedule:** Developer shall construct the Public Improvements in accordance with the schedule of public improvements set forth on **Exhibit C-1**, attached hereto and incorporated herein by reference ("Schedule of Public Improvements"). Once construction begins, Developer shall keep the Town Manager informed by weekly status reports of the progress of the work and a projection of when the Public Improvements will be completed as well as the cost of such Public Improvements. The Town and the Developer entered into a Purchase and Sale Agreement on October 2, 2017, whereby the Town agreed to purchase approximately 10.0002 acres of real property in the Development from the Developer ("Town Property"). Pursuant to that agreement, Developer agreed to construct certain Public Improvements beneficial to the use and enjoyment of the Town Property. A list of the specific Public Improvements related to the Town Property, and the schedule for the completion of those Public Improvements, is attached hereto as **Exhibit C-2**.

2.4 **Testing and Inspection:** Developer shall employ, at its own expense, a qualified independent testing company, approved by the Town Engineer, to perform all testing of materials or construction that may be reasonably required by the Town. Developer shall furnish certified copies of test results to the Town Engineer. At all times during construction of the Public Improvements, the Town shall have the right, but not the duty, to inspect materials and workmanship, at Developer's cost. All materials and work must conform to the Civil Engineering Construction Plans. Any material or work not conforming to the Civil Engineering Construction Plans shall be promptly removed, repaired or replaced, at Developer's expense and to the satisfaction of the Town Engineer.

2.5 **Completion of Construction:** Developer shall complete construction of the Public Improvements no later than eighteen (18) months from the commencement of the construction, unless such completion date is extended for reasons beyond the reasonable control of Developer and Developer has obtained the Town Manager's written consent to the extension.

2.6 **Performance Guarantee:** If Developer seeks, and the Town authorizes the issuance of, building permits prior to the completion of certain of the Public Improvements, Developer shall furnish to the Town a cash escrow deposited with the Town or an irrevocable letter of credit in the form attached hereto as **Exhibit D** in which the Town is designated as the beneficiary ("Performance

Guarantee”) in an amount equal to 110% of the cost of such uncompleted improvements, which cost shall be certified by Developer’s professional engineer, licensed in the State of Colorado and approved by the Town Engineer, to secure the installation, improvement and completion of the improvements. The Performance Guarantee shall be released after Initial Acceptance of such improvements.

### 3. Private Improvements

3.1 ***Pre- Construction:*** Prior to commencing construction of the Private Improvements, Developer shall submit a Site Development Plan to the Town. The Site Development Plan shall contain the proposed Private Improvements for the Development, including a plan for stormwater improvements, an irrigation system, landscaping, fencing, entry-way signage, street signs and posts, street lighting, parks and open space, trails, postal service boxes and school bus stop shelters. Landscaping and fencing shall be designed in accordance with the Town’s landscape guidelines. Construction of the Private Improvements shall not commence until the Town provides written notice of approval of the Site Development Plan, with the exception of approval of the school bus shelters, which must be approved by the school district. Developer shall not thereafter modify the approved Site Development Plan without the written approval of the Town. The Town’s review and approval of the Site Development Plan shall not limit or affect Developer’s responsibility or liability for design, construction and installation of the Private Improvements, and Developer agrees to save and hold the Town harmless from any claims, fault or negligence attributable to such design, construction and installation, other than negligent designs which are required by the Town over Developer’s written objection. In addition, Developer shall obtain all the requisite permits and licenses necessary for construction of the Private Improvements. Developer shall also pay all applicable use tax due and owing to the Town.

3.2 ***Construction of Private Improvements:*** Upon satisfaction of the conditions set forth in Paragraph 3.1, Developer shall construct the Private Improvements at its own expense in accordance with the terms of this Agreement, the Final Plat, the Resolution, the Site Development Plan, the Town’s ordinances, resolutions and regulations and all other applicable laws and regulations. All landscaping services shall be performed by a professional landscape architect or engineer. Unless otherwise approved by the Town in writing, all materials used for constructing the Private Improvements shall be new and both workmanship and materials shall be of good quality.

3.3 ***Inspection:*** At all times during construction and installation of the Private Improvements, the Town shall have the right, but not the duty, to inspect materials and workmanship, at Developer’s cost. All materials and work must conform to the Site Development Plan. Any material or work not conforming to the Site Development Plan shall be promptly removed, repaired or replaced, at Developer’s expense and to the satisfaction of the Town.

3.4 ***Completion of Private Improvements:*** Unless otherwise agreed in writing by the Town Manager, the Private Improvements shall be completed no later than the date that the Public Improvements are completed, unless such completion date is extended for reasons beyond the

reasonable control of Developer and Developer has obtained the Town Manager's written consent to the extension. The Town may, in its discretion, allow Developer to defer completion of the landscaping services between December 1 and March 1 of any given year provided that sufficient surety in the form of a cash escrow deposited with the Town or an irrevocable letter of credit in the form attached hereto as **Exhibit D** in which the Town is designated as the beneficiary is provided to the Town.

3.5 **Replacement of Private Improvements:** As replacement of the improvements is necessary and warranted over time, the Private Improvements shall be replaced by, as appropriate, the Developer, the homeowner's association or a metropolitan or special district. The Town shall not be responsible for replacement of the Private Improvements.

#### 4. **Dry-Utilities**

4.1 **Utilities:** Developer shall obtain all proper conveyances and arrangements for the installation and provision of the Dry Utilities to serve the Development. Developer shall provide proof of such conveyances and arrangements to the Town, which proof may be in the form of contracts for such services, no later than the date that the Public Improvements are completed.

4.2 **Easements:** All easements approved by the utility companies shall be submitted to the Town.

### **ACCEPTANCE OF SUBDIVISION IMPROVEMENTS**

5.1 **Initial Acceptance:** Developer shall make written application to the Town Manager for initial acceptance of the Public Improvements ("Initial Acceptance"), and for final review of the Private Improvements, within thirty (30) days of the completion date of the Subdivision Improvements, with the exception of the improvements for which the Town has authorized an extension of time to complete. With respect to the Public Improvements, the written application shall include one set of reproducible "as built" drawings and an affidavit executed by Developer affirming that the Public Improvements have been paid in full, certifying the final construction costs and including documentary evidence of the construction costs. If the Town Manager requests, Developer shall provide lien waivers, or other acceptable assurance, from all subcontractors, suppliers and materialmen who have furnished labor, material or services for the design, construction or installation of the Subdivision Improvements. The affidavit and lien waivers may be reviewed by the Town, but the Town assumes no responsibility or liability to or for anyone regarding the veracity of the information so provided.

After the receipt of the written application, the Town shall use reasonable efforts to promptly inspect the Subdivision Improvements. If the Subdivision Improvements are satisfactory, Developer shall be entitled to Initial Acceptance of the Public Improvements upon receipt of the Maintenance Guarantee and written approval of the Private Improvements. If the Subdivision Improvements are not satisfactory, the Town shall prepare a detailed written description of all Subdivision

Improvements which are not in compliance with the Approved Plans, subject to any changes that have been approved by the Town and any changes that have been required by the Town as a result of any unforeseen engineering design issues. Such report shall be delivered to Developer. After curing the defects, Developer shall make a renewed written application to the Town for re-inspection of the Subdivision Improvements, which written application shall contain the items set forth above. The Town shall thereafter use reasonable efforts to promptly re-inspect the Subdivision Improvements. If the Subdivision Improvements are satisfactory, Developer shall be entitled to Initial Acceptance of the Public Improvements upon receipt of the Maintenance Guarantee and written approval of the Private Improvements.

5.2 ***Maintenance Guarantee.*** Prior to Initial Acceptance of the Public Improvements, Developer shall provide the Town with a maintenance guarantee in the form of a cash escrow deposited with the Town or an irrevocable letter of credit in the form attached hereto as **Exhibit D** in which the Town is designated as the beneficiary ("Maintenance Guarantee"). The Maintenance Guarantee shall equal fifteen percent (15%) of the total cost of the Public Improvements. The Maintenance Guarantee shall warrant and guarantee all expenses and costs for maintenance, repairs and replacements of the Public Improvements until Final Acceptance. The Maintenance Guarantee shall be released after Final Acceptance of all of the Public Improvements.

5.3 ***Delivery of Initial Acceptance.*** Upon satisfaction of the conditions set forth above in Paragraphs 5.1 and 5.2, the Town shall provide written notice of Initial Acceptance of the Public Improvements and written approval of the Private Improvements to Developer. The Town may issue written notice of Initial Acceptance of the Public Improvements and written approval of the Private Improvements prior to completion of certain of the less critical improvements, as determined and agreed-upon by the Town in its sole discretion. In which case, the Developer may be entitled to obtain building permits prior to completion of all the Subdivision Improvements, assuming satisfaction of the remaining terms of this Agreement and based on conditions otherwise set forth herein.

5.4 ***Maintenance, Repair and Replacement:*** Until Final Acceptance of the Public Improvements, Developer shall promptly perform all maintenance and make all repairs and replacements of all defects or failures of the Public Improvements at Developer's expense. If, within ten (10) days after Developer's receipt of written notice from the Town requesting such maintenance, repairs or replacements, Developer shall not have undertaken with due diligence to make the same, the Town may make such maintenance, repairs or replacements at Developer's expense and shall be entitled to draw upon the Maintenance Guarantee, either before undertaking to make such repairs or at any time thereafter or the Town may charge Developer for the costs thereof. In case of emergency, as determined by the Town, such written notice shall be deemed waived and the Town may proceed as it deems necessary at the expense of Developer or the issuers of the Maintenance Guarantee. Notwithstanding the foregoing, upon Initial Acceptance, the Town shall be responsible for routine maintenance of the Public Improvements (street sweeping, snow removal, etc.) and the Developer shall be responsible for all maintenance, repairs and replacement of the Private Improvements.

5.5 ***Final Acceptance:*** Two (2) years after the Town's Initial Acceptance of the Public Improvements, which time period may be extended in the Town's discretion due to remedial or repair work that may be necessary in the first two (2) years by providing written notice to Developer, Developer shall make a written request to the Town Manager for a final inspection of the Public Improvements ("Final Acceptance"). If the Town Engineer determines that the Public Improvements are free of defects in materials and workmanship and have been repaired and maintained to the extent required, the Town Manager shall provide a written certification of completion and Final Acceptance. If the Town Engineer determines that the Public Improvements are not free of defects in materials and workmanship and have not been repaired and maintained to the extent required, the Town Manager shall issue a written notice of non-compliance specifying the defects. Developer shall take such action as is necessary to cure the noncompliance and, upon curing the same, provide a new written request to the Town Manager for a final inspection of the Public Improvements. Failure of the Developer to make a timely request for Final Acceptance shall not limit the Town's rights hereunder nor shall it limit the Town's right to utilize or operate the Public Improvements as the Town deems appropriate.

5.6 ***Homeowners Association:*** Prior to Final Acceptance and prior to the sale of lots or homes in the residential portion of the Development and the sale or lease of lots in the commercial portion of the Development, Developer shall establish one or more homeowners associations for the Development. Developer shall provide the Town with proposed covenants, bylaws and articles of incorporation for the homeowners associations. Upon written approval of the covenants, bylaws and articles of incorporation by the Town, the same shall be recorded with the Weld County Clerk and Recorder and the homeowners associations shall thereafter be deemed to be established.

5.7 ***Dedication and Maintenance of Subdivision Improvements:*** Upon Final Acceptance of the Subdivision Improvements: (1) the Public Improvements shall be owned, operated and maintained by the Town; (2) the Private Improvements shall be owned, operated and maintained, as appropriate and otherwise authorized and approved by the Town, by the Developer, the homeowner's association or a metropolitan or special district; and (3) the Dry-Utilities shall be owned, operated and maintained, as appropriate and otherwise authorized, by the Developer, the homeowner's association, a metropolitan or special district or the appropriate public utility company.

### **WATER AND SEWER SERVICE**

6.1 The Town and Developer shall enter into a Water and Sewer Service Agreement setting forth their agreement concerning water rights dedication, preliminary projections of water and sewer demand and a commitment by the Town for water and sewer service to the Development. The Water and Sewer Service Agreement, whenever executed, shall be incorporated into this Agreement and made a part hereof.

6.2 The Developer shall be entitled to a raw water credit of twenty (20) acre feet for landscaping and commercial uses that generate sales taxes and/or employment opportunities. The credit shall include the plant investment fee for the proportionate share of the Property to which the

raw water credit applies.

### **BUILDING PERMITS**

7.1 The Town shall not issue building permits or install water meters for the Development until: (1) the Final Plat has been recorded with the Weld County Clerk and Recorder; (2) Developer has paid all applicable use tax due and owing to the Town and all other fees required by the Town, including but not limited to water and tap fees, impact fees and storm drainage fees; (3) Developer has received written notice of Initial Acceptance of the Public Improvements and written notice of approval of the Private Improvements, with the exception of the improvements for which the Town has authorized an extension of time to complete; (4) meter and curb stop pass inspection; (5) the parties have entered into a Water and Sewer Service Agreement; (6) Developer has established one or more homeowners associations as set forth in Paragraph 5.6 above; and (7) all terms of this Agreement have been faithfully kept by Developer.

7.2 Notwithstanding the foregoing, the Town may, in its sole discretion, issue building permits prior to completion of certain of the less critical Subdivision Improvements, as determined by the Town in its sole discretion, on the condition that such improvements be completed prior to the issuance of certificates of occupancy.

7.3 If at any time the Town determines that Developer is not in compliance with this Agreement, the Final Plat, the Resolution or the Approved Plans, the Town may withhold the issuance of building permits.

### **OPERATION STANDARDS**

8.1 The operation of construction equipment outside an enclosed structure shall be prohibited between the hours of 8:00 p.m. and, on weekdays, the hour of 7:00 a.m. or, on weekends and legal holidays, the hour of 8:00 a.m. The Town Manager may, upon written application, alter the hours of operation for good cause by providing written notice to Developer.

8.2 The operation of construction equipment for the purpose of grading or constructing either surface improvements or underground utilities, either public or private, shall be prohibited between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and 4:00 p.m. and 8:00 a.m. on legal holidays and weekends. The Town Manager may, upon written application, alter the hours of operation for good cause by providing written notice to Developer.

8.3 Developer agrees to control all weeds growing within the Development. Developer further agrees to use the appropriate herbicide and undertake mowing of the property within the Development.

8.4 Developer shall, at all times, keep the public right-of-way free from accumulation of waste material, rubbish, dirt and mud caused by Developer's operation. Developer shall remove

such waste material, rubbish, dirt and mud no less than weekly and, at the completion of the work, shall promptly remove all debris waste materials, rubbish, dirt, mud, tools, construction equipment, machinery, building materials, trash containers, and portable toilets from the public right-of-way.

8.5 When the Town Engineer provides written notice that erosion, by wind or water, is likely to be an issue, Developer shall install temporary or permanent erosion control into the Development at the earliest practicable time. By way of explanation and without limitation, said control may consist of seeding of approved grasses, temporary dikes, gabions or other similar devices.

8.6 In the event that Developer fails to perform the work specified in Paragraphs 8.3, 8.4 or 8.5 within a reasonable time period after receiving written notice from the Town, not to exceed ten (10) days for the work specified in Paragraphs 8.3 and 8.4, the Town may, in addition to other remedies, including those set forth in Paragraph 7.3, perform the work required and charge Developer for said cost. Developer shall pay the Town for all costs incurred by the Town in the performance of the above said service within ten (10) days of the Town submitting an invoice for said services. If Developer does not remit the costs, in addition to other remedies, the Town may draw on the Maintenance Guarantee.

8.7 Developer hereby ensures that Developer's subcontractors shall cooperate with the Town's construction inspectors in all manners, including, but not limited to, by ceasing operations when winds are of sufficient velocity to create blowing dust which the Town, in its discretion, determines is hazardous to the public health and welfare.

8.8 Developer shall take all steps necessary to prevent its construction activities from damaging adjacent properties.

### **DEVELOPMENT STANDARDS**

9.1 Developer shall comply with the requirements contained in the Annexation Agreement related to the Property, except as specifically amended by this Agreement.

9.2 Except as otherwise provided in this Agreement, the Final Plat, the Resolution or Approved Plans, Developer shall comply with Johnstown's municipal code, zoning ordinances, subdivision regulations, landscape guidelines and the approved design guidelines.

9.3 Except as may otherwise be provided in the Mountain View West Design Guidelines, appropriate design standards must be met including, but not limited to, the following:

- A. Developer shall submit detailed elevations showing architectural features of the proposed dwelling units. Architectural features, elevations and home sites shall have prior approval of the Town. Such approvals shall not be unreasonably withheld.

- B. All proposed multi-family areas and all other areas not planned for detached single family units must be the subject of a Site Development Plan to be reviewed and approved by the Town prior to any construction being performed.
- C. All off-street parking structures or pads shall be provided to the rear of the front setback. Driveways leading to the off-street parking may be constructed within the front setback and may also be used for parking.
- D. In areas built with single family homes, no individual unit shall be built with the same elevation within three (3) of itself on both sides of the street and all units shall have at least a two-car garage, except the multi-family homes.
- E. In areas built with single family homes, at least twenty-five percent (25%) of the facade of each dwelling unit, excluding windows, doors, and garage doors, shall be of masonry, stone, brick, or an equivalent. All roofs shall have thirty (30) year architectural style shingles. Any shingle type or style other than architectural style shingles shall be submitted to the Town for prior approval, but three-tab conventional asphalt shingle roofing shall not be permitted.
- F. All trails within the Development must be a minimum of ten (10) feet wide and six (6) inches thick and constructed of concrete. Interior sidewalks shall be a minimum of five (5) feet wide, four (4) inches thick and constructed of concrete.
- G. To provide for emergency vehicular access, no structure shall be located in excess of one hundred and fifty feet (150'), excluding cul-de-sacs, from a single point of vehicular access unless an approved temporary second point of vehicular access is provided.
- H. Current Municipal Code required setbacks must be met, including, but not limited to, setback requirements for oil and gas facilities.
- I. A thirty-foot landscape buffer and a ten-foot meandering sidewalk, which shall be six inches thick, shall be constructed along any proposed arterial roads. The landscape buffer shall be landscaped with deciduous trees and evergreens along with deciduous shrub beds and bluegrass in accordance with the Town's approved landscape plan. Curb and gutter shall be provided in the same locations as the before mentioned sidewalks and landscape buffers. All local streets shall have five-foot attached sidewalks and collector streets

shall have five-foot detached sidewalks and shall be landscaped with trees and grass.

9.4 All Final Plat and construction drawings shall be submitted in mylar, print, and digital form, which must conform to the Town's format and content requirements.

9.5 Developer shall take all necessary steps to prevent its construction activities from harming water quality, water bodies and wetlands. All drainage and holding ponds shall be kept free of standing water by whatever means possible including, but not limited to, pumping water out of any holding ponds.

### **LIABILITY, INSURANCE AND COST REIMBURSEMENT**

10.1 **Indemnification:** Developer hereby agrees to indemnify and hold the Town, Town Officials, its employees, agents, representatives, insurers and self insurance pool harmless from and against any and all suits, demands, actions, damages, liability, losses, claims, fees and expenses, including attorney's fees, resulting or arising in any way from any breach or default of this Agreement or any acts or omissions of Developer, its employees, agents, consultants, representatives or subcontractors, except to the extent caused by gross negligence or willful misconduct of the Town. Developer shall promptly investigate, handle, respond to, and provide defense for and defend against any such liability, claims or demands at the sole expense of Developer. Developer also agrees to bear all costs, expenses and attorney's fees related thereto whether or not such liability, claims or demands are groundless, false or fraudulent.

10.2 **Insurance:** Developer shall for itself and for its contractors, subcontractors, representatives and agents engaged in the design, construction or installation of the Subdivision Improvements maintain such liability insurance including general liability, contractors liability, professional liability, comprehensive automobile liability and sufficient public liability insurance as will protect the Town, Town Officials, its employees, agents and representatives against any and all potential liability, claims, damage, demands, losses, and expenses which may be incurred or asserted pursuant to Paragraph 10.1 above. Liability insurance shall be in the minimum amount of three hundred fifty thousand dollars (\$350,000.00) for injury to one person, or nine hundred, ninety thousand dollars (\$990,000.00) for injury to two or more persons in any single occurrence, or such greater amounts as may be established by the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as may be amended. Whenever requested by the Town Manager, Developer agrees to promptly submit certificates of insurance evidencing sufficient amounts, types and duration of insurance and which show the Town, Town Officials, its employees, agents and representatives as additional insureds. Developer shall not be relieved of any liability, claims, demands or other obligations assumed or set forth in this Development Agreement by reason of its failure to procure or maintain such insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types. In addition to the insurance specified above, Developer shall maintain workers compensation insurance, if so required by law, and shall require its contractors,

subcontractors, representatives and agents engaged in the design, construction or installation of improvements to maintain workers compensation insurance in the amount required by law.

10.3 **Drainage Liability:** Developer shall indemnify and hold the Town harmless from any liability the Town may have on account of any change in the nature, direction, quantity, or quality of drainage flow resulting from the Development. In addition, Developer shall reimburse the Town for any and all costs, fees, and expenses, including attorney's fees, which the Town incurs in acquiring any rights-of-way or easements which the Town is required to acquire or condemn or which the Town is held to have acquired or condemned for drainage as a result of this Development. This provision shall survive Final Acceptance and the termination of this Agreement.

10.4 **Tax Liability:** Developer shall pay all outstanding taxes, encumbrances or obligations on any property dedicated or conveyed to the Town prior to or at the time of such dedication or conveyance, and shall indemnify and hold the Town harmless from any and all encumbrances, obligations or tax liability incurred prior to the dedication or conveyance to the Town. Any use tax due for construction materials shall be paid prior to construction of any improvements on the Property.

10.5 **Cost Reimbursement to Town:** Developer shall reimburse the Town for professional consultants, including, but not limited to engineers, testing companies and attorneys, engaged by the Town to process and complete the Development.

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

### **DEFAULTS AND REMEDIES**

11.1 A default by Developer shall exist if Developer fails to fulfill or perform any material obligation contained in this Agreement, the Final Plat, the Resolution, or the Approved Plans, or Developer fails to comply with the Town's ordinances, resolutions and regulations and all other applicable laws and regulations. In the event of a default, the Town shall deliver written notice to Developer of such default and Developer shall have ten (10) days from receipt of such notice to cure the default. If the default is not of a type that may be cured within such ten (10) day period, Developer may provide written notice to the Town within such period that it is actively and diligently pursuing such cure and Developer shall thereafter have a reasonable time to cure the default, provided that Developer is at all times within that extended period actively and diligently pursuing a cure. In case of emergency, as determined by the Town, such written notice shall be deemed waived and the Town may proceed as it deems necessary at the expense of Developer or the issuers of the Maintenance or Performance Guarantee.

11.2 If the default arises subsequent to Initial Acceptance and the default is not timely cured, the Town may draw on the Maintenance Guarantee. If the default relates to an improvement secured by the Performance Guarantee and the default is not timely cured, the Town may draw on the Performance Guarantee. In addition, and without limitation, if the default is not timely cured, the Town may withhold approval of any or all building permits, certificates of occupancy, water meters or tap hook-ups for any area within the Development. Notwithstanding these rights and remedies, the Town may pursue whatever additional remedies it may have against Developer or anyone, either at law, equity or pursuant to this Agreement. The Town's remedies shall be cumulative.

11.3 Should Developer default in any obligation under this Agreement, the Town may, in its discretion, complete such Subdivision Improvements at Developer's expense. The Town shall estimate the cost of such improvements and give notice to Developer to pay such cost estimate. The Town shall use such payment for said improvements and refund any money collected in excess of the actual cost of said improvements. Should payment not be made within thirty (30) days of such notice, the Town may assess the amount of the cost estimate, plus ten percent (10%) to defray the cost of collection as provided by state law, to the Property and file a lien against the Property, such lien to have priority over all liens except general taxes and prior special assessments and to be placed upon the tax list for the current year to be collected in the same manner as taxes are collected. The Town may file such lien at any time after said thirty (30) days while Developer is in default of this Agreement.

### **SPECIAL PROVISIONS**

12.1 The Additional Terms, Conditions or Provisions relating to this Development are set forth in **Exhibit B-3**, which is attached hereto, incorporated herein by this reference, and made a part of this Agreement.

12.2 As set forth in Paragraph 3.5 above, Developer or the homeowner's association, as appropriate, shall be responsible for replacement of decorative light fixtures, decorative street signs and all other decorative amenities in the Development when replacement is necessary and warranted over time.

### **MISCELLANEOUS**

13.1 **No Waiver:** Delays in enforcement or the waiver of any one or more breaches of this Agreement by the Town shall not constitute a waiver of any of the remaining terms or obligations.

13.2 **Severability:** If any provisions or parts of this Agreement are judged to be unenforceable or invalid, to the extent practicable, such judgment shall not affect, impair or invalidate the remaining parts of this Agreement, the intention being that the various parts and provisions hereof are severable.

13.3 **Recording of Agreement:** A Notice of this Agreement substantially in the form as shown on **Exhibit E** is to be recorded with the approved Final Plat and shall be a covenant running with and against all the Property, property rights and improvements contained within the Development described in **Exhibit A** in order to put prospective owners, purchasers, successors, assigns, and others acquiring any interest in the property on notice as to the terms and obligations herein. No lots, tracts or parcels may be separately conveyed prior to recording such Notice and the Final Plat.

13.4 **Binding Effect:** Unless otherwise provided herein, this Agreement shall be binding upon Developer's heirs, successors, assigns, transferees and any other person or entity acquiring or purchasing any interest in any of the Property described in the attached **Exhibit A**, with the exception of a bona fide residential home buyer of a completed owner-occupied home.

13.5 **Transfer or Assignments:** In the event of a sale or transfer of any portion of the Development, except to a bona fide residential home buyer of a completed owner-occupied home, the seller or transferor and the purchaser or transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless, prior to the transfer or the sale, a written agreement satisfactory to the Town delineating and allocating the various rights and obligations for the Subdivision Improvements has been approved and executed by the Town Council.

13.6 **Title and Authority:** Developer expressly warrants and represents to the Town that it is the record owner of the Property and further represents and warrants that the undersigned has full power and authority to enter into this Agreement. Developer understands that the Town is relying on the representations and warranties contained herein in approving in entering into this Agreement.

13.7 **Notice:** All notices, consents, applications or other instruments provided for under this Agreement shall be deemed properly given and received: (1) when personally delivered and received, when sent by messenger service, or when forwarded by facsimile or email-delivery, but only upon confirmation of receipt of such facsimile or email; (2) on the next day after deposit for delivery with a nationally-recognized overnight courier service; or (3) three business days after deposit in the United States mail, by certified mail with return receipt requested, postage prepaid and addressed as follows:

**TO DEVELOPER:**

**PARISH, LLC**  
Attention: A.L. Gilbert  
304 N. Yosemite Avenue  
P.O. Box 38  
Oakdale, CA 95361  
Facsimile: (209) 847-3542  
Email: david.gilbert@algilbert.com

**TO TOWN:**

**TOWN OF JOHNSTOWN**  
Attention: TOWN MANAGER  
450 So. Parish  
P. O. Box 609  
Johnstown, CO 80534  
Facsimile: (970) 587-0141  
Email: rcello@townofjohnstown.com

David Wyatt, Esq.  
Wyatt Law, LLC  
Mailing: P.O. Box 1114  
Fort Collins, CO 80522  
Facsimile: (970) 692-2564  
Email: davidwyatt66@gmail.com

Avi S. Rocklin, Esq.  
Law Office of Avi S. Rocklin, LLC  
1437 N. Denver Avenue, No. 330  
Loveland, CO 80538  
Facsimile: (970) 797-1806  
Email: avi@rocklinlaw.com

13.8 **Costs and Attorney Fees.** If the Developer breaches this Agreement, the Developer shall pay the Town's reasonable costs and expenses, including attorney's fees, incurred in the enforcement of the terms, conditions and obligations of this Agreement. Nothing herein shall be construed to prevent or interfere with the Town's rights and remedies specified elsewhere in the Agreement.

13.9 **Vested Right.** The Final Plat shall have vested rights pursuant to §§ 24-68-101, *et seq.*, C.R.S., for a period of ten (10) years from the date of this Agreement.

13.10 **Warranty of Developer:** Developer warrants that the Subdivision Improvements shall be installed in a good and workmanlike manner and in compliance with the Approved Plans, this Agreement, the Final Plat, the Resolution, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations and shall be substantially free of any defects in materials and workmanship.

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

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

13.13 **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties and supersedes all prior agreements or understandings. Any amendment to this Agreement must be in writing and signed by the parties.

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

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

13.16 **Force Majeure.** Neither party shall be liable for a failure to perform hereunder if such failure is the result of force majeure, which shall mean causes beyond the reasonable control of a party such as acts of God, labor strikes, war, terrorism, fire or action or inaction of government authorities.

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

**IN WITNESS WHEREOF**, and agreeing to be fully bound by the terms of this Agreement, the parties have set their hands below on this 27<sup>th</sup> day of NOVEMBER, 2017.

PARISH, LLC

By: [Signature]  
A.L. Gilbert Company, Managing Member  
David Gilbert, President

ATTEST:

[Signature]  
MICHAEL D. SCHONHOFF 27 NOV 17  
Secretary Date

California AK 11/27/17  
STATE OF ~~COLORADO~~ )  
COUNTY OF Stanislaus ) ss.

(SEAL)

SUBSCRIBED AND SWORN to before me this 27<sup>th</sup> day of November, 2017, by David Gilbert, President of A.L. Gilbert Company, Managing Member of Parish, LLC.

WITNESS my hand and official seal.

My commission expires:



[Signature]  
Notary Public

TOWN OF JOHNSTOWN, COLORADO  
A Municipal Corporation

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
Town Clerk

**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT  
FOR  
THE TOWN OF JOHNSTOWN  
(MOUNTAIN VIEW WEST SUBDIVISION)**

**EXHIBITS**

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<b>EXHIBIT A:</b>	Legal Description of Subject Property
<b>EXHIBIT B-1:</b>	Copy of Final Plat
<b>EXHIBIT B-2:</b>	Town Resolution Approving Development
<b>EXHIBIT B-3:</b>	Additional Terms, Conditions or Provisions
<b>EXHIBIT B-4:</b>	Preliminary Depiction of Trail Dedication
<b>EXHIBIT C-1:</b>	Schedule of Public Improvements for the Development
<b>EXHIBIT C-2:</b>	List and schedule of Public Improvements for the Town Property
<b>EXHIBIT D:</b>	Irrevocable Letter of Credit Form
<b>EXHIBIT E:</b>	Notice (Approval of Final Plat and of Development Agreement)

**EXHIBIT A**

**LEGAL DESCRIPTION  
(Development)**

*Mountain View West Subdivision*  
Legal Description

A portion of the Northwest Quarter of Section 9, Township 4 North, Range 67 West of the Sixth Principal Meridian, Town of Johnstown, County of Weld, State of Colorado, being more particularly described as follows:

Commencing at the southwest corner of said northwest corner of Section 9:  
Thence, N00°28'15"W, along the west line of said northwest quarter of section 9 a distance of 1327.68 feet to the north 1/16<sup>th</sup> corner of said Section 9;

Thence, N00°28'15"W continuing along said line, a distance of 91.42 feet to the boundary line of the Johnstown Colony Addition to the Town of Johnstown, recorded March 23, 1935 in Book 7, Page 3 at the Weld County Clerk and Records Office;

Thence, S89°29'12"E, along the south line of said addition a distance of 30.00 feet to the Point of Beginning.

Thence from the Point of Beginning N89°29'12"E, continuing along said south line a distance of 381.35 feet;

Thence N00° 10'54"W along the east line of said addition a distance of 501.47 feet to the south boundary line of the Purvis Addition to the Town of Johnstown recorded April 18, 1984 in book 8 page 4 at the Weld County Clerk and Records Office;

Thence S88°43'02"E along the south line of said addition a distance of 1004.35 feet to a point on the westerly right-of-way line of the Great Western Railroad and a point on a non-tangent curve to the right;

Thence along said westerly right-of-way line the following two (2) courses:

1) Thence 395.20 feet along the arc of said curve having a radius of 1870.10 feet, a Delta angle of 12° 06'29" and being subtended by a chord bearing S10°38'36"E a distance of 394.48 feet to a point of tangency;

2) Thence S04° 35'21"E along said westerly right-of-way a distance of 1515.63 feet to a point on a line that is 30 feet northerly of and parallel the southerly line of said Northwest quarter of Section 9;

Thence N89°01'19"W along said parallel line a distance of 1546.77 feet to a point on a line 30 feet easterly of and parallel with the west line of said Northwest Quarter of Section 9;

Thence N00° 28'15"W along said parallel line a distance of 1389.87 feet to the Point of Beginning.

**EXHIBIT B-1**

**PLAT OR PLAN**

**(SEE ATTACHED)**

**MOUNTAIN VIEW WEST SUBDIVISION**  
A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
TOWN OF JOHNSTOWN, COUNTY OF WELD, STATE OF COLORADO

**KNOW ALL MEN BY THESE PRESENTS**

THAT, PARISH LLC, A COLORADO LIMITED LIABILITY COMPANY, BEING THE SOLE OWNER OF THE FOLLOWING DESCRIBED TRACT OF LAND.

**LEGAL DESCRIPTION**

A PORTION OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF WELD, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 9, MONUMENTED BY A 2 1/2 INCH ALUMINUM CAP STAMPED PLS 24993, BEARS N00°28'15"W FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 9, MONUMENTED BY A 3 1/2 INCH ALUMINUM CAP STAMPED PLS 24993, BEARS N00°28'15"W (BASIS OF BEARINGS) FOR A MEASURED DISTANCE OF 2653.47 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE N00°28'15"W, ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 1327.68 FEET TO THE NORTH 1/16TH CORNER OF SAID SECTION 9;

THENCE N00°28'15"W, CONTINUING ALONG SAID WEST LINE A DISTANCE OF 91.42 FEET TO THE BOUNDARY LINE OF THE JOHNSTOWN COLONY ADDITION TO THE TOWN OF JOHNSTOWN RECORDED MARCH 23, 1935 IN BOOK 7 PAGE 3 AT THE WELD COUNTY CLERK AND RECORDER OFFICE;

THENCE S89°51'12"E, ALONG THE SOUTH LINE OF SAID ADDITION A DISTANCE OF 30.00 FEET TO THE POINT BEGINNING;

THENCE FROM THE POINT OF BEGINNING N89°29'12"E, CONTINUING ALONG SAID SOUTH LINE A DISTANCE OF 361.33 FEET;

THENCE N00°10'24"W, ALONG THE EAST LINE OF SAID ADDITION A DISTANCE OF 501.47 FEET TO THE SOUTH BOUNDARY LINE OF THE PURVIS ADDITION TO THE TOWN OF JOHNSTOWN RECORDED APRIL 18, 1984 IN BOOK 8 PAGE 4 AT THE WELD COUNTY CLERK AND RECORDER OFFICE;

THENCE S88°43'02"E, ALONG THE SOUTH LINE OF SAID ADDITION A DISTANCE OF 1004.35 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF THE GREAT WESTERN RAILROAD AND A POINT ON A NON-TANGENT CURVE TO THE RIGHT;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING TWO (2) COURSES:

1) ALONG THE ARC OF SAID CURVE HAVING A RADIUS OF 1870.10 FEET, A DELTA ANGLE OF 120°6'29" FOR AN ARC DISTANCE OF 393.20 FEET AND BEING SUBTENDED BY A CHORD BEARING S103°38'36"E, A DISTANCE OF 324.46 FEET TO A POINT OF TANGENCY;

2) THENCE S04°35'21"E, ALONG SAID WESTERLY RIGHT-OF-WAY A DISTANCE OF 1515.63 FEET TO A POINT ON A LINE THAT IS 30.00 FEET NORTHERLY OF AND PARALLEL WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER OF SECTION 9;

THENCE N89°11'18"W, ALONG SAID PARALLEL LINE A DISTANCE OF 1548.77 FEET TO A POINT ON A LINE 30.00 FEET EASTERLY OF AND PARALLEL WITH THE WEST LINE OF SAID NORTHWEST QUARTER OF SECTION 9;

THENCE N00°28'15"W, ALONG SAID PARALLEL LINE A DISTANCE OF 1389.67 FEET TO THE POINT OF BEGINNING.

CONTAINS 2,617,053 SQUARE FEET OR 60.079 ACRES, MORE OR LESS.

**DEDICATION**

KNOW ALL PERSONS BY THESE PRESENTS THAT PARISH LLC, A COLORADO LIMITED LIABILITY COMPANY, BEING THE OWNER OF "MOUNTAIN VIEW WEST SUBDIVISION", DO HEREBY SUBDIVIDE THE SAME INTO LOTS, BLOCKS, TRACTS, OUTLOTS, RIGHTS-OF-WAY AND EASEMENTS AS SHOWN ON THIS MAP AND DO HEREBY DEDICATE AND DEDICATE ALL RIGHTS-OF-WAYS AND EASEMENTS FOR PUBLIC USE, UNLESS OTHERWISE NOTED.

DAVID GILBERT, PRESIDENT  
ALL GILBERT COMPANY, MANAGER  
PARISH LLC  
STATE OF \_\_\_\_\_ } SS  
COUNTY OF \_\_\_\_\_ }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ A.D. BY DAVID GILBERT AS PRESIDENT FOR ALL GILBERT COMPANY AS MANAGER FOR PARISH LLC, A COLORADO LIMITED LIABILITY COMPANY.

WITNESS MY HAND AND OFFICIAL SEAL \_\_\_\_\_ NOTARY PUBLIC

MY COMMISSION EXPIRES \_\_\_\_\_

**MORTGAGEE AND ACKNOWLEDGEMENT**

KNOW ALL MEN BY THESE PRESENTS THAT I/WE, \_\_\_\_\_, THE LIEN HOLDER OF THAT CERTAIN TRACT OF LAND SHOWN HEREON, DO HEREBY JOIN, APPROVE, AND CONSENT TO ALL DEDICATIONS AND PLAT NOTE REQUIREMENTS SHOWN HEREON, AND I/WE DO HEREBY APPROVE THE RECORDED OF THIS SUBDIVISION PLAT AND DEDICATE TO THE PUBLIC USE FOREVER ANY EASEMENTS AND ROADS THAT ARE SHOWN HEREON.

LIEN HOLDER NAME \_\_\_\_\_

NAME \_\_\_\_\_ TITLE \_\_\_\_\_  
STATE OF \_\_\_\_\_ } SS  
COUNTY OF \_\_\_\_\_ }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_ A.D. BY \_\_\_\_\_ AS \_\_\_\_\_ FOR \_\_\_\_\_

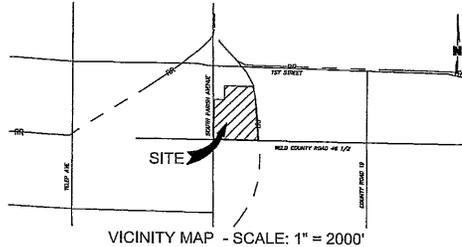
WITNESS MY HAND AND OFFICIAL SEAL \_\_\_\_\_ NOTARY PUBLIC

MY COMMISSION EXPIRES \_\_\_\_\_

**SUBDIVIDER:** PARISH LLC  
**ENGINEER:** OLSSON ASSOCIATES  
DAVID GILBERT, PRESIDENT  
ALL GILBERT COMPANY  
304 NORTH YOSEMITE AVE  
DARDALE, CA 95361  
800.947.1721  
david.gilbert@gilbertart.com

**SURVEYOR:** OLSSON ASSOCIATES  
JUSTIN G. SCHETTLER, PLS  
4690 TABLE MOUNTAIN DR., ST 200  
LOVELAND, CO 80538  
970.481.7733  
mmurren@olssonassociates.com

**OWNER:** PARISH LLC  
DAVID GILBERT, PRESIDENT  
ALL GILBERT COMPANY  
304 NORTH YOSEMITE AVE  
DARDALE, CA 95361  
800.947.1721  
david.gilbert@gilbertart.com



**GENERAL NOTES**

- THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY OLSSON ASSOCIATES TO DETERMINE OWNERSHIP OR EASEMENTS OF RECORD. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHTS-OF-WAY AND TITLE OF RECORD, OLSSON ASSOCIATES RELIED UPON COMMITMENT FOR TITLE INSURANCE ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, ORDER NO. F072513004, EFFECTIVE DATE NOVEMBER 28, 2016 AT 5:00 PM. OLSSON ASSOCIATES HAS EXAMINED THE ABOVE REFERENCED TITLE COMMITMENTS AS WELL AS EACH INSTRUMENT LISTED THEREON.
- NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- BASIS OF BEARINGS: BEARINGS ARE BASED UPON THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 9 WITH THE WEST QUARTER CORNER OF SAID SECTION 9 BEING MONUMENTED BY A 2 1/2 INCH ALUMINUM CAP STAMPED PLS 23513, FROM WHICH THE NORTHWEST CORNER OF SAID SECTION 9, MONUMENTED BY A 3 1/2 INCH ALUMINUM CAP STAMPED PLS 24993, BEARS N00°28'15"W FOR A MEASURED DISTANCE OF 2653.47 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.
- UNITS SHOWN ON SURVEY ARE IN U.S. SURVEY FEET.
- FLOOD ZONE: THE SUBJECT PROPERTY LIES WITHIN ZONE X (AREAS OF MINIMAL FLOOD HAZARD) AND ZONE A (SPECIAL FLOOD HAZARD AREA SUBJECT TO INUNDATION BY THE 1% ANNUAL CHANCE FLOOD; NO BASE FLOOD ELEVATIONS DETERMINED) ACCORDING TO FEMA FEDERAL INSURANCE RATE MAP NUMBER 08125C 1884 E, WITH AN EFFECTIVE DATE OF JANUARY 20, 2016.
- TRACT A IS TO BE DEDICATED TO MOUNTAIN VIEW MASTER ASSOCIATION
- THE 60' DRAINAGE EASEMENT IS DEDICATED FOR THE CONVEYANCE OF THE STORM WATER EMERGENCY OVERTFLOW WITHIN MOUNTAIN VIEW WEST DRIVE. IT IS THE SITE DEVELOPER'S RESPONSIBILITY TO CONSTRUCT AN OVERLAND FLOW PATH TO THE DETENTION POND WITH A MINIMUM CAPACITY OF 150 CFS. SHOULD THE DEVELOPER WISH TO RELOCATE THE EASEMENT TO BETTER SUIT THEIR SITE LAYOUT, THE EASEMENT CAN BE RELOCATED BY SEPARATE DOCUMENTS AT THAT TIME.

**RAW WATER REQUIREMENT**

GSS (PARISH, LLC) SHALL RECEIVE A RAW WATER CREDIT OF TWENTY (20) ACRE FEET FOR THE PURPOSES AND USE ON THE ALSO PROPERTY (PARISH PROPERTY) FOR LANDSCAPING AND COMMERCIAL USES THAT GENERATE SALES TAXES AND/OR EMPLOYMENT OPPORTUNITIES. THE WATER SERVICE INCLUDES THE TWENTY (20) ACRES ON THE SOUTHWEST CORNER AND MAY EXTEND TO INCLUDE SOME OF THE BUSINESS NORTH OF THE TWENTY (20) ACRES AND LANDSCAPING ALONG SOUTH PARISH AVENUE AND WELD COUNTY ROAD 46-1/2. THE PARTIES AGREE THAT THE CREDIT SHALL INCLUDE THE RAW WATER AND PLANT INVESTMENT FEE. THE METER COST SHALL BE PAID AS AN OWNER'S EXPENSE.

**SALES TAX REIMBURSEMENT**

- TAXES COLLECTED AND APPLIED TO IMPROVEMENTS: A PORTION OF THE SALES AND USE TAX REVENUE RECEIVED BY THE TOWN OF JOHNSTOWN FROM TAXABLE ACTIVITIES FROM THE COMMERCIAL DEVELOPMENT ON THE PROPERTY, EQUIVALENT TO ONE PERCENT (1%) OF SUCH TAXABLE ACTIVITIES, SHALL BE SEPARATELY ACCRUED AND DEPOSITED IN THE TOWN RECORDS SO THAT THE LOCATION OF ORIGIN, DATE OF RECEIPT, AND SOURCE OF TAXATION MAY BE DETERMINED FOR APPLICATION OF PAYMENTS WHICH ARE DESCRIBED IN THIS AGREEMENT. HOWEVER, FOR ANY NEW JOHNSTOWN TAX NOT CURRENTLY IN EFFECT (SUCH AS A LOGGING TAX), SUCH TAX SHALL ACCRUE ONE-HALF PERCENT (1/2%) FOR THE BENEFIT OF THESE IMPROVEMENTS. THIS PROVISION FOR TAX CREDITS SHALL EXPIRE TWENTY (20) YEARS AFTER THE ISSUANCE OF THE FIRST CERTIFICATE OF OCCUPANCY FOR COMMERCIAL DEVELOPMENT ON THE PROPERTY.
- APPLICATION OF TAX CREDITS: THE TAXES ACCRUED AND CREDITED FROM SUBPARAGRAPH (1) SHALL BE APPLIED TO REIMBURSE OWNER FOR COSTS INCURRED BY THE OWNER FOR ALL ON- OR OFF-SITE PUBLIC IMPROVEMENTS INCLUDING, BUT NOT LIMITED TO, PUBLIC WATER AND SEWER, COLLECTOR AND ARTERIAL STREETS (SAID COSTS SHALL INCLUDE STREETScape AND LANDSCAPING IMPROVEMENTS), PUBLIC DRAINAGE FACILITIES, ELECTRIC AND GAS FACILITIES, OTHER PUBLIC IMPROVEMENTS, BELOW COST SALE OF LAND TO KEY RETAIL/COMMERCIAL USERS, ENHANCED ARCHITECTURAL DESIGN, PUBLIC ART, AND OTHER ITEMS SPECIFICALLY AGREED UPON BETWEEN THE TOWN AND OWNER. THE COSTS SHALL BE REIMBURSED WHETHER THE INITIATING REQUIREMENT IS DUE TO OWNER'S DEVELOPMENT SCHEDULE, THE TOWN, OR THAT OF ANOTHER DEVELOPER THAT INDIRECTLY CAUSES THE NEED FOR CONSTRUCTION. THESE MONIES SHALL ALSO BE USED FOR RELATED EXPENSES SUCH AS LEGAL, ENGINEERING, AND APPRAISAL EXPENSES FOR ACTIVITIES SUCH AS CONDEMNATION, EASEMENT ACQUISITIONS, DESIGN, ETC. THE TOWN'S NORMAL REIMBURSEMENT POLICIES AND THE REIMBURSEMENT PROGRAM CHARTER, IN COMBINATION WITH THE TAX CREDIT ACCRUAL HEREIN, RESULT IN OWNER RECEIVING MORE FUNDS THAN IT HAS ACTUALLY SPENT ON PUBLIC INFRASTRUCTURE IMPROVEMENTS. IF THE DEVELOPER WISHES TO HAVE TAX CREDITS APPLY FOR BELOW COST SALE OF LAND TO KEY RETAIL/COMMERCIAL USERS, ENHANCED ARCHITECTURAL DESIGN, PUBLIC ART, AND OTHER ITEMS SPECIFICALLY AGREED UPON BETWEEN THE TOWN AND OWNER, THE OWNER WILL PROVIDE FOR CONSIDERATION OF THE VALUE OF THESE CONSIDERATIONS TO JOHNSTOWN FOR REVIEW AND CONSIDERATION, BUT THERE IS NO GUARANTEE THAT IT WILL BE APPROVED BY THE TOWN. APPROVAL IS AT THE SOLE DISCRETION OF THE TOWN.
- ORDER OF PAYMENT: THE OWNER SHALL IDENTIFY TO THE TOWN, IN WRITING AND FOR THE TOWN'S APPROVAL, THE ORDER OF PAYMENTS TO BE MADE FROM THE SALES AND USE TAX REIMBURSEMENT FUND. THE OWNER SHALL IDENTIFY, IN WRITING, TO WHOM SUCH PAYMENTS SHALL BE MADE.
- INTEREST: ALL COSTS INCURRED BY THE OWNER THAT ARE ELIGIBLE FOR REIMBURSEMENT PURSUANT TO THIS PARAGRAPH SHALL ALSO INCLUDE INTEREST ACCRUING FROM THE DATE OF COMPLETION AND ACCEPTANCE OF THE ELIGIBLE IMPROVEMENT, BUT INTEREST SHALL ACCRUE ONLY FOR A PERIOD OF SEVEN (7) YEARS FROM THE DATE OF COMPLETION. THE RATE OF THE INTEREST SHALL BE EQUAL TO THE INTEREST RATE RECEIVED BY THE TOWN ON ITS INVESTMENTS OVER THE TWELVE-MONTH PERIOD PRECEDING THE DATE SUCH INTEREST COMMENCES TO ACCRUE. THE INTEREST SHALL BE COMPOUNDED ANNUALLY.
- ADMINISTRATIVE FEE: THE TOWN SHALL BE ENTITLED TO CHARGE OWNER A REASONABLE ADMINISTRATIVE FEE FOR THE ADMINISTRATION OF THE SEPARATE SALES AND USE TAX REIMBURSEMENT FUND.

**PLANNING AND ZONING COMMISSION**

THIS PLAT, TO BE KNOWN AS "MOUNTAIN VIEW WEST SUBDIVISION" WAS APPROVED BY ACTION OF THE PLANNING AND ZONING COMMISSION OF THE TOWN OF JOHNSTOWN, COLORADO AT A REGULAR MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

BY: \_\_\_\_\_ CHAIR, PLANNING AND ZONING COMMISSION

**TOWN COUNCIL**

THIS PLAT, TO BE KNOWN AS "MOUNTAIN VIEW WEST SUBDIVISION" IS APPROVED AND ACCEPTED BY THE TOWN OF JOHNSTOWN, BY RESOLUTION NUMBER \_\_\_\_\_ PASSED AND ADOPTED ON FINAL READING AT A REGULAR MEETING OF THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

BY: \_\_\_\_\_ MAYOR ATTEST: \_\_\_\_\_ TOWN CLERK

**CERTIFICATION OF TITLE**

I HEREBY CERTIFY THAT THIS SUBDIVISION PLAT HAS BEEN DULY EXECUTED AS REQUIRED AND THAT ALL PERSONS SIGNING THIS SUBDIVISION PLAT ON BEHALF OF A CORPORATION OR OTHER ENTITY ARE DULY AUTHORIZED SIGNATORIES UNDER THE LAWS OF THE STATE OF COLORADO AND AREAS SHOWN ON THE FINAL PLAT IS OWNED BY THE OWNER HEREON IN FEE SIMPLE, FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES.

NAME AND TITLE \_\_\_\_\_ COMPANY \_\_\_\_\_

**SURVEYOR'S STATEMENT**

I, JUSTIN G. SCHETTLER, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, HEREBY STATE AND DECLARES THAT THE ACCOMPANYING PLAT WAS SURVEYED AND DRAWN UNDER THEIR RESPONSIBLE CHARGE AND ACCURATELY SHOWS THE DESCRIBED TRACT OF LAND, AND SUBDIVISION THEREOF, AND THAT THE REQUIREMENTS OF TITLE 38 OF THE COLORADO REVISED STATUTES, 1973, AS AMENDED, HAVE BEEN MET TO THE BEST OF THEIR KNOWLEDGE AND BELIEF.

FOR AND ON BEHALF OF OLSSON ASSOCIATES.

JUSTIN G. SCHETTLER  
PROFESSIONAL LAND SURVEYOR  
COLORADO LICENSE NUMBER: 38430

**COUNTY CLERK & RECORDER'S CERTIFICATE**

THIS INSTRUMENT WAS FILED FOR RECORDING WITH THE OFFICE OF THE WELD CLERK AND RECORDER IN THE STATE OF COLORADO AT \_\_\_\_\_ A.M. / P.M. ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D., 20\_\_\_\_

RECORDED AS INSTRUMENT NO. \_\_\_\_\_

CLERK AND RECORDER \_\_\_\_\_

DEPUTY \_\_\_\_\_



4109 1/2 Mile Mountain Drive, Suite 300  
Boulder, CO 80503  
TEL: 303.237.2072  
FAX: 303.237.2560  
www.olssonassociates.com

DATE	REVISION DESCRIPTION

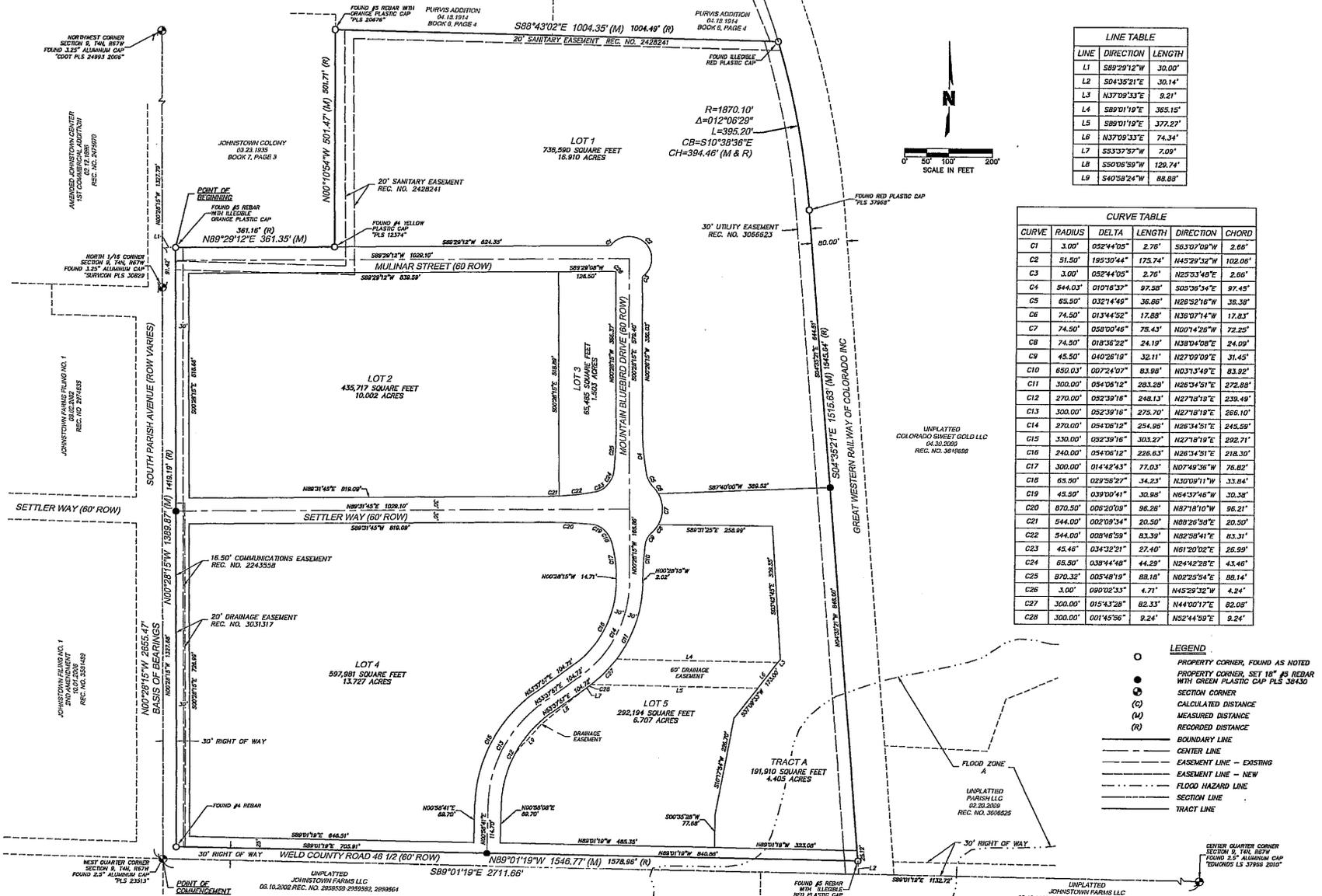
COVER SHEET  
MOUNTAIN VIEW WEST SUBDIVISION  
JOHNSTOWN, COLORADO  
1017

Drawn by:	_____	DATE:	_____
Checked by:	_____	DATE:	_____
Approved by:	_____	DATE:	_____
CAVCS by:	_____	DATE:	_____
Printed on:	_____	DATE:	_____
Drawn in:	_____	DATE:	_____
Date:	11.17.2017		

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DATE: Nov 23, 2017 4:02pm  
USER: jbscheller

# MOUNTAIN VIEW WEST SUBDIVISION

A PARCEL OF LAND SITUATED IN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF WELD, STATE OF COLORADO



LINE	DIRECTION	LENGTH
L1	S89°29'12"W	30.00'
L2	S04°35'21"E	30.14'
L3	N37°09'33"E	9.21'
L4	S89°01'19"E	365.15'
L5	S89°01'19"E	377.22'
L6	N37°09'33"E	74.34'
L7	S53°37'57"W	7.09'
L8	S50°05'59"W	129.74'
L9	S40°58'24"W	88.89'

CURVE	RADIUS	DELTA	LENGTH	DIRECTION	CHORD
C1	3.00'	052°44'05"	2.76'	S63°07'09"W	2.66'
C2	51.50'	195°30'44"	175.74'	N45°29'32"W	102.06'
C3	3.00'	052°44'05"	2.76'	N25°33'40"E	2.66'
C4	544.03'	01°01'18"37"	97.98'	S05°36'34"E	97.45'
C5	63.50'	032°14'49"	36.66'	N26°32'16"W	36.38'
C6	74.50'	013°44'52"	17.88'	N38°07'14"W	17.83'
C7	74.50'	058°00'48"	75.43'	N00°04'26"W	72.25'
C8	74.50'	018°36'52"	24.19'	N38°04'08"E	24.09'
C9	45.50'	040°28'19"	32.11'	N27°09'09"E	31.45'
C10	650.03'	007°24'07"	83.89'	N03°13'49"E	83.92'
C11	300.00'	054°08'12"	283.29'	N26°34'51"E	272.88'
C12	270.00'	052°39'16"	248.13'	N27°18'19"E	239.49'
C13	300.00'	052°39'16"	275.70'	N27°18'19"E	266.10'
C14	270.00'	054°06'12"	254.95'	N26°34'51"E	245.59'
C15	330.00'	052°39'16"	303.27'	N27°18'19"E	292.71'
C16	240.00'	054°06'12"	226.63'	N26°34'51"E	218.30'
C17	300.00'	014°42'43"	77.03'	N07°49'38"W	76.82'
C18	63.50'	029°38'27"	34.23'	N30°09'11"W	33.84'
C19	45.50'	039°00'41"	30.69'	N64°37'46"W	30.38'
C20	870.50'	006°20'09"	98.26'	N87°18'10"W	96.21'
C21	544.00'	002°09'34"	20.50'	N88°26'58"W	20.50'
C22	544.00'	008°46'59"	83.39'	N82°58'41"E	83.31'
C23	45.46'	034°32'21"	27.40'	N61°20'02"E	26.99'
C24	65.50'	038°44'48"	44.29'	N24°42'28"E	43.46'
C25	870.32'	005°48'19"	88.18'	N82°25'54"E	88.14'
C26	3.00'	090°22'33"	4.71'	N45°29'32"W	4.24'
C27	300.00'	015°43'28"	82.33'	N44°00'17"E	82.08'
C28	300.00'	001°45'58"	9.24'	N52°44'59"E	9.24'

- LEGEND**
- PROPERTY CORNER, FOUND AS NOTED
  - PROPERTY CORNER, SET 18" #3 REBAR WITH GREEN PLASTIC CAP PLS 38430
  - SECTION CORNER
  - (C) CALCULATED DISTANCE
  - (M) MEASURED DISTANCE
  - (R) RECORDED DISTANCE
  - BOUNDARY LINE
  - CENTER LINE
  - EASEMENT LINE - EXISTING
  - EASEMENT LINE - NEW
  - FLOOD HAZARD LINE
  - SECTION LINE
  - TRACT LINE

**OLSSON ASSOCIATES**

REV. NO.	DATE	REVISION DESCRIPTION

FINAL PLAT  
MOUNTAIN VIEW WEST SUBDIVISION  
JOHNSTOWN, COLORADO

SHEET  
2 of 2

FILE: P:\p\454015-1671\00-Design\Survey\SRVY\Shanta\_VL\_PFT\_21878.dwg  
 USER: jshantur  
 DATE: Nov 20, 2017 4:02pm

**EXHIBIT B-2**

**(RESOLUTION APPROVING PLAT OR PLAN)**

**(SEE ATTACHED)**

### EXHIBIT B-3

#### ADDITIONAL TERMS, CONDITIONS OR PROVISIONS

1. The Developer shall work with the residents adjoining Molinar Street (South Street) to ensure access during development.
2. The Developer shall obtain approval from the Front Range Fire Rescue Authority prior to the commencement of construction.
3. The Developer shall obtain approval from the Town for revisions to the Final Plat, if any, prior to the commencement of construction and such revisions shall be recorded with the Weld County Clerk and Recorder.
4. As set forth in Paragraph 2.E. of the Joint Agreement between the Town and the Developer dated on or about March 3, 2008, the Developer shall convey a strip of land along the South Fork of the Little Thompson River commencing at the bridge across Weld County Road 46-1/2 and extending east to Weld County Road 19, containing approximately 75 feet and in the approximate location depicted on **Exhibit B-4** ("Trail Dedication"), by general warranty deed to the Town. The parties understand and agree that, because of the flood that occurred in September of 2013, the location of the final conveyance of the Trail Dedication may vary slightly from the foregoing. Such conveyance shall occur before any building permits are issued, unless such time period is extended by written agreement of the Town Manager. The conveyance shall meet the land dedication requirements for the Development.
5. To the extent water, sewer, storm drainage facilities or other utilities are oversized or streets, street lighting or other public improvements are built or relocated off-site of the Property for benefit accruing to third parties, the Town agrees to use best efforts to facilitate reimbursement to the Developer from the third parties. If the Developer is not fully reimbursed from this process, the Developer shall be entitled to reimbursement from sales tax sharing, described below, to the extent funds are available.
6. As set forth in Paragraphs 8 and 34(g) of the Annexation Agreement between the Town and the Developer dated on or about April 7, 2014, the Developer shall be entitled to a portion of the sales and use tax revenue derived from commercial development on the Property. Among other provisions, Paragraph 8 provides that a schedule of "Reimbursable cost for Public Improvements" shall be set forth at the time of plat approval and Paragraph 34(g)(III) provides that the Developer shall identify an "Order of Payment." The parties recognize and agree that the more appropriate time to identify a schedule of reimbursable costs and an order of payment is upon completion of the construction of the reimbursable public improvements. As such, subsequent to Initial Acceptance of the Public Improvements, the Town and the Developer shall execute a separate sales and use tax sharing agreement, identifying a schedule of reimbursable costs and an order of payment and outlining the rights and obligations related to the sales and use

tax sharing.

7. The Development shall be governed by the Mountain View West Design Guidelines, as approved by Town Council.

**EXHIBIT B-4**

**PRELIMINARY DEPICTION OF TRAIL DEDICATION  
(ATTACHED)**



**EXHIBIT C-1**

**SCHEDULE OF PUBLIC IMPROVEMENTS FOR THE DEVELOPMENT  
(ATTACHED)**

**Exhibit C-1: Schedule / Cost Estimates of Public Improvements - SUMMARY STATEMENT**

Phase	Item*	Item Description*	Total Price*	Summary of Phases	Summary Price*
Phase 1	A	General Conditions	\$ 143,000.00		
	B	Removals	\$ 25,182.00		
	C	Erosion Control	\$ 22,517.00		
	D	Earthwork	\$ 246,740.80		
	E	Sanitary Sewer	\$ 343,744.00		
	F	Storm Drain	\$ 510,960.60		
	G	Waterline	\$ 381,276.50		
	J	Concrete Flatwork	\$ 474,023.10		
	K	Asphalt Paving	\$ 471,758.70		
	L	Traffic Control	\$ 11,120.00		
#####			Total Price for Above Phase 1 Items	\$ 2,630,322.70	

Phase 2	A	General Conditions	\$ 60,200.00		
	D	Earthworks	\$ 80,000.00		
	E	Sanitary Sewer	\$ 1,688.00		
	F	Storm Drain	\$ 86,634.00		
	G	Waterline	\$ 149,307.00		
	K	Asphalt Paving	\$ 70,666.00		
	#####				

Phase 2 Information from PM Project Manager (PM) - Fred Croci	D	Earthworks	\$ 38,117.50		
	J	Concrete Flatworks	\$ 300,378.50		
	K	Asphalt Paving	\$ 261,510.00		
	#####				

				<b>TOTAL BID PRICE</b>	<b>\$ 3,678,823.70</b>
<p>[See Attached "Budget for Cost" for specific item costs]  *Above is taken from Connell Resrouces, Inc - "Budget for Cost" dated 10/5/2017</p>					

**Connell Resources, Inc.**  
**7785 Highland Meadows Pkwy, #100**  
**Fort Collins, CO 80528**  
**Phone: (970) 223-3151**  
**Fax: (970) 223-3191**



Estimator: Mark Van Ronk

**BUDGET FOR COST**

Date: 10/5/2017

<b>Submitted To:</b> Colorado Sweet Gold, LLC	<b>Budget Title:</b> Mountain View West Phase 1&2 Revised (10/5/17)
<b>Address:</b> 8714 Highway 60, PO Box 628 Johnstown, CO 80534	<b>Budget Number:</b>
<b>Contact:</b> Dennis Trego	<b>Project Location:</b>
<b>Phone:</b> 970-587-6528 <b>Fax:</b> 970-587-6524	<b>Project City, State:</b> Johnstown, CO
	<b>Engineer/Architect:</b> Olsson Associates

We have prepared for your information the following items for budget evaluation purposes for the referenced project. This budget includes conceptual quantities, resource costs, scope-of-work and schedules and therefore may not completely represent all items of work or cost ultimately necessary for completion of the project. This budget was prepared using reasonable skill and judgment, but is not an offer to perform the Work described.

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
<b>Phase 1</b>					
<b>A. General Conditions</b>					
00-100	Mobilization/Site Management	1.00	EACH	\$77,600.00	\$77,600.00
00-180	Construction Surveying	1.00	LS	\$54,200.00	\$54,200.00
00-185	Geotechnical Testing	1.00	LS	\$11,200.00	\$11,200.00
<b>Total Price for above A. General Conditions Items:</b>					<b>\$143,000.00</b>
<b>B. Removals</b>					
22-125	Remove Asphalt With Hoe	1,060.00	SY	\$8.35	\$8,851.00
22-230	Remove Well Houses	2.00	EACH	\$571.00	\$1,142.00
22-231	Remove Fire Hydrant	1.00	EACH	\$1,110.00	\$1,110.00
22-232	Remove Bollards	5.00	EACH	\$463.00	\$2,315.00
22-235	Remove Underground Waterline	600.00	LF	\$11.30	\$6,780.00
22-236	Remove 12" CMP	20.00	LF	\$32.20	\$644.00
22-240	Remove Tree	2.00	EACH	\$1,120.00	\$2,240.00
22-300	Sawcut Asphalt 6"	1,500.00	LF	\$1.40	\$2,100.00
<b>Total Price for above B. Removals Items:</b>					<b>\$25,182.00</b>
<b>C. Erosion Control</b>					
29-101	Compacted Earthen Berm	6,800.00	LF	\$0.44	\$2,992.00
29-104	Gravel Inlet Protection	13.00	EACH	\$475.00	\$6,175.00
29-106	Vehicle Tracking Control	1.00	EACH	\$1,670.00	\$1,670.00
29-108	Concrete Washout	1.00	EACH	\$1,280.00	\$1,280.00
29-500	Maintain Erosion Control Allowance	2.00	WK	\$2,120.00	\$4,240.00
29-502	Erosion Control Supervisor	10.00	DY	\$616.00	\$6,160.00
<b>Total Price for above C. Erosion Control Items:</b>					<b>\$22,517.00</b>
<b>D. Earthwork</b>					
23-100	Strip Stockpile Topsoil W/ 627's	11,317.00	CY	\$2.15	\$24,331.55
23-110	Unclassified Excavation With 627's	32,365.00	CY	\$2.45	\$79,294.25
23-111	Unclassified Excavation With 627's (Shortage To Be Borrowed From Ph. 2)	7,282.00	CY	\$2.45	\$17,840.90
23-200	Fine Grade Curb And Gutter	6,673.00	LF	\$2.15	\$14,346.95
23-205	Fine Grade 5' Concrete Sidewalks	5,359.00	LF	\$2.00	\$10,718.00
23-210	Fine Grade 10' Concrete Sidewalks	1,260.00	LF	\$4.00	\$5,040.00
23-215	Fine Grade Concrete Cross Pan	901.00	SF	\$3.15	\$2,838.15
23-300	Fine Grade Curb And Gutter In Roundabout	580.00	LF	\$3.45	\$2,001.00
23-305	Fine Grade Concrete Flat Work In Roundabout	2,485.00	SF	\$1.50	\$3,727.50
23-309	Fine Grade Concrete Trickle Pan	1,122.00	LF	\$13.00	\$14,586.00
23-310	Subgrade Preparation (+/- 0.1 Ft) Asphalt Pavement	13,858.00	SY	\$2.15	\$29,794.70
23-500	Finish Grading	65,116.00	SY	\$0.20	\$13,023.20
23-500	Finish Grading Pond	8,480.00	SY	\$0.99	\$8,395.20

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
27-152	Replace Stripped Topsoil W/ 627 Scrapers	9,676.00	CY	\$2.15	\$20,803.40
<b>Total Price for above D. Earthwork Items:</b>					<b>\$246,740.80</b>

**F. Sanitary Sewer**

00-175	Pothole Existing Utilities	16.00	HR	\$211.00	\$3,376.00
01-101	8" Sewer, 8'-12' Depth	592.00	LF	\$68.50	\$40,552.00
01-102	8" Sewer, 12'-16' Depth	417.00	LF	\$74.60	\$31,108.20
01-115	12" Sewer, 8'-12' Depth	938.00	LF	\$124.00	\$116,312.00
01-116	Dewatering For 12" Sewer	938.00	LF	\$66.60	\$62,470.80
01-116	Encase 12" Sewer Main	20.00	LF	\$23.60	\$472.00
01-135	Sewer Manhole 48"	9.00	EACH	\$3,530.00	\$31,770.00
01-136	Sewer Manhole 60"	1.00	EACH	\$3,950.00	\$3,950.00
01-137	Tie In To Existing Main	1.00	EACH	\$4,440.00	\$4,440.00
01-152	8" X 6" Service	15.00	EACH	\$2,800.00	\$42,000.00
01-200	Adjust Manhole In Asphalt Pavement	13.00	EACH	\$561.00	\$7,293.00
<b>Total Price for above E. Sanitary Sewer Items:</b>					<b>\$343,744.00</b>

**F. Storm Drain**

02-100	Dewatering For 12" Storm Sewer	450.00	LF	\$69.40	\$31,230.00
02-101	12" RCP Storm Drain	511.00	LF	\$48.30	\$24,681.30
02-102	12" RCP FES	1.00	EACH	\$314.00	\$314.00
02-112	18" RCP Storm Drain	279.00	LF	\$52.80	\$14,731.20
02-115	18" HDPE Storm Drain (Temporary Pipe @ Pond)	50.00	LF	\$53.80	\$2,690.00
02-116	18" HDPE FES	2.00	EACH	\$173.00	\$346.00
02-128	24" RCP Storm Drain	111.00	LF	\$70.70	\$7,847.70
02-141	30" RCP Storm Drain	422.00	LF	\$82.70	\$34,899.40
02-149	36" RCP Storm Drain	515.00	LF	\$109.00	\$56,135.00
02-154	42" RCP Storm Drain	393.00	LF	\$134.00	\$52,662.00
02-159	48" RCP Storm Drain	186.00	LF	\$172.00	\$31,992.00
02-167	60" RCP Storm Drain	186.00	LF	\$225.00	\$41,850.00
02-170	5' X 7' Box Culvert	76.00	LF	\$550.00	\$41,800.00
02-170	Open Ditch Instead Of 5' X 7' Box Culvert	350.00	LF	\$47.00	\$16,450.00
02-171	5' X 7' FES	1.00	EACH	\$9,100.00	\$9,100.00
02-200	Rip Rap D50=9", Type L	10.00	CY	\$126.00	\$1,260.00
02-201	Rip Rap D50=12", Type M	60.00	CY	\$114.00	\$6,840.00
02-304	Overflow Weir	1.00	EACH	\$3,980.00	\$3,980.00
02-305	Spillway Rip Rap D50=12", Type M	35.00	CY	\$114.00	\$3,990.00
02-308	Inlet Pond Outlet Structure	1.00	EACH	\$10,600.00	\$10,600.00
02-310	Inlet Type R 5 Ft	8.00	EACH	\$4,100.00	\$32,800.00
02-313	Inlet Type R 10 Ft	3.00	EACH	\$6,370.00	\$19,110.00
02-400	Storm Manhole 4-Ft	3.00	EACH	\$2,890.00	\$8,670.00
02-401	Storm Manhole 5-Ft	3.00	EACH	\$2,830.00	\$8,490.00
02-402	Storm Manhole 6-Ft	2.00	EACH	\$7,800.00	\$15,600.00
02-403	Storm Manhole 7-Ft	1.00	EACH	\$11,000.00	\$11,000.00
02-405	10' X 8' Junction Box (MH 6)	1.00	EACH	\$17,900.00	\$17,900.00
02-600	Adjust Storm Manhole In Asphalt Pavement	8.00	EACH	\$499.00	\$3,992.00
<b>Total Price for above F. Storm Drain Items:</b>					<b>\$510,960.60</b>

**G. Waterline**

03-103	6" PVC Waterline	430.00	LF	\$57.30	\$24,639.00
03-105	8" PVC Waterline	3,075.00	LF	\$43.30	\$133,147.50
03-207	6" Gate Valve W/ Box	13.00	EACH	\$1,000.00	\$13,000.00
03-208	Fire Hydrant	13.00	EACH	\$3,990.00	\$51,870.00
03-212	6" Tap On 12" Main	5.00	EACH	\$4,150.00	\$20,750.00
03-250	8" Lowering	2.00	EACH	\$2,000.00	\$4,000.00
03-253	8" X 2" Service	8.00	EACH	\$7,870.00	\$62,960.00
03-256	8" Gate Valve W/ Box	25.00	EACH	\$1,400.00	\$35,000.00
03-259	8" 45 Bend	2.00	EACH	\$195.00	\$390.00

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
03-260	8" Solid Sleeve	1.00	EACH	\$151.00	\$151.00
03-262	8" Plug W/ Blow Off	1.00	EACH	\$2,710.00	\$2,710.00
03-263	8" Plug	6.00	EACH	\$482.00	\$2,892.00
03-264	8" Tee	8.00	EACH	\$405.00	\$3,240.00
03-267	8" X 6" Swivel Tee	10.00	EACH	\$351.00	\$3,510.00
03-272	8" Tap On 12" Main	2.00	EACH	\$4,830.00	\$9,660.00
03-620	Adjust Valve Box	37.00	EACH	\$361.00	\$13,357.00
<b>Total Price for above G. Waterline Items:</b>					<b>\$381,276.50</b>

#### **J. Concrete Flatwork**

08-102	Concrete Curb And Gutter 30" Vertical	6,673.00	LF	\$22.40	\$149,475.20
08-202	5' Concrete Sidewalk (6" Thick) Attached	5,359.00	LF	\$25.10	\$134,510.90
08-203	10' Concrete Sidewalk (6" Thick) Detached	1,260.00	LF	\$50.30	\$63,378.00
08-204	Sq. Radius W/SHCR, 22 Ft	4.00	EACH	\$2,910.00	\$11,640.00
08-205	Sq. Radius W/SHCR, 16 Ft	4.00	EACH	\$2,290.00	\$9,160.00
08-206	Handicap Ramps W Truncated Domes	20.00	EACH	\$1,230.00	\$24,600.00
08-207	Concrete Crosspan (8" Thick)	902.00	SF	\$7.25	\$6,539.50
08-302	Concrete Curb And Gutter 18" Vertical @ Roundabout	340.00	LF	\$22.40	\$7,616.00
08-303	Concrete Pavement (6" Thick) Roundabout Median & Pedestrian Refuge Area	1,200.00	SF	\$7.25	\$8,700.00
08-304	Concrete Curb And Gutter 30" Vertical @ Roundabout	240.00	LF	\$26.80	\$6,432.00
08-305	Truck Apron Concrete Pavement @ Roundabout(6" Thick) Unreinforced Standard Grey Color	1,285.00	SF	\$6.70	\$8,609.50
08-408	Concrete Pan 4 Ft Wide (6" Thick)	772.00	LF	\$33.50	\$25,862.00
08-408	Concrete Pan 6 Ft Wide (6" Thick)	350.00	LF	\$50.00	\$17,500.00
<b>Total Price for above J. Concrete Flatwork Items:</b>					<b>\$474,023.10</b>

#### **K. Asphalt Paving**

23-310	Flyash Treated Subgrade 12", 12%	13,858.00	SY	\$8.90	\$123,336.20
47-104	Asphalt Paving Streets 5" Asphalt / 8" Class 5 Agg Base	2,800.00	SY	\$35.80	\$100,240.00
47-106	Asphalt Paving Streets 4" Asphalt / 6" Class 5 Agg Base	8,463.00	SY	\$27.50	\$232,732.50
47-122	Asphalt Paving Hand Patch Waterline And Storm Drain	50.00	TON	\$242.00	\$12,100.00
47-300	Pavement Marking	1.00	LS	\$3,350.00	\$3,350.00
<b>Total Price for above K. Asphalt Paving Items:</b>					<b>\$471,758.70</b>

#### **L. Traffic Control**

64-200	Traffic Control Allowance	1.00	LS	\$10,000.00	\$10,000.00
64-204	Signing	1.00	LS	\$1,120.00	\$1,120.00
<b>Total Price for above L. Traffic Control Items:</b>					<b>\$11,120.00</b>
<b>Total Price for above Phase 1 Items:</b>					<b>\$2,630,322.70</b>

#### **Phase 2 Assumed Quantities**

##### **A. General Conditions**

200-100	Mobilization/Site Management	1.00	EACH	\$35,000.00	\$35,000.00
200-180	Construction Surveying	1.00	LS	\$14,000.00	\$14,000.00
200-185	Geotechnical Testing	1.00	LS	\$11,200.00	\$11,200.00
<b>Total Price for above A. General Conditions Items:</b>					<b>\$60,200.00</b>

##### **D. Earthwork**

223-110	Stripping & Stockpile Topsoil And Unclassified Excavation With 627's (allowance)	5.00	DY	\$16,000.00	\$80,000.00
<b>Total Price for above D. Earthwork Items:</b>					<b>\$80,000.00</b>

##### **E. Sanitary Sewer**

200-175	Pothole Existing Utilities	8.00	HR	\$211.00	\$1,688.00
<b>Total Price for above E. Sanitary Sewer Items:</b>					<b>\$1,688.00</b>

##### **F. Storm Drain**

202-112	18" RCP Storm Drain	80.00	LF	\$52.80	\$4,224.00
202-128	24" RCP Storm Drain	520.00	LF	\$70.70	\$36,764.00
202-141	30" RCP Storm Drain	80.00	LF	\$82.70	\$6,616.00
202-149	36" RCP Storm Drain	60.00	LF	\$109.00	\$6,540.00

Item #	Item Description	Estimated Quantity	Unit	Unit Price	Total Price
202-150	36" RCP FES	1.00	EACH	\$1,450.00	\$1,450.00
202-201	Rip Rap D50=12", Type M	25.00	CY	\$114.00	\$2,850.00
202-310	Inlet Type R 5 Ft	2.00	EACH	\$4,100.00	\$8,200.00
202-400	Storm Manhole 4-Ft	3.00	EACH	\$2,890.00	\$8,670.00
202-401	Storm Manhole 5-Ft	4.00	EACH	\$2,830.00	\$11,320.00

**Total Price for above F. Storm Drain Items: \$86,634.00**

**G. Waterline**

203-103	6" PVC Waterline	160.00	LF	\$57.30	\$9,168.00
203-105	8" PVC Waterline	1,500.00	LF	\$43.30	\$64,950.00
203-207	6" Gate Valve W/ Box	4.00	EACH	\$1,000.00	\$4,000.00
203-208	Fire Hydrant	4.00	EACH	\$3,990.00	\$15,960.00
203-250	8" Lowering	2.00	EACH	\$2,000.00	\$4,000.00
203-253	8" X 2" Service	4.00	EACH	\$7,870.00	\$31,480.00
203-256	8" Gate Valve W/ Box	5.00	EACH	\$1,400.00	\$7,000.00
203-260	8" Solid Sleeve	1.00	EACH	\$151.00	\$151.00
203-262	8" Plug W/ Blow Off	1.00	EACH	\$2,710.00	\$2,710.00
203-264	8" Tee	1.00	EACH	\$405.00	\$405.00
203-267	8" X 6" Swivel Tee	4.00	EACH	\$351.00	\$1,404.00
203-272	8" Tap On 12" Main	1.00	EACH	\$4,830.00	\$4,830.00
203-620	Adjust Valve Box	9.00	EACH	\$361.00	\$3,249.00

**Total Price for above G. Waterline Items: \$149,307.00**

**K. Asphalt Paving**

223-310	Flyash Treated Subgrade 12", 12%	7,940.00	SY	\$8.90	\$70,666.00
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**Total Price for above K. Asphalt Paving Items: \$70,666.00**

**Total Price for above Phase 2 Assumed Quantities Items: \$448,495.00**

**Phase 2-Quantities From Fred**

**D. Earthwork**

223-200	Fine Grade Curb And Gutter	2,950.00	LF	\$2.15	\$6,342.50
223-205	Fine Grade 5' Concrete Sidewalks	1,500.00	LF	\$2.00	\$3,000.00
223-210	Fine Grade 10' Concrete Sidewalks	1,414.00	LF	\$4.00	\$5,656.00
223-215	Fine Grade Concrete Cross Pan	1,920.00	SF	\$3.15	\$6,048.00
223-310	Subgrade Preparation (+/- 0.1 Ft) Asphalt Pavement	7,940.00	SY	\$2.15	\$17,071.00

**Total Price for above D. Earthwork Items: \$38,117.50**

**J. Concrete Flatwork**

208-102	Concrete Curb And Gutter 30" Vertical	2,950.00	LF	\$22.40	\$66,080.00
208-202	5' Concrete Sidewalk (6" Thick) Attached	6,255.00	LF	\$25.10	\$157,000.50
208-203	10' Concrete Sidewalk (6" Thick) Detached	1,260.00	LF	\$50.30	\$63,378.00
208-207	Concrete Crosspan (8" Thick) (10 @ 32'x6')	1,920.00	SF	\$7.25	\$13,920.00

**Total Price for above J. Concrete Flatwork Items: \$300,378.50**

**K. Asphalt Paving**

247-104	Asphalt Paving Streets 5" Asphalt / 8" Class 5 Agg Base	5,200.00	SY	\$35.80	\$186,160.00
247-106	Asphalt Paving Streets 4" Asphalt / 6" Class 5 Agg Base	2,740.00	SY	\$27.50	\$75,350.00

**Total Price for above K. Asphalt Paving Items: \$261,510.00**

**Total Price for above Phase 2-Quantities From Fred Items: \$600,006.00**

**Total Base Bid Price: \$3,678,823.70**

**Cost Saving Alternates**

95-102	Raise Depth Of Sewer By 3-4 Feet	1,000.00	LF	(\$9.20)	(\$9,200.00)
95-135	Shorten Manhole By 3-4 Feet	4.00	EACH	(\$947.00)	(\$3,788.00)

**Total Price for above Cost Saving Alternates Items: (\$12,988.00)**

**Phase 1 - Cost Savings Alternates**

73-111	Unclassified Excavation With 627's (Shortage Leave Phase 1 Low By Approx. 3")	-7,282.00	CY	\$2.75	(\$20,025.50)
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**Total Price for above Phase 1 - Cost Savings Alternates Items: (\$20,025.50)**

**Total Alternate Price:** (\$33,013.50)

- Notes:**
- Budget Pricing is based upon plans entitled "Mountain View West" dated 3/22/2017, Sheets C1.0 through C20.1, as prepared by Olsson Associates. Geotechnical Engineering report dated 4/25/17 as prepared by EEC.
  - No plans were presented for Phase 2. Quantities are based upon information provided by Fred Croci and what could be interpreted from Phase 1 plan set. Pipe size and depth are assumed as no information was provided. Earthwork is an allowance as no information was provided.
  - The following are excluded from this proposal: Construction layout and engineering; Drainage facility certification; Warrantee period in excess of one year; Street cleaning for work performed by others; Permits: including but not limited to, city building, development construction, construction dewatering, wastewater discharge, storm water discharge (NPDES), air quality, etc.; Fees, including but not limited to, for development, inspection, utility connection, meters, etc.; Dewatering; Maintenance of erosion control devices for others; quality control or acceptance testing; prairie dog removal, relocation, or extermination; landscaping, seeding, or revegetation.
  - Pavement Drainage less than 1.5% designed or obtainable fall will not be guaranteed.
  - Material prices for pipeline Items are guaranteed for a period of 30 days from the date shown on the top of this quote. After 30 days the material prices may change the unit prices quoted.
  - All work is contingent on the availability of construction water, access to the work, negotiation of acceptable contract terms, a mutually agreeable schedule, and verification of financing.
  - Please provide a minimum of 4 weeks advanced notification of work requests to allow for scheduling the work. No work will be completed without a signed Contract Agreement. Work is anticipated \_\_\_\_\_.
  - Frost removal or winter protection is not included. If requested, it will be billed either on a time and material basis or a lump sum amount that is mutually agreed upon.
  - Connell will install fire line to the extent agreed upon, Connell will notify the sponsor so that a certified fire protection contractor is available to inspect the installation, pressure test, and blow off of the fire line, Connell will only perform these tests once.
  - Environmental site assessment / mitigation of hazardous or contaminated materials is excluded. Treatment or testing for contaminated groundwater is specifically excluded.
  - Add 1% for performance and payment bond.

**EXHIBIT C-2**

**LIST AND SCHEDULE OF PUBLIC IMPROVEMENTS FOR THE TOWN PROPERTY**

The Public Improvements for the Town Property shall consist of the "Phase 1" items listed on **Exhibit C-1**.

**EXHIBIT D**

**FORM--IRREVOCABLE LETTER OF CREDIT**

**NAME OF ISSUING BANK** \_\_\_\_\_  
**ADDRESS OF ISSUING BANK** \_\_\_\_\_

Town of Johnstown  
450 So. Parish  
P. O. Box 609  
Johnstown, CO 80534

ATTENTION: TOWN OF JOHNSTOWN ATTORNEY AND TOWN MANAGER

We hereby establish, at the request and for the account of this Irrevocable Letter of Credit in favor of the Town of Johnstown in the amount of \$ \_\_\_\_\_. The purpose of this Letter of Credit is to secure performance of a Development Agreement for \_\_\_\_\_, dated this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, between the Town of Johnstown and \_\_\_\_\_.

You are hereby authorized to draw on sight by drafts or written demands up to the aggregate amount of \$ \_\_\_\_\_. The sole condition for payment of any demand made or draft drawn against this Irrevocable Letter of Credit is that the Town's demand or draft be accompanied by a letter, on the Town's stationery, signed by the Town Manager to the effect that "the Town of Johnstown has declared a default under the Development Agreement."

Partial and multiple drawings are permitted hereunder.

We hereby agree with the Town of Johnstown and its drawers, endorsers, and bona fide holders of demands made or drafts negotiated under this Letter of Credit that the same shall be duly honored upon presentation and delivery of the documents as specified above.

This Irrevocable Letter of Credit is not transferable.

This Letter of Credit shall be for a twelve (12) month term from the date of execution hereof. It is a condition of this Letter of Credit that it shall be automatically renewed, without amendment, for additional periods of one year each from the present or any future expiration date, unless, at least sixty (60) calendar days prior to the effective expiration date, the Town Manager notifies you in writing delivered by certified U.S. mail, return receipt requested, to your address set forth above that the Town of Johnstown elects not to renew this Letter of Credit for any further additional period. Upon your receipt of our written notification of impending expiration, you may draw the unused balance of this Irrevocable Credit upon your written demand or your sight draft.



**EXHIBIT E**

**NOTICE**

Please take notice that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Town Council of the Town of Johnstown approved the final plat for the development known as Mountain View West Subdivision, which development was submitted and processed in accordance with the Town of Johnstown's Municipal Code. In conjunction therewith, the Town Council also approved a Development Agreement dated \_\_\_\_\_, 20\_\_, between the Town Johnstown and Parish, LLC, pursuant to and under which certain rights and obligations of the Developer will pass on to subsequent owners, heirs, assigns and transferees of the below-described property. The Development Agreement is on file and may be reviewed in the office of the Town Clerk of the Town of Johnstown. The subject property for which such Development Agreement applies is described as follows:

**LEGAL DESCRIPTION ATTACHED**

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Town Manager

