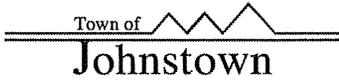


***TOWN COUNCIL***  
***MEETING***  
***PACKET***

**April 2, 2018**



*Town Council*

*Agenda*  
**Monday, April 2, 2018**  
**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 –March 19, 2018
    - B) First Amendment to Subdivision Development and Improvement Agreement (Thompson River Ranch Filing No. 6) between the Town of Johnstown and Clayton Properties Group II, Inc.
    - C) Award of Contract to All Terrain Landscaping for Clearview Park Expansion Irrigation Project
  - 7) **STAFF REPORTS**
  - 8) **OLD BUSINESS**
    - A) \*Continued Public Hearing – Amended Public Improvement Development Agreements for Iron Horse Filings 1 & 2
  - 9) **NEW BUSINESS**
  - 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-C**

**CONSENT**

**AGENDA**

- **Council Minutes – March 19, 2018**
- **Amendment to Public Improvement  
Development Agreement  
(Thompson River Ranch Filing No. 6)  
(Clayton Properties Group II, Inc.)**
  - **Award of Contract  
(Clearview Park Expansion Irrigation  
Project)  
(All Terrain Landscaping)**

## TOWN COUNCIL AGENDA COMMUNICATIONS

**AGENDA DATE:** April 2, 2018

**ITEM NUMBER:** 6A-C

**SUBJECT:** Consent Agenda

**ACTION PROPOSED:** Approve Consent Agenda

**PRESENTED BY:** Town Clerk

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**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 – March 19, 2018
- \* First Amendment to Subdivision Development and Improvement Agreement (Thompson River Ranch Filing No. 6) between the Town of Johnstown and Clayton Properties Group II, Inc.
- \*\* Award of Contract to All Terrain Landscaping for Clearview Park Expansion Irrigation Project

\*On March 5, 2018, Council approved the request by Oakwood Homes to extend the deadline to construct the community building and swimming pool until the issuance of 500 additional certificates of occupancy, excluding certificates of occupancy issued for Thompson River Ranch Filing Nos. 1, 3 and 4, or by June 30, 2023, whichever is earlier. As a condition of the approval, Council required that the developer provide a financial surety to Thompson Crossing Metropolitan District No. 3, guaranteeing payment of the cost. The First Amendment to Subdivision Development and Improvement Agreement for Thompson River Ranch Filing No. 6, accomplishes Council's directive. (Please be advised that Clayton Properties Group II, Inc. is the successor to Oakwood Homes, LLC.)

\*\* The Town advertised and solicited contractors to bid on the 2.5+ acre expansion of the Clearview Park non-potable irrigation system based upon plans prepared by WaterCentric. A total of two (2) bids were received in response to the Town's solicitation. Following a review of the bids, it is recommended the contract for the Clearview Park Irrigation Project be awarded to All Terrain Landscaping (lowest bid) in a total amount not to exceed \$34,585. The attached contract is the Town's standard public works agreement. According to the Town Clerk/Treasurer, sufficient funds are available for the project. Staff is recommending the contract be awarded to All Terrain Landscaping in a total amount not to exceed **\$34,585** and authorize the Mayor to sign the agreement, and also authorize the Town Manager to approve change orders in an amount not to exceed ten (10%) of the contract amount.

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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.

**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** Approve Consent Agenda

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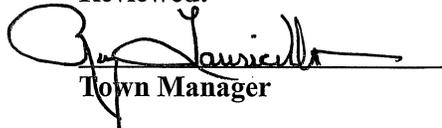
**SUGGESTED MOTION:**

**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, March 19, 2018 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, Brian Phillips, Police Chief and Diana Seele, Town Clerk/Treasurer

#### Agenda Approval

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

#### Consent Agenda

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

- March 5, 2018 Council Meeting Minutes
- Payment of Bills
- February Financial Statements
- Resolution No. 2018-03, A Resolution Appropriating Additional Sums of Money to Dray Expenses and Transfer in Excess of Amounts Budgeted for the Town of Johnstown, Colorado

Motion carried with a unanimous vote.

#### New Business

A. Public Hearing – Resolution No. 2018-04 Resolution Approving the Consolidated Service Plan for the Villages at Johnstown Metropolitan Districts Nos. 1-8 – An application for approval of a Consolidated Service Plan was submitted for the Villages at Johnstown Metropolitan Districts Nos. 1-8 by J-25 Land Holdings, LLC. The Service Plan is consistent with the Model Service Plan adopted by Town Council on February 22, 2017, with the following exceptions. The District is not entitled to issue debt, impose a mill levy or charge development fees until the Developer obtains final approval of a subdivision plat for the first phase of the development. Prior to the issuance of any debt, the Districts are required to submit financial forecasts and feasibility reports to the Town. The Service Plan does not permit the Districts to utilize exemption from the Town's sales and use tax. The Service Plan requires the Districts enter into intergovernmental agreements governing the relationship between the Districts and submit the proposed intergovernmental agreements to the Town for review prior to execution. The Districts may not amend the intergovernmental agreements without consent of all the Districts that are parties thereto.

Mayor James opened the Public Hearing at 7:15 p.m. The Town's special counsel, Sam Light, and the Town's financial advisor, Jim Harrington informed the Town Council of any concerns with the proposed Service Plan. The following representatives for the applicant spoke briefly in support of the Service Plan, Robert Rogers, attorney for the district, Mark Hunter, attorney for the developer and Roy Bade, representative for the developer.

Having no public comments from the audience Mayor James closed the Public Hearing at 8:13 p.m.

Councilmember Tallent made a motion seconded by Councilmember Mellon to Approve Resolution No. 2018-03, a Resolution Approving the Consolidated Service Plan for the Villages at Johnstown Metropolitan Districts Nos. 1-8. Motion carried with a unanimous vote.

#### Executive Session

At 8:16 p.m. Councilmember Lebsack made a motion seconded by Councilmember Mellon to recess into Executive Session for a Conference with the Town Attorney Pursuant to C.R.S. 24-6-402(4)(b) to Discuss Water Dedicated to the Town per the Water and Sewer Service Agreement between the Town and WR Investment LLC Dated January 4, 2006. Motion carried with a unanimous vote.

Mayor James reopened the meeting at 8:36 p.m. and reaffirmed there was nothing else discussed other than what was stated earlier.

#### Council Reports and Comments

Councilmember Young made a motion seconded by Councilmember Lebsack to donate \$250.00 to the after prom activity. The following councilmembers voted yes: Molinar Jr., Lebsack, Young, Davis and Tallent. Councilmember Mellon and Mayor James voted no.

There being no further business to come before Council the meeting adjourned at 8:56 p.m.

Mayor

Town Clerk/Treasurer

# **AMENDMENT**

**FIRST AMENDMENT TO SUBDIVISION DEVELOPMENT AND  
IMPROVEMENT AGREEMENT (THOMPSON RIVER RANCH FILING  
NO. 6) BETWEEN THE TOWN OF JOHNSTOWN AND  
CLAYTON PROPERTIES GROUP II, INC.**

THIS FIRST AMENDMENT TO SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT is entered into this \_\_\_ day of April, 2018, by and between the Town of Johnstown, Colorado, a Colorado home rule municipality ("Town"), and Clayton Properties Group II, Inc., a Colorado corporation d/b/a Oakwood Homes ("Developer") (collectively, the "Parties").

WHEREAS, on or about February 22, 2017, the Town and the Developer entered into a Subdivision Development and Improvement Agreement related to development of property designated as "Thompson River Ranch Filing No. 6" ("Agreement"); and

WHEREAS, Exhibit B-3 to the Agreement, which is incorporated therein, contains Additional Terms, Conditions or Provisions related to the development, including a provision requiring the Developer to complete construction of a community building and swimming pool, as described in the Final Development Plan 'A' and 'B' for Thompson River Ranch Filing No. 1, approved on June 5, 2006 ("Community Amenities"), on or before June 30, 2018; and

WHEREAS, on March 5, 2018, Developer made a presentation to Town Council and requested that Council extend the deadline for completion of the construction of the Community Amenities until 500 additional certificates of occupancy are issued by the Town, excluding certificates of occupancy issued by the Town for Thompson River Ranch Filing Nos. 1, 3 and 4, or June 30, 2023, whichever is earlier; and

WHEREAS, Developer further represented that, as a condition of the extension, Developer would provide a financial surety, in a form to be determined, to Thompson Crossing Metropolitan District No. 3, guaranteeing payment of the cost of the Community Amenities; and

WHEREAS, by motion duly made and passed, Town Council agreed to extend the deadline for the completion of the construction of the Community Amenities based on the representations set forth above; and

WHEREAS, the parties desire to amend the Agreement to reflect the approved amendments.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations hereinafter set forth, it is agreed as follows:

1. Recitals. The recitals are incorporated as if fully set forth herein.
2. Exhibit B-3. Exhibit B-3 of the Agreement is hereby replaced and superseded by the form of Exhibit B-3 that is attached hereto and incorporated herein by reference.

**EXHIBIT B-3**  
**[THOMPSON RIVER RANCH FILING NO. 6]**

**ADDITIONAL TERMS, CONDITIONS OR PROVISIONS**

1. Developer shall complete construction of the community building and swimming pool described in the Final Development Plan 'A' and 'B' for Thompson River Ranch Filing No. 1 approved June 5, 2006, on or before the issuance of 500 additional certificates of occupancy by the Town, excluding certificates of occupancy issued for Thompson River Ranch Filing Nos. 1, 3 and 4, or by June 30, 2023, whichever is earlier. As a condition of the extension, the Developer shall provide a binding financial surety to Thompson Crossing Metropolitan District No. 3, guaranteeing payment of the full cost of the Community Amenities, on or before May 2, 2018. To the extent the deadline set forth herein conflicts with deadlines set forth in prior agreements between the Town and the Developer related to Thompson River Ranch Filing No. 5, the deadline herein shall control and this provision shall supersede the prior agreements only with respect to the deadline herein stated.
2. On or before Developer obtains the 120th building permit in the Thompson River Ranch Development, exclusive of Filing Nos 1, 3 and 4, and exclusive of future development of the mixed-use parcels located near the Interstate 25 Frontage Road, Developer shall have completed construction to improve Larimer County Road 3 (High Plains Boulevard) to an Interim Arterial standard, as described in the Town Design Criteria, within Town Limits from River Ranch Parkway to the Hillsborough Ditch crossing. The road shall be extended as a special Interim Arterial section across the Hillsborough Ditch south to Larimer County Road 18, with access improvements onto County Road 18 as determined by the Town Traffic Engineer.
3. Landscaping, signage, street lighting and related Private Improvements are subject to the Thompson River Ranch Design Guidelines and the final Site Development Plan for this Development.
4. Developer shall comply with all obligations and procedures required by the Federal Emergency Management Agency for the Development.

3. Validity of Agreement. Except as expressly modified herein, the Agreement shall remain in full force and effect.

**Clayton Properties Group II, Inc.**

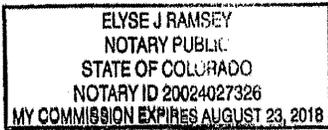
By:   
David Bracht, Assistant Secretary

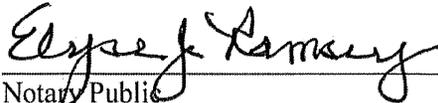
STATE OF COLORADO )  
 ) ss.  
COUNTY OF )

SUBSCRIBED AND SWORN to before me this 16<sup>TH</sup> day of MARCH, 2018, by David Bracht, Assistant Secretary of Clayton Properties Group II, Inc.

WITNESS my hand and official seal.

My commission expires: Aug. 23, 2018



  
Notary Public

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

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

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

# **CONTRACT**

**TOWN OF JOHNSTOWN, COLORADO**

**CLEARVIEW PARK EXPANSION IRRIGATION IMPROVEMENTS**

THIS CONTRACT entered into at Johnstown, Colorado, this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between the TOWN OF JOHNSTOWN, COLORADO, a Colorado Home Rule Town, with address for notice at 450 S. Parish Ave./ P.O. Box 609, Johnstown, Colorado 80534 hereinafter called and referred to as the Town, and All Terrain Landscaping, with address for notice at 6312 W. 9<sup>th</sup> St. #130, Greeley, CO 80634 hereinafter called and referred to as Contractor.

**WITNESSETH:**

THAT FOR AND in consideration of the premises, the payments hereinafter provided for, and the mutual covenants, promises, doings, and things hereinafter set forth, the parties hereto do now agree as follows:

1. That Town does engage the services of Contractor, and Contractor does hereby bind himself unto Town, to perform the following project to Town, to wit:

**CLEARVIEW PARK EXPANSION IRRIGATION IMPROVEMENTS**

for a total price not to exceed Thirty Four Thousand Five Hundred Eighty Five and 00/100 (\$34,585.00), which shall be paid in the following manner:

The bid price shall be payable by Town unto Contractor upon Town's accounts payable cycle following approval by Town of detail invoices from Contractor. Final payment equal to ten percent (10%) of the bid amount shall be paid upon final completion of the work, and acceptance by the Town, and receipt of all lien waivers, and end of period for Notice of Final Payment as published by Town Clerk.

2. That all of Contractor's performance hereunder shall be in a workmanlike manner, and shall be in conformity with the attached specifications for said project, and in accordance with time restrictions and limitations set forth:

3. The term "Contract documents" means and includes the following:

- (a) Plans and Specifications
- (b) Contract and Attachment "A"
- (c) Insurance Certificates and Insurance Requirements
- (d) Notice to Proceed
- (e) Change Order
- (f) Invitation for Bids
- (g) Instructions to Bidders
- (h) Bid Proposal and Bid Bond
- (i) Notice of Contractor's Settlement
- (j) Final Receipt and Guarantee

4. The contractor shall furnish all materials, supplies, tools, equipment, labor and other services necessary for the construction and completion of the project described herein.

5. That within three (3) days of the execution of the contract, the Contractor shall have furnished the Town all of the items required of the Contractor in the Contract Documents. Upon receiving the required documents, the Town shall issue a Notice to Proceed. Contractor shall then have until \_\_\_\_\_ to complete the project. Failure to complete the project by the specified time shall

cause Contractor to be liable to the Town for \$ 200.00 each day beyond such time period to reimburse Town for its damages for such delay, such amount being difficult to ascertain in advance, and therefore, the Parties agree to the per day damages as liquidated damages and not as a penalty.

This contract shall be and become binding upon, and inure to the benefit of, the parties hereto, their heirs, personal representatives, successors and assigns. Further, this Contract shall be construed and interpreted according to the laws of the State of Colorado and any action to interpret, construe, or enforce the same shall be maintained in the appropriate court in Weld County, Colorado.

Executed as of the date and year as above written.

**TOWN OF JOHNSTOWN, COLORADO**

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

**ATTEST:**

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

**CONTRACTOR**

By Paul J. Jeter member  
(Title)

**ATTEST:**

By Heather J. Ba Office Manager

**EXHIBIT A**  
**REQUIRED PROVISIONS FOR CONTRACT FOR SERVICES**  
**PROHIBITING EMPLOYMENT OF ILLEGAL ALIENS**

Contractor shall not:

1. Knowingly employ or contract with an illegal alien to perform work under this public contract for services; or
2. Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.

Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the e-verify program or the Department of Labor and Employment program.

Contractor is prohibited from using either the e-verify program or the Department of Labor and Employment program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

1. Notify the subcontractor and the contracting state agency or political subdivision within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph 1 of this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days that subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department made in the course of an investigation that the Department of Labor and Employment is undertaking pursuant to the authority established in subsection (5) of Section 8-17.5-102 of the Colorado Revised Statutes.

**IF CONTRACTOR VIOLATES ANY OF THE AFOREMENTIONED REQUIREMENTS, THE TOWN MAY TERMINATE THE CONTRACT FOR BREACH OF CONTRACT. IF THIS CONTRACT IS SO TERMINATED, CONTRACTOR SHALL BE LIABLE FOR ACTUAL AND CONSEQUENTIAL DAMAGES TO THE TOWN OF JOHNSTOWN.**

(REV. 2017)



**AGENDA ITEM 8A**

**AMENDED  
PUBLIC IMPROVEMENT  
DEVELOPMENT AGREEMENTS  
(Iron Horse Filings 1 & 2)  
(\*Continued Public Hearing)**

**\* CONTINUED PUBLIC HEARING PROCEDURE-Amended Public Improvement Development Agreements for Iron Horse Filings 1 & 2**

1. Open public hearing
2. Receive information from staff
3. Ask to hear from anyone who supports the staff recommendation to allow one building permit for Carrier West.
4. Ask to hear from anyone who opposes the staff recommendation to allow one building permit for Carrier West.
5. Close the public hearing
6. Ask for discussion
7. Make decision and/or motion from Council.
  - a. Need motion to consider allowing the issuance of one building permit for Carrier West, and to direct Town staff and developer to continue to work on an amendment to the development agreements.

**(SUGGESTED MOTIONS):**

**For Approval:**

**I move to allow the issuance of one building permit for the Iron Horse development to Carrier West on the condition that the Town requirements with respect to the issuance of such permits, including payment of the requisite fees, are satisfied and direct Town staff and Iron Horse, LLC to continue to work on an amendment to the development agreements to address the road improvements.**

## TOWN COUNCIL AGENDA COMMUNICATION

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**AGENDA DATE:** April 2, 2018

**ITEM NUMBER:** 8A

**SUBJECT: Continued Public Hearing** - Amended Public Improvement Development Agreements for Iron Horse Filings 1 & 2

**ACTION PROPOSED:** Consider allowing one building permit for Carrier West and direct Town staff and the developer to continue working on an agreement

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

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**AGENDA ITEM DESCRIPTION:** On February 21, 2018, Iron Horse, LLC, by and through McWhinney Enterprises (McWhinney”), developer of the industrial and commercial property known as Iron Horse, presented its request for amendments to the Iron Horse development agreements, essentially to remove the restriction on the issuance of additional building permits, and address responsibility for construction of frontage improvements to County Road 3 plus the intersection at US Hwy 34.

After considerable discussion, Town Council continued the hearing and directed Town staff and McWhinney to work towards an agreement regarding the request, including updating the road improvement costs.

At McWhinney’s expense, the Town Engineer prepared an updated analysis of costs of the remaining road improvements. However, the Town staff and McWhinney did not have sufficient time to finalize an agreement. Meanwhile, Town staff has learned that the US Hwy 34 PEL (Planning and Environmental Linkage) report, which would address the County Road 3 alignment options, would not be ready until late July.

McWhinney has announced that Carrier West, a heating and air conditioning distributor, would like to locate in the Iron Horse Development. McWhinney would like assurances that the building permit for this company could be released while they continue to work with the Town on agreements related to the road improvements.

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**LEGAL ADVICE:** N/A

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**FINANCIAL ADVICE:** N/A

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**RECOMMENDED ACTION:** Consider allowing one building permit for Carrier West and direct Town staff and the developer to continue to work on an agreement.

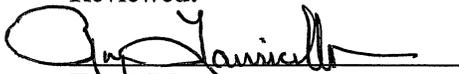
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**SUGGESTED MOTIONS:**

**For Approval:** I move to allow the issuance of one building permit for the Iron Horse development to Carrier West on the condition that the Town’s requirements with respect to the issuance of such permits, including payment of the requisite fees, are satisfied and direct Town staff and Iron Horse, LLC to continue to work on an amendment to the development agreements to address the road improvements.

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**Reviewed:**

  
Town Manager

