

**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT  
FOR  
TOWN OF JOHNSTOWN  
(Thompson Ridge Estates)**

**This Subdivision Development and Improvement Agreement** (“Agreement”), made and entered into by and between the **Town of Johnstown, Colorado**, a Colorado home-rule municipal corporation (the “Town”) and **R&M Holdings, LLC**, a Colorado limited liability company (“Developer”).

**RECITALS**

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

**WHEREAS**, Developer seeks to develop the Property and to designate such development as Thompson Ridge Estates (“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, or intends to approve, the Final Plat by passage of Resolution No. 2022-44, containing terms and conditions of approval of the Final Plat, which Resolution is, or will be, attached hereto as **Exhibit B-2** and incorporated herein by this reference (“Resolution”); and

**WHEREAS**, Developer understands and agrees that, as a further condition of approval of the Final Plat, Developer is required to construct certain Subdivision Improvements (defined below) 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.

**AGREEMENT**

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

## RECITALS

The Recitals are incorporated as if fully set forth herein.

## DEFINITIONS

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

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

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

1.3 **“Code”** shall mean the Johnstown Municipal Code, as amended from time to time.

1.4 **“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**.

1.5 **“Development”** shall mean all the Property, property rights and Subdivision Improvements within or associated with the legal description in **Exhibit A**.

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

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

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

1.9 **“Notice of Construction Acceptance”** shall mean the written certification that the Public Improvements are accepted, which starts the two-year warranty period as provided herein.

1.10 **“Notice of Final Acceptance”** or **“Final Acceptance”** shall mean the written certification of final acceptance of the Public Improvements and, except as otherwise provided herein, the transfer of maintenance of the Public Improvements to the Town.

1.11 **“Private Improvements”** shall mean, without limitation, the construction, installation and improvement of privately owned and maintained common improvements including, but not limited to, private roads, stormwater improvements, landscaping, irrigation, fencing, entry signs, parks, open space, trails and postal service boxes.

1.12 “**Public Improvements**” shall mean, without limitation, the construction, installation, improvement and dedication of public improvements, including, but not limited to public thoroughfares and streets, sanitary sewer facilities, water line facilities, drainage facilities in the public right of way, irrigation structures, if any, that are not exclusively for the benefit of the Development, right-of-way landscaping and irrigation structures, street lighting and signage, and other public facilities and improvements to serve the Development. The Public Improvements include the improvements listed on **Exhibit B-3**, in whatever form they are referenced, that will be dedicated to the Town and the improvements listed on **Exhibit C**.

1.13 “**Performance Guarantee**” shall mean a guarantee that the Subdivision Improvements are be constructed in conformance with the Approved Plans.

1.14 “**Subdivision Improvements**” shall mean the Public Improvements and Private Improvements.

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

1.16 “**Town Manager**” shall include the Town Manager and such person’s 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 design, 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 for the Development, Developer shall submit the Civil Engineering Construction Plans to the Town 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. **Phasing of the Public Improvements.** Subdivision plats, planned unit development plans or site plans requiring the construction of Public Improvements may be developed in phases provided: (i) such phasing is approved by the Town and is consistent with the subdivision plats, planned unit development plans or site plans and any executed agreements pertaining to the Property; (ii) the phasing plan supports a logical sequence of development such that each phase can function independently or sequentially with a prior phase; and (iii) each sequential phase satisfies the Town's construction standards and specifications. If phasing of the Public Improvements is approved, construction acceptance, financial security and building permit eligibility may be approved or released according to the approved phasing plan. An approved phasing plan may only be modified upon written approval of the Town.

d. **Pre-Construction Meeting.** Subsequent to the Town's approval of the Civil Engineering Construction Plans and prior to the commencement of construction, the Developer and its contractors shall participate in a pre-construction meeting with the Town's Public Works Department. Among other matters, as determined by the Town, the purpose of the meeting shall be to review: (i) the Approved Plans; (ii) permits needed for construction; (iii) relevant provisions of the Code and the Town's construction standards and specifications; and (iv) the construction inspection process and requirements for construction acceptance.

e. **Rights-of-Way, Easements and Permits:** 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 to be conveyed to the Town and the documents of conveyance shall be furnished to the Town 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. Any agreements or easements to which the Town may effectively become a party upon dedication or acceptance of the improvements shall be provided to the Town for review prior to execution of such agreement or easement and prior to issuance of building permits. In addition, Developer shall obtain all the requisite permits and licenses necessary for construction of the Public Improvements.

## 2.2 *Construction of Public Improvements*

a. Upon satisfaction of the conditions set forth in Paragraph 2.1 and the notice requirement set forth below, 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 materials set forth on the Town's approved material list. Workmanship and materials shall be of good quality.

b. At least seven (7) days prior to the commencement of construction, Developer shall provide written notice to all property owners within a 600-foot radius of the construction limits indicated on the Civil Engineering Construction Plans and to any other property owners who are reasonably likely to be impacted by the construction of the fact of the construction along with contact information for the Developer. Prior to the commencement of the construction, such contact list shall be provided to the Town with a copy of the notification. Notification may be by U.S. mail or by delivering a printed flyer left at each affected home or business location.

2.3 **Construction Schedule:** Developer shall construct the Public Improvements set forth on **Exhibit C** in accordance with the schedule of public improvements, which shall be provided by the Developer for approval by the Town, and upon approval shall be attached hereto and incorporated herein by reference (“Schedule of Public Improvements”). Once construction begins, Developer shall keep the Town informed by periodic 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.

2.4 **Testing:** Developer shall employ, at its own expense, a qualified independent testing company, approved by the Town, 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.

2.5 **Inspection:** 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.

2.6 **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’s written consent to the extension.

2.7 **Performance Guarantee:** To secure the construction, installation, improvement and completion of the Subdivision Improvements, Developer shall furnish to the Town a cash escrow deposited with the Town, a bond in the form approved by 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 the improvements, which cost shall be certified by Developer’s professional engineer licensed in the State of Colorado and approved by the Town. The Performance Guarantee shall be released after the Notice of Construction Acceptance has been provided for the Public Improvements and notice of approval has been provided for the Private Improvements.

### 3. **Private Improvements**

3.1 ***Pre- Construction:*** Prior to commencing construction of the Private Improvements, Developer shall submit a Development Plan to the Town. The Development Plan shall contain the proposed Private Improvements for the Development, including an irrigation system, landscaping and soil amendments (for the island within the turnaround), entry-way signage, street signs and posts, open space, and postal service boxes. 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 Development Plan. Developer shall not thereafter modify the approved Development Plan without the written approval of the Town. The Town's review and approval of the 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.

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 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 contractor. Certification of required soil amendment shall be signed by Developer and provided to the Town. 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 Development Plan. Any material or work not conforming to the 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, 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's written consent to the extension. The Town may, at 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 is provided to the Town. For clarity, the Private Improvements referenced herein do not apply to backyard improvements, which are anticipated to be installed by homeowners.

3.5 ***Replacement of Private Improvements:*** As replacement of the Private Improvements is necessary and warranted over time, including but not limited to decorative light fixtures, decorative street signs and all other decorative amenities in the Development, the Private Improvements shall be replaced by, as appropriate, the Developer or the homeowner's association. 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 ***Notice of Construction Acceptance:*** Developer shall make written application to the Town for acceptance of the Public Improvements and for 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, among other documents that may be required by the Town, 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 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 a Notice of Construction 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, upon coordination with Developer, shall prepare a punch list of all Subdivision Improvements that are not in compliance with the Approved Plans, subject to any changes that have been approved or required by the Town. After curing the defects and matters set forth on the punch list, 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 the issuance of a Notice of Construction Acceptance for the Public Improvements upon receipt of the Maintenance Guarantee and written approval of the Private Improvements.

5.2 ***Maintenance Guarantee.*** Prior to the issuance of the Notice of Construction 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, a bond in the form approved by

the Town or an irrevocable letter of credit in the form attached hereto as **Exhibit D** in which the Town is designated as the beneficiary (“Maintenance Guarantee”). The Maintenance Guarantee shall equal fifteen percent (15%) of the total cost of the Public Improvements. The Maintenance Guarantee shall warrant and guarantee all expenses and costs for maintenance, repairs and replacements of the Public Improvements until Final Acceptance. The Maintenance Guarantee shall be released after Final Acceptance of all of the Public Improvements. The Maintenance Guarantee may also be used to ensure that the installed landscaping, a Private Improvement, is satisfactorily established during the period between the issuance of the Notice of Construction Acceptance and Final Acceptance of the Public Improvements.

**5.3 Delivery of Notice of Construction Acceptance.** Upon satisfaction of the conditions set forth above in Paragraphs 5.1 and 5.2, the Town shall provide written Notice of Construction Acceptance of the Public Improvements and written approval of the Private Improvements to Developer. At its discretion, the Town may issue a written Notice of Construction Acceptance of the Public Improvements and written approval of the Private Improvements prior to completion of all the Subdivision Improvements as long as the Performance Guarantee remains in effect for such uncompleted Subdivision Improvements. In which case, at the Town’s discretion, 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, Developer shall warrant the Public Improvements. Developer shall promptly perform all maintenance and make all repairs and replacements of all defects or failures of the Public Improvements at Developer’s expense and shall ensure that the installed landscaping is established. If, within fifteen (15) business 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, the Town may, at its discretion and upon written advisement to Developer, be responsible for routine maintenance of the Public Improvements (street sweeping, snow removal, etc.).

**5.5 Final Acceptance:** Two (2) years after the Town’s issuance of the Notice of Construction Acceptance, which time period may be extended at the Town’s discretion due to remedial or repair work that may be required by the Town during the first two (2) years, Developer shall make a written request to the Town for final inspection of the Subdivision Improvements. If the Town determines that the Subdivision Improvements are free of defects in materials and workmanship and have been repaired and maintained to the extent required, the Town shall provide certification of completion by issuance of a Notice of Final Acceptance of the Public Improvements and written approval of the Private Improvements. If the Town determines that the Subdivision Improvements are not free of defects in materials and workmanship and have not been



repaired and maintained to the extent required, the Town 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 for a final inspection of the Subdivision Improvements. Failure of the Developer to make a timely request for the issuance of a Notice of Final Acceptance shall not limit the Town's rights hereunder nor shall it limit the Town's right to utilize the Public Improvements as the Town deems appropriate.

Upon issuance of the Notice of Final Acceptance, the Maintenance Guarantee shall be released to Developer, and the Town shall thereafter maintain the Public Improvements dedicated to the Town. Notice of Final Acceptance and all releases shall be recorded at the office of the Larimer County Clerk and Recorder.

**5.6 Homeowners Association:** Prior to issuance of the Notice of Final Acceptance and prior to the sale of lots or homes in the Development, Developer shall establish a homeowners' association for the Development. Developer shall provide the Town with proposed covenants, bylaws and articles of incorporation for the homeowners' association. Upon written approval of the covenants, bylaws and articles of incorporation by the Town, the same shall be recorded with the office of the Larimer County Clerk and Recorder and the homeowners' association shall thereafter be deemed to be established.

**5.7 Dedication and Maintenance of Subdivision Improvements:** Unless otherwise agreed by the Town and Developer: (1) the Public Improvements shall be owned, operated and maintained by the Town; (2) the Private Improvements shall be owned, operated and maintained by the Developer or the homeowner's association; and (3) the Dry Utilities shall be owned, operated and maintained, as appropriate and otherwise authorized, by the Developer, the homeowner's association, 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 If the Developer hereinafter desires to utilize a non-potable water system to irrigate the Property, or any part thereof, the Town and Developer shall enter into a subsequent agreement regarding such system and, if appropriate, amend the Water and Sewer Service Agreement.

### **BUILDING PERMITS**

7.1 The Town shall not issue building permits for the Development until: (1) the Final Plat has been recorded with the Larimer County Clerk and Recorder; (2) Developer has paid all applicable use tax due and owing to the Town and all other fees required by the Town, including

but not limited to water and tap fees, impact fees, storm drainage fees and cash-in-lieu payments due, if any, to the Thompson School District R2-J; (3) Developer has received written notice of Notice of Construction 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) Developer has provided the Maintenance Guarantee; (5) meter and curb stop pass inspection; (6) the parties have entered into a Water and Sewer Service Agreement; (7) Developer has established a homeowners association as set forth in Paragraph 5.6 above; and (8) all terms of this Agreement have been faithfully kept by Developer.

7.2 Notwithstanding the foregoing, the Town may, at its sole discretion, issue building permits prior to completion of certain of the less critical Subdivision Improvements, as determined by the Town, on the condition that the Performance Guarantee remains in effect and such improvements be completed prior to the issuance of certificates of occupancy. In its discretion, the Town may also issue a limited number of building permits for the construction of model homes for the purpose of early sales.

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 Construction activity shall occur only during the times set forth in the Code.

8.2 Developer shall control all weeds growing within the Development. Prior to the commencement of construction, Developer shall provide a weed management plan to the Town, outlining the manner and frequency in which the weeds shall be controlled. The Town shall have the right to object to the weed management plan.

8.3 Developer shall, at all times, keep the public right-of-way free from accumulation of waste material, rubbish, dirt and mud caused by Developer's operation. Developer shall remove such waste material, rubbish, dirt and mud no less than weekly and, at the completion of the work, shall promptly remove all debris waste materials, rubbish, dirt, mud, tools, construction equipment, machinery, building materials, trash containers, and portable toilets from the public right-of-way.

8.4 Whenever the Town determines that any activity is occurring which is not in compliance with the requirements of any federal or state regulations applicable to water quality or stormwater control, the Town may order all construction activity stopped upon service of written notice. Developer, or its contractors, shall immediately stop all activity until authorized in writing by the Town to proceed. If Developer or a responsible party is not on the site or cannot be located, the notice to stop work shall be posted in a conspicuous place upon the area where the activity is occurring and shall state the nature of the violation. It shall be unlawful for any person to fail to comply with a stop work order.

8.5 In the event that Developer fails to perform the work specified in Paragraphs 8.2, 8.3 or 8.4 within a reasonable time period after receiving written notice from the Town, as determined by the Town, 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 fifteen (15) business 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 Performance Guarantee or Maintenance Guarantee.

8.6 Developer shall ensure that Developer's subcontractors cooperate with the Town's construction inspectors in all manners. 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 and any other duly executed 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 the Code, the Town's zoning ordinances, subdivision regulations, landscape guidelines and construction standards and specifications and the Johnstown Design Guidelines or, if operative with respect to the Development, the approved design guidelines.

9.3 If the Property is included in a metropolitan district, Developer shall dedicate all outlots and tracts containing open space, park areas, and trails to such metropolitan district. The open spaces, parks, and trails shall be available for public use.

9.4 Upon completion of construction, Developer shall provide complete construction drawings and final as-built drawings to the Town in print and digital form, in a manner that conforms 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, 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:** Until such time as the Town delivers Notice of Final Acceptance to the Developer, Developer shall for itself and for its contractors, subcontractors, representatives and agents engaged in the design, construction or installation of the Public Improvements and Private 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, its employees, agents and representatives against any and all potential liability, claims, damage, demands, losses, and expenses which may be incurred or asserted pursuant to Paragraph 10.1 above. Liability insurance shall be in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate, 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. Developer shall list the Town, its officers, employees, agents and representatives, as additional insureds on such liability policies. Whenever requested by the Town, Developer agrees to promptly submit certificates of insurance evidencing sufficient amounts, types and duration of insurance and showing the Town, its officers, 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.

10.5 **Use Tax:** Developer shall pay all applicable use tax due and owing to the Town prior to the commencement of construction.

10.5 **Cost Reimbursement to Town:** Developer shall reimburse the Town for professional consultants, including, but not limited to engineers, testing and inspection 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, its employees, or agents, or any other person acting on behalf of the Town and, in particular, the 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 fifteen (15) business days from receipt of such notice to cure the default. If the default is not of a type that may be cured within such fifteen (15) business 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 Performance Guarantee or Maintenance Guarantee.

11.2 If the default relates to the improvement secured by the Performance Guarantee and the default is not timely cured, the Town may draw on the Performance Guarantee. If the default arises subsequent to the issuance of the Notice of Construction Acceptance and the default is not timely cured, the Town may draw on the Maintenance 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, at 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 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 the Development are set forth in **Exhibit B-3**, which is attached hereto, incorporated herein by this reference, and made a part of this Agreement.

### **MISCELLANEOUS**

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

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

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

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

13.5 **Transfer or Assignments:** In the event of a sale or transfer of any portion of the Development, except to a bona fide residential home buyer of a completed owner-occupied home, the seller or transferor and the purchaser or transferee shall be jointly and severally liable for the performance of each of the obligations contained in this Agreement unless, prior to the transfer or the sale, a written agreement satisfactory to the Town delineating and allocating the various rights and obligations for the Subdivision Improvements has been approved and executed by the Town. Notwithstanding the foregoing, Developer shall be entitled to transfer its interest in this Agreement to an Affiliate. For purposes of this section 13.5, an Affiliate shall mean an entity that is owned, controlled by or under common control with Developer. Developer shall promptly provide written notice to Town of any transfer to an Affiliate.

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 electronic mail delivery, but only upon confirmation of receipt of such electronic mail; (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:**

**TO TOWN:**

**TOWN OF JOHNSTOWN**  
Attention: TOWN MANAGER  
450 South Parish Avenue  
P. O. Box 609  
Johnstown, CO 80534  
Email: MLeCerf@JohnstownCO.gov

13.8 **Costs and Attorney Fees.** If any judicial proceedings may hereafter be brought related to this Agreement, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

13.9 **Vested Right.** The Final Plat shall have vested rights for a period of three (3) years from the date of this Agreement. If, after such time, no reasonable and substantial efforts have commenced to construct the Subdivision Improvements, as determined by the Town at its sole discretion, said plat may be vacated by action of the Town.

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 the County of Larimer, State of 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, materialmen, laborers or others providing work, services or materials for the Subdivision Improvements shall not have any right of action under this Agreement.

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

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

**IN WITNESS WHEREOF**, and agreeing to be fully bound by the terms of this Agreement, the parties have set their hands below on this \_\_\_\_ day of \_\_\_\_\_, 2022.

R&M HOLDINGS, LLC  
a Colorado limited liability company

By: \_\_\_\_\_  
Name: Michael D. Campana  
Title: Member

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF                                )

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by Michael D. Campana, as the authorized member of R&M Holdings, LLC.

WITNESS my hand and official seal.



**JORDAN MARIE FITZMAURICE**  
**NOTARY PUBLIC**  
**STATE OF COLORADO**  
NOTARY ID 20204021501  
MY COMMISSION EXPIRES 6-22-2024

  
Notary Public

TOWN OF JOHNSTOWN, COLORADO  
a municipal corporation

By: \_\_\_\_\_  
Gary Lebsack, Mayor

ATTEST:

By: \_\_\_\_\_  
Hannah Hill, Town Clerk

**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT  
FOR  
THE TOWN OF JOHNSTOWN  
(Thompson Ridge Estates)**

**EXHIBITS**

**TABLE OF CONTENTS**

<b>EXHIBIT A:</b>	Legal Description of the 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 C:</b>	Schedule of Public Improvements
<b>EXHIBIT D:</b>	Irrevocable Letter of Credit Form

**EXHIBIT A**

**LEGAL DESCRIPTION  
(Property)**

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO, CONSISTING OF APPROXIMATELY 20.05 ACRES, AS DESCRIBED IN THAT CERTAIN SPECIAL WARRANTY DEED RECORDED JUNE 3, 2019 AT RECEPTION NUMBER 20190029486 IN THE RECORDS OF THE LARIMER COUNTY CLERK & RECORDER'S OFFICE.

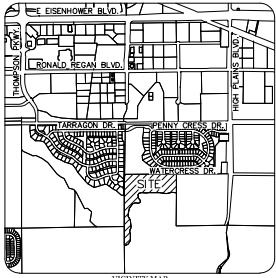
**EXHIBIT B-1**

**PLAT**

(SEE ATTACHED)

# THOMPSON RIDGE ESTATES

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO



SOUTH 1/16 CORNER  
SEC. 14, T.5N., R.68W.  
FOUND REBAR WITH  
2" ALUM. CAP STAMPED  
S 1/16 SEC 14  
LS 20676, 1999



THOMPSON RIVER, FILING 1  
23.05 ACRES

N89°39'17"E 1326.13'  
CALCULATED POINT  
SOUTHEAST 1/16 CORNER  
SEC. 14 T.5N., R.68W.  
FOUND REBAR WITH  
3.25" ALUM. CAP STAMPED  
14.0" WC SE. 1/16 SEC 14  
LS 16847, 2003

(BASIS OF BEARINGS) N0°48'15"E 1318.83'

P.O.B.  
SOUTH 1/4 CORNER  
SEC. 14, T.5N., R.68W.  
FOUND REBAR WITH  
2.5" ALUM. CAP STAMPED  
S 1/4 SEC 14  
PLS 38512, 2016

S89°41'19"W 1328.53'

EAST 1/16 CORNER  
SEC. 14, T.5N., R.68W.  
FOUND REBAR WITH  
3.25" ALUM. CAP STAMPED  
E 1/16 SEC 14  
LS 16847, 2003

CENTER 1/4 CORNER  
SEC. 23, T.5N., R.68W.  
FOUND REBAR WITH  
2.5" ALUM. CAP STAMPED  
CNTR 1/4 SEC 14  
LS 12374, 1993

### TITLE COMMITMENT NOTES:

FOR ALL INFORMATION REGARDING EASEMENTS, RIGHT-OF-WAY OR TITLE OF RECORD, WASHBURN LAND SURVEYING, LLC RELIED UPON TITLE COMMITMENT ORDER NUMBER 45640561155-581-TM.V, BY HERITAGE TITLE COMPANY, WITH AN EFFECTIVE DATE OF APRIL 16, 2019 AT 5:30 P.M..

### GENERAL NOTES:

- DEFINITION: CERTIFY, CERTIFICATION - A PROFESSIONAL'S OPINION BASED ON HIS OR HER OBSERVATION OF CONDITIONS, KNOWLEDGE, INFORMATION AND BELIEFS. IT IS EXPRESSLY UNDERSTOOD THAT THE PROFESSIONAL'S CERTIFICATION OF A CONDITION'S EXISTENCE RELIEVES NO OTHER PARTY OF ANY RESPONSIBILITY OR OBLIGATION HE OR SHE HAS ACCEPTED BY CONTRACT OR CUSTOM.
- ALL REFERENCES HEREON TO BOOKS, PAGES, MAPS AND RECEPTION NUMBERS ARE PUBLIC DOCUMENTS FILED IN THE RECORDS OF LARIMER COUNTY, COLORADO.
- EASEMENTS AND PUBLIC DOCUMENTS SHOWN OR NOTED HEREON WERE EXAMINED AS TO LOCATION AND PURPOSE AND WERE NOT EXAMINED AS TO RESERVATIONS, RESTRICTIONS, CONDITIONS, OBLIGATIONS, TERMS, OR AS TO THE RIGHT TO GRANT THE SAME.
- BEARINGS ARE BASED ON THE WEST LINE OF THE SOUTH QUARTER OF SECTION 14 TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, SAID LINE IS ASSUMED TO BEAR N 0°48'15" E AND IS MONUMENTED AS SHOWN HEREON.
- PER C.R.S. 38-6-106, ALL LINEAL UNITS DEPICTED ON THIS LAND SURVEY PLAT ARE U.S. SURVEY FEET. ONE METER EQUALS 39.3712 U.S. SURVEY FEET, EXACTLY ACCORDING TO THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

### 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 AFTER THE DATE OF CERTIFICATION.

### STATEMENT OF OWNERSHIP:

KNOW ALL PERSONS BY THESE PRESENTS THAT THE UNDERSIGNED, BEING ALL THE OWNERS AND LIEN HOLDERS OF THE FOLLOWING DESCRIBED PROPERTY, EXCEPT ANY EXISTING PUBLIC STREETS, ROADS OR HIGHWAYS, WHICH PROPERTY IS LOCATED IN SECTION 14 AND SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SW 1/4 OF THE SE 1/4 OF SECTION 14, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO AND THE NW 1/4 OF THE NE 1/4 OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH P.M., TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO, EXCEPTING THEREFROM THAT PORTION CONTAINED CONVEYED TO EXIT 223, LLC, A COLORADO LIMITED LIABILITY COMPANY IN SPECIAL WARRANTY DEED RECORDED OCTOBER 4, 2013 AT RECEPTION NUMBER 2013007885, LARIMER COUNTY RECORDS.

ALSO BEING DESCRIBED AS FOLLOWS: A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTERS OF THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING: THE WEST LINE SOUTH QUARTER OF SAID SECTION 14, BEING MONUMENTED ON THE SOUTH BY A 2 1/2" CAP STAMPED 1.5 3/8"11" AND ON THE NORTH BY A 3 1/2" CAP STAMPED 1.5 3/8"6" AND IS CONSIDERED TO BEAR NORTH 00°48'15" EAST, A DISTANCE OF 1318.83 FEET;

BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 14, THENCE NORTH 00°48'15" EAST ALONG SAID WEST LINE, A DISTANCE OF 1318.83 FEET TO THE CENTER SOUTH 1/16 CORNER OF SAID SECTION 14;

THENCE NORTH 89°39'17" EAST ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 14, A DISTANCE OF 1326.13 FEET TO THE SOUTHEAST 1/16 CORNER OF SAID SECTION 14; THENCE SOUTH 00°48'15" WEST; ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 14, A DISTANCE OF 477.02 FEET; THENCE ALONG THE CENTERLINE OF THE BIG THOMPSON RIVER, THE FOLLOWING THIRTY (30) COURSES: NORTH 66°03'45" WEST, A DISTANCE OF 30.42 FEET; NORTH 66°38'15" WEST, A DISTANCE OF 80.00 FEET; SOUTH 60°20'25" WEST, A DISTANCE OF 142.88 FEET; NORTH 82°25'37" WEST, A DISTANCE OF 156.75 FEET; NORTH 80°21'22" WEST, A DISTANCE OF 140.03 FEET; NORTH 90°00'00" WEST, A DISTANCE OF 120.88 FEET; SOUTH 84°32'10" WEST, A DISTANCE OF 66.13 FEET; NORTH 87°25'12" WEST, A DISTANCE OF 120.11 FEET; SOUTH 81°12'12" WEST, A DISTANCE OF 64.82 FEET; SOUTH 24°12'02" WEST, A DISTANCE OF 44.78 FEET; SOUTH 02°19'19" EAST, A DISTANCE OF 81.53 FEET; SOUTH 30°45'07" EAST, A DISTANCE OF 76.19 FEET; SOUTH 03°27'10" WEST, A DISTANCE OF 49.01 FEET; SOUTH 65°20'08" WEST, A DISTANCE OF 45.17 FEET; NORTH 64°51'14" WEST, A DISTANCE OF 85.29 FEET; SOUTH 71°04'51" WEST, A DISTANCE OF 75.08 FEET; SOUTH 35°01'55" WEST, A DISTANCE OF 137.07 FEET; SOUTH 12°45'45" WEST, A DISTANCE OF 110.22 FEET; SOUTH 07°20'06" WEST, A DISTANCE OF 98.17 FEET; SOUTH 30°36'10" EAST, A DISTANCE OF 119.09 FEET; SOUTH 14°54'10" EAST, A DISTANCE OF 175.84 FEET; SOUTH 02°20'19" WEST, A DISTANCE OF 24.64 FEET; SOUTH 30°13'54" WEST, A DISTANCE OF 56.87 FEET; SOUTH 04°14'29" WEST, A DISTANCE OF 44.68 FEET; SOUTH 10°47'48" EAST, A DISTANCE OF 70.55 FEET; SOUTH 00°33'45" WEST, A DISTANCE OF 188.22 FEET; SOUTH 00°20'11" WEST, A DISTANCE OF 40.81 FEET; SOUTH 07°20'25" WEST, A DISTANCE OF 62.41 FEET; SOUTH 65°20'55" WEST, A DISTANCE OF 67.26 FEET; NORTH 60°17'03" WEST, A DISTANCE OF 37.73 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 23, THENCE NORTH 00°00'45" EAST ALONG SAID WEST LINE, A DISTANCE OF 461.52 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS A GROSS AREA OF 20.05 ACRES OR 873,436.23 SQUARE FEET, MORE OR LESS (OWNER)

BY: \_\_\_\_\_ (NAME)

STATE OF COLORADO )  
COUNTY OF LARIMER )

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022, BY

AS \_\_\_\_\_

WITNESS MY HAND AND OFFICIAL SEAL

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

NOTARY PUBLIC

### APPROVALS:

TOWN COUNCIL:

THIS PLAT TO BE KNOWN AS THOMPSON RIDGE ESTATES WAS APPROVED BY ACTION OF THE TOWN OF JOHNSTOWN, COLORADO AT A REGULAR MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

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

### SURVEYOR'S STATEMENT:

I, CHAD R. WASHBURN, BEING A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE PLAT OF THOMPSON RIDGE ESTATES WAS MADE BY ME OR UNDER MY SUPERVISION AND THAT THE SURVEY IS ACCURATELY REPRESENTED ON THIS PLAT AND THAT THE STATEMENTS CONTAINED HEREON WERE READ BY ME AND THE SAME ARE TRUE TO THE BEST OF MY KNOWLEDGE.  
DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.



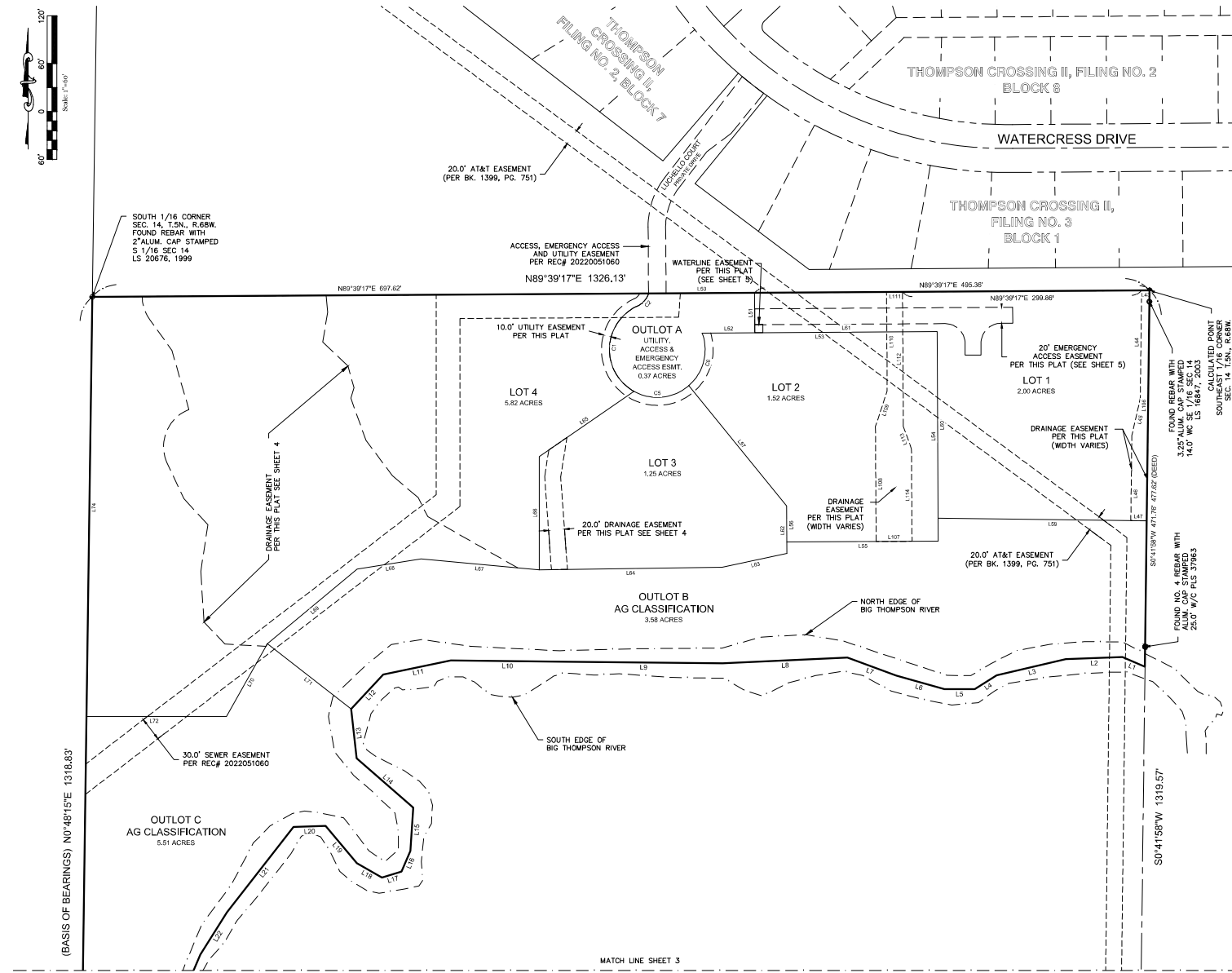
CHAD R. WASHBURN, COLORADO LICENSED PROFESSIONAL LAND SURVEYOR #37963  
FOR AND ON BEHALF OF WASHBURN LAND SURVEYING, LLC



www.WashburnSurveying.com  
4005 Amberley Way, Suite 4  
Fort Collins, CO 80525  
970-730-9264

# THOMPSON RIDGE ESTATES

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO

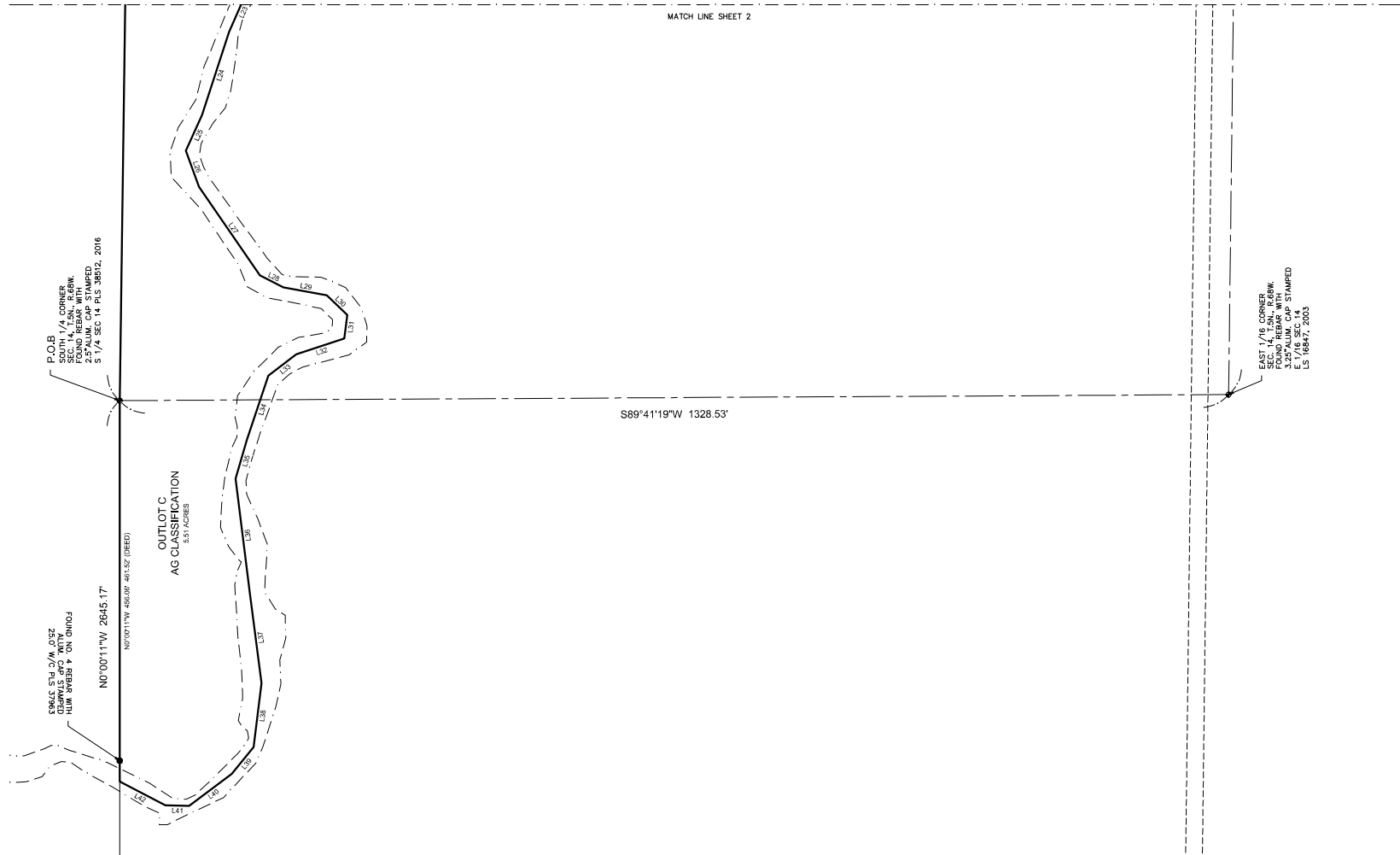


**LEGEND**

- FOUND MONUMENT AS NOTED
- FOUND MONUMENT AS NOTED
- FOUND REBAR WITH ALUM. CAP AS NOTED
- LINE-TYPES AND HATCHING
- LOT LINE
- - - - EXISTING EASEMENT
- - - - PROPOSED EASEMENT
- - - - BUILDING ENVELOPE
- - - - EDGE OF RIVER
- ▨ MARSH AREA

# THOMPSON RIDGE ESTATES

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH,  
RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO



P.O.B.  
SOUTH 1/4 CORNER  
SEC. 14, T.5N., R.68W.  
2.5\"/>

FOUND NO. 4 REBAR NAIL  
ALUM. CAP STAMPED  
2016 N/C/F/S 37883

N0°00'11\"/>

OUTLOT C  
AG CLASSIFICATION  
307740000

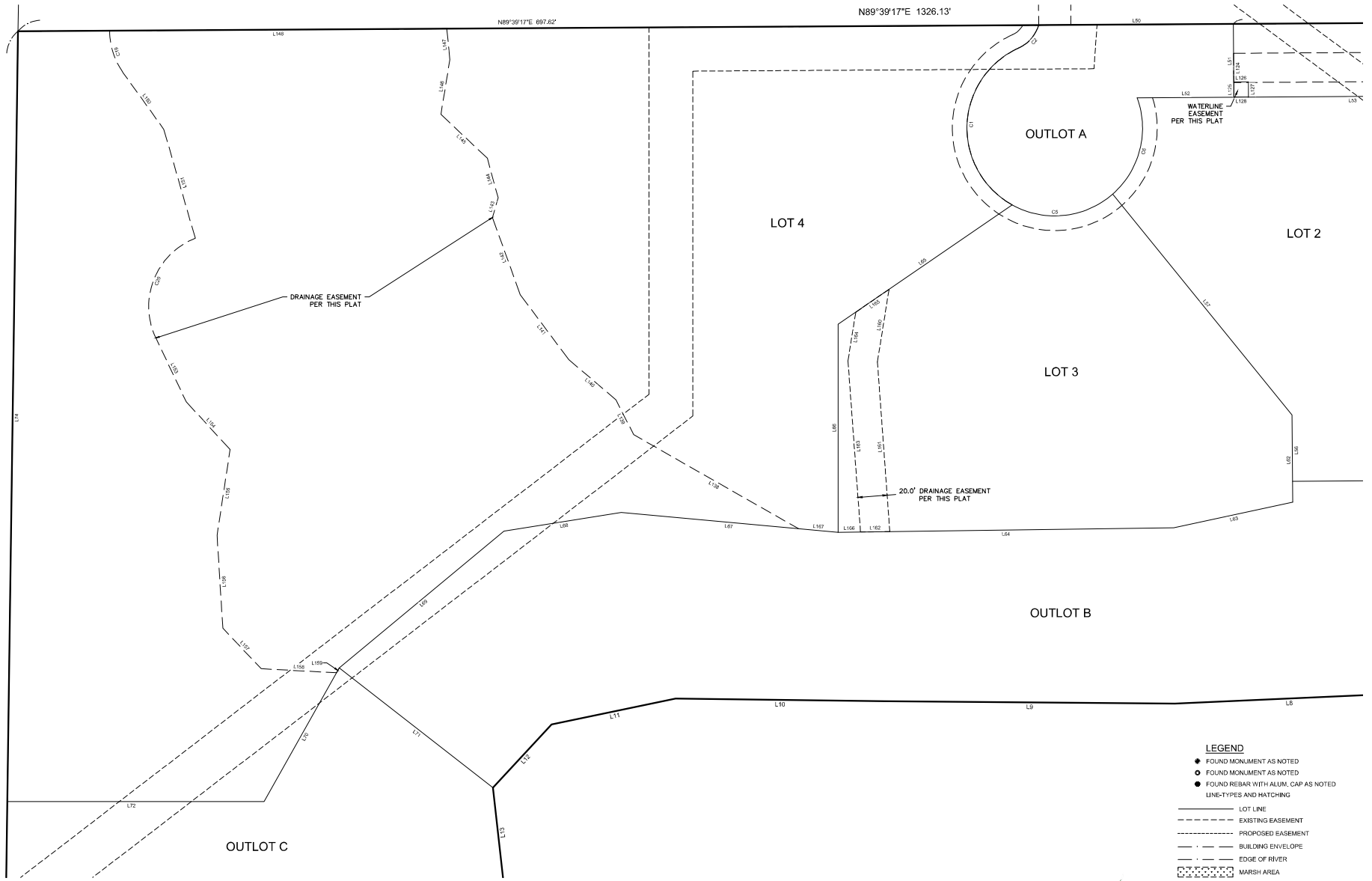
S89°41'19\"/>

MATCH LINE SHEET 2

EAST 1/16 CORNER  
SEC. 14, T.5N., R.68W.  
3.25\"/>

# THOMPSON RIDGE ESTATES

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO

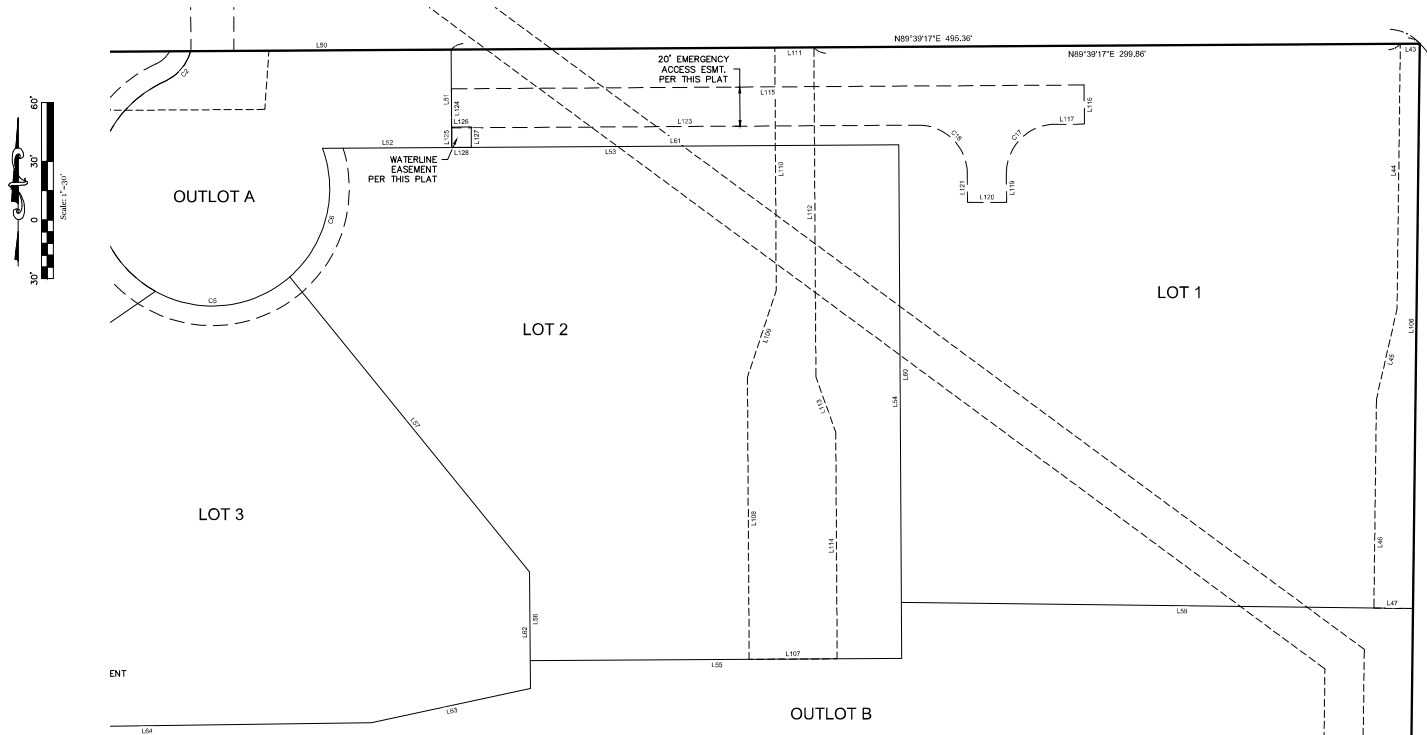


- LEGEND**
- ◆ FOUND MONUMENT AS NOTED
  - FOUND MONUMENT AS NOTED
  - FOUND REBAR WITH ALUM. CAP AS NOTED
  - LINE-TYPES AND HATCHING
  - LOT LINE
  - - - - EXISTING EASEMENT
  - · - · - · PROPOSED EASEMENT
  - · - · - · BUILDING ENVELOPE
  - · - · - · EDGE OF RIVER
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# THOMPSON RIDGE ESTATES

LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO



LINE #	BEARING	DISTANCE	LINE #	BEARING	DISTANCE	LINE #	BEARING	DISTANCE	LINE #	BEARING	DISTANCE
L1	N67°03'17"W	30.67	L37	S07°32'01"W	60.70	L64	S89°14'22"W	250.47	L103	S89°39'17"W	10.00
L2	S87°53'02"W	71.20	L38	S71°33'28"W	60.70	L65	S55°33'53"W	144.24	L104	N80°18'58"W	120.59
L3	S70°52'11"W	88.64	L39	S82°42'48"W	41.89	L66	S00°00'00"W	142.07	L105	N08°54'12"W	26.71
L4	S57°11'30"W	32.76	L40	S18°31'18"W	81.00	L67	N81°47'52"W	148.88	L106	N49°37'30"W	40.20
L5	S89°51'28"W	31.75	L41	S18°21'00"W	48.00	L68	S00°59'56"W	81.14	L107	N38°47'02"W	55.42
L6	N74°18'51"W	62.80	L42	S07°10'03"E	137.72	L69	S50°17'28"W	146.37	L108	N19°42'00"W	56.00
L7	N88°42'18"W	65.20	L43	S07°19'52"E	109.60	L70	S09°20'56"W	104.74	L109	N15°58'31"E	13.96
L8	S87°25'20"W	156.47	L44	S07°02'21"W	77.30	L71	N52°53'48"W	131.17	L110	N19°18'53"W	27.80
L9	N89°29'19"W	186.54	L45	S20°17'27"W	81.22	L72	N49°10'00"W	176.02	L111	N49°18'16"W	43.79
L10	N89°18'43"W	142.82	L46	S43°10'17"W	63.84	L73	N00°28'10"E	526.27	L112	N09°11'04"W	37.76
L11	S78°18'21"W	86.50	L47	N48°50'50"W	36.30	L74	S00°41'33"W	286.79	L113	N09°34'21"W	21.20
L12	S42°51'52"W	59.00	L48	N62°35'29"W	81.82	L75	S89°39'54"W	45.00	L114	S89°39'17"W	230.54
L13	S06°24'48"E	62.14	L49	N89°39'11"E	10.00	L76	N00°20'38"W	141.20	L115	S35°49'55"E	47.36
L14	S48°54'39"E	84.34	L50	N00°42'01"E	185.46	L77	N19°23'01"E	46.84	L116	S18°04'16"E	77.49
L15	S03°54'04"W	54.28	L51	N42°51'59"E	47.45	L78	N00°20'38"W	124.10	L117	S25°27'00"E	48.20
L16	S23°00'34"W	28.37	L52	N00°41'58"E	106.77	L79	N89°39'11"E	20.00	L118	S42°39'05"E	44.37
L17	S73°21'11"W	25.60	L53	N87°18'02"W	20.00	L80	S00°20'00"E	168.48	L119	S68°38'54"W	58.19
L18	N02°25'00"E	96.20	L54	N89°39'11"E	133.76	L81	S19°19'22"E	30.00	L120	S00°19'41"W	62.61
L19	N39°27'37"E	60.91	L55	S00°20'00"E	50.00	L82	S00°20'00"E	115.82	L121	S13°29'14"E	38.07
L20	S88°32'08"W	40.20	L56	S89°39'17"W	96.00	L83	N89°39'54"E	323.54	L122	S48°25'07"E	51.60
L21	S37°54'01"W	136.62	L57	S89°39'17"W	284.60	L84	S00°20'00"E	20.00	L123	N49°20'56"E	3.81
L22	S32°08'09"W	62.71	L58	N00°20'00"E	260.60	L85	S89°39'24"W	15.00	L124	E00°41'42"W	50.20
L23	S23°36'33"W	57.25	L59	N89°39'24"E	160.00	L86	S00°20'00"E	14.00	L125	S04°10'59"E	116.10
L24	S18°00'40"W	184.79	L60	N00°20'00"E	45.30	L87	N89°20'00"W	20.00	L126	S89°14'23"W	29.24
L25	S24°43'02"W	46.60	L61	N39°55'24"W	194.48	L88	N00°20'00"W	14.61	L127	N04°19'59"W	117.22
L26	S20°08'30"E	46.10	L62	N89°18'02"W	265.64	L89	S89°39'24"W	236.54	L128	N09°54'42"E	33.83
L27	S34°58'06"E	183.79	L63	N00°20'00"W	233.81	L90	N00°20'00"W	20.00	L129	N65°33'56"E	27.58
L28	S63°13'25"E	31.52	L64	S89°39'17"W	228.54	L91	N00°20'00"W	10.00	L130	N89°14'23"E	15.30
L29	S70°28'21"E	53.00	L65	N00°20'00"W	60.30	L92	N89°18'02"E	10.00	L131	S84°19'26"E	27.37
L30	S46°13'51"E	33.79	L66	S77°51'01"W	81.10	L93	S00°20'00"E	10.60			

CURVE #	LENGTH	RADIUS	DELTA	CHORD	DISTANCE
C1	122.61	60.00	126°39'00"	N02°21'18"E	107.20
C2	21.40	25.00	49°03'00"	N41°02'00"E	20.29
C3	230.04	60.00	214°40'00"	S88°38'36"W	172.80
C4	72.12	60.00	68°52'18"	N14°14'43"E	67.80
C17	36.27	25.00	60°00'00"	S44°39'24"W	35.30
C18	36.27	25.00	60°00'00"	N45°20'36"W	35.30
C19	30.80	50.00	30°24'00"	S18°00'04"E	30.41
C20	82.14	60.00	94°07'30"	S21°36'22"W	73.21

- LEGEND**
- FOUND MONUMENT AS NOTED
  - FOUND MONUMENT AS NOTED
  - FOUND REBAR WITH ALUM. CAP AS NOTED
  - LINE-TYPES AND HATCHING
  - LOT LINE
  - - - - EXISTING EASEMENT
  - · - · - PROPOSED EASEMENT
  - · — · — BUILDING ENVELOPE
  - · - · - EDGE OF RIVER
  - ▨ MARSH AREA

**EXHIBIT B-2**

**(RESOLUTION APPROVING PLAT)**

(SEE ATTACHED)

**TOWN OF JOHNSTOWN, COLORADO  
RESOLUTION NO. 2022-44**

**APPROVING THE PRELIMINARY / FINAL PLAT AND PRELIMINARY / FINAL DEVELOPMENT PLAN FOR THOMPSON RIDGE ESTATES, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 14 AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN, CONSISTING OF APPROXIMATELY 20.05 ACRES**

**WHEREAS**, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

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

**WHEREAS**, R&M Holdings, LLC, a Colorado limited liability company, submitted an application to the Town for approval of a Preliminary/Final Plat and Preliminary/Final Development Plan for Thompson Ridge Estates, located in the Southeast Quarter of Section 14 and the Northeast Quarter of Section 23, Township 5 North, Range 68 West of the 6th Principal Meridian, and consisting of approximately 20.05 acres; and

**WHEREAS**, on October 12, 2022, the Planning and Zoning Commission held a public hearing, reviewed the request and recommended that the Town Council approve the Final Plat and Final Development Plan; and

**WHEREAS**, on November 7, 2022, the Town Council held a public hearing concerning approval of the Final Plat and Final Development Plan and, after considering the Planning and Zoning Commission’s recommendation, reviewing the file and conducting such public hearing, found that the Final Plat and Final Development Plan for Thompson Ridge Estates meet the data requirements and design standards of the subdivision regulations contained in the Johnstown Municipal Code; and

**WHEREAS**, based on the foregoing, the Town Council desires to approve the Final Plat and Final Development Plan for Thompson Ridge Estates.

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

**Section 1. Final Plat Approval:** The Final Plat for Thompson Ridge Estates, located in the Southeast Quarter of Section 14 and the Northeast Quarter of Section 23, Township 5 North, Range 68 West of the 6th Principal Meridian, and consisting of approximately 20.05 acres, attached hereto and incorporated herein by reference at Exhibit A, is hereby approved.

**Section 2. Final Development Plan Approval:** The Final Development Plan for Thompson Ridge Estates, attached hereto and incorporated herein by reference at Exhibit B, is hereby approved.

**Section 3. Recording:** The Town Clerk is hereby directed to obtain the appropriate signatures for the Final Plat and record the Final Plat at the office of the Larimer County Clerk and Recorder.

PASSED, SIGNED, APPROVED, AND ADOPTED THIS \_\_\_\_ day of November, 2022.

**ATTEST:**

**TOWN OF JOHNSTOWN, COLORADO**

By: \_\_\_\_\_  
Hannah Hill, Town Clerk

By: \_\_\_\_\_  
Gary Lebsack, Mayor

## **EXHIBIT B-3**

### **ADDITIONAL TERMS, CONDITIONS OR PROVISIONS**

1. The Developer shall pay fee of \$65,340 cash-in-lieu of the required park dedication for the equivalent of a one acre dedication, in the amount of \$1.50 per square foot, or \$65,340 per acre.

2. Upon the Town's delivery of the Notice of Final Acceptance to Developer, Developer shall be authorized, but not obligated, to assign this Agreement to the homeowners' association without the consent of the Town. In such case, Developer shall promptly deliver written notice to Town of said assignment, and Developer shall be released of further rights or obligations hereunder.

**EXHIBIT C**

**SCHEDULE OF PUBLIC IMPROVEMENTS**  
(LIST OF PUBLIC IMPROVEMENTS ATTACHED)  
(CONSTRUCTION SCHEDULE TO BE ATTACHED PURSUANT TO SECTION 2.3)



Thompson Ridge Estates  
Johnstown, Colorado

To: R&M Holdings, LLC  
Attention: Michael Campana  
3702 Manhattan Ave  
Fort Collins, CO 80526

7251 W. 20th St., Bldg. L, Suite 101B  
Greeley, Colorado 80634  
Phone: (970) 330-5070  
Fax: (970) 330-6044

From: Justin Marshall (cell) 970.397.9875  
Keaton Schumacher (cell) 970.324.9491

Estimate Date: **August 17, 2022**  
Plans Dated: **6/3/2022 (United Civil Group)**

Public Improvements	
Item	Total
GENERAL CONDITIONS	\$22,396.25
SEWER MAIN	\$46,007.40
WATER MAIN	\$42,992.18
CURB, GUTTER & SIDEWALKS	\$20,113.50
ASPHALT PAVING	\$10,385.00
<b>Total:</b>	<b>\$141,894.33</b>
<b>Total 10% Contingency:</b>	<b>\$156,083.76</b>

**Inclusions:**

Labor, Equipment, Material, City / State Taxes, Erosion Control (As Listed), Concrete, Traffic Control (As Listed), Signs, Striping, Asphalt, Procurement of Storm Water Discharge Permit, Storm Water Management Plans or Management, Erosion Control Maintenance (As-Listed), Dry Utility Sleeves, Trench Bottom Stabilization, All Estimated Quantities to be Field Measured for Payment

**Exclusions:**

Relocation of Existing Utilities (Shown/Not Shown), Payment & Performance Bond, Foreign or Hazardous Materials, Existing Landscape Ground Maintenance, Landscape/Irrigation Removal, Winter Protection/Frost Prevention or Frost Protection/Removal, Procurement of Nationwide No. 12 Corps Permit, Import/Export of Trench Material, Retaining Walls, Dry Utility Procurement, Construction Water, Development Fees

**Crow Creek Construction, LLC:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Attest: \_\_\_\_\_  
Date: \_\_\_\_\_

**Accepted:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Attest: \_\_\_\_\_  
Date: \_\_\_\_\_

**Public Improvements**

GENERAL CONDITIONS				
	UNIT	QUANTITY	UNIT COST	EXTENDED
Survey	LS	1.0	\$9,746.25	\$9,746.25
Material Testing	LS	1.0	\$5,750.00	\$5,750.00
Signs & Striping	LS	1.0	\$3,450.00	\$3,450.00
Traffic Control (Budget)	LS	1.0	\$3,450.00	\$3,450.00
<b>Subtotal:</b>				<b>\$22,396.25</b>

SEWER MAIN				
	UNIT	QUANTITY	UNIT COST	EXTENDED
Connect 4" Sewer Services	EA	4.0	\$4,207.82	\$16,831.28
8" Sanitary Sewer Main	LF	100.0	\$55.40	\$5,540.00
4" Sewer Cleanouts	EA	1.0	\$980.00	\$980.00
4' Dia Sanitary Sewer Manhole	EA	1.0	\$3,850.94	\$3,850.94
6" Sewer Services	EA	1.0	\$2,655.18	\$2,655.18
Trench Stabilization	LF	100.0	\$40.00	\$4,000.00
Dewatering (If needed)	LF	700.0	\$16.50	\$11,550.00
Dewatering Monitoring (If needed)	WEEK	2.0	\$300.00	\$600.00
<b>Subtotal:</b>				<b>\$46,007.40</b>

WATER MAIN				
	UNIT	QUANTITY	UNIT COST	EXTENDED
Tie into Existing 8"	EA	1.0	\$0.00	\$0.00
8" Water Main	LF	125.0	\$0.00	\$0.00
8" Fittings	EA	4.0	\$1,208.04	\$4,832.16
8" Gate Valve	EA	2.0	\$2,715.02	\$5,430.04
3/4" Water Service w/ Meter pit	EA	4.0	\$5,276.40	\$21,105.60
Fire Hydrant Assembly	EA	1.0	\$7,475.00	\$7,475.00
Relocate Fire Hydrant Assembly	EA	1.0	\$4,149.38	\$4,149.38
<b>Subtotal:</b>				<b>\$42,992.18</b>

CURB, GUTTER & SIDEWALKS				
	UNIT	QUANTITY	UNIT COST	EXTENDED
Directional H/C Ramp	EA	2.0	\$3,047.50	\$6,095.00
Inlet Tie In	EA	2.0	\$1,610.00	\$3,220.00
Square Radii w/spandrel	EA	2.0	\$2,932.50	\$5,865.00
Crossspan	SY	20.0	\$79.06	\$1,581.25
Concrete Prep	LS	1.0	\$3,352.25	\$3,352.25
<b>Subtotal:</b>				<b>\$20,113.50</b>

ASPHALT PAVING				
	UNIT	QUANTITY	UNIT COST	EXTENDED
Demo (Signs, Curb, Concrete, Etc.)	LS	1.0	\$8,440.00	\$8,440.00
Asphalt Patching	SY	20.0	\$97.25	\$1,945.00
<b>Subtotal:</b>				<b>\$10,385.00</b>



**EXHIBIT D**

**FORM--IRREVOCABLE LETTER OF CREDIT**

(SEE ATTACHED)

**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 Thompson Ridge Estates, dated \_\_\_\_\_, 2022, between the Town of Johnstown and R&M Holdings, LLC.

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.

With the exception of C.R.S. §4-5-108(b) concerning the period of time in which to honor or reject a draft, demand or credit, this Letter of Credit shall be governed and construed in accordance with the laws of the State of Colorado. In the event of a conflict between the provisions of the Colorado Uniform Commercial Code and the provisions hereof, the provisions hereof shall control.

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

Issuing Bank: \_\_\_\_\_

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

Officer's Title: \_\_\_\_\_

Address: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

**SUBSCRIBED AND SWORN** to before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_\_, by \_\_\_\_\_ as the \_\_\_\_\_ of \_\_\_\_\_.

WITNESS my hand and official seal.

My commission expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public