

**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT
FOR
TOWN OF JOHNSTOWN
(PURVIS FARMS)**

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 **6037 Johnstown, LLC**, a Colorado limited liability corporation (the “Developer”).

WITNESSETH:

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

WHEREAS, Developer seeks to develop the Property and to designate such development as Purvis Farms (“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 2022-____, 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.

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 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 material 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, 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, but are not limited to, 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.

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 shall 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 shall be conveyed to the Town and the documents of conveyance shall be furnished to the Town for recording. At the Town's written 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; provided that in the event of any conflict between the foregoing, the Civil Engineering Construction Plans shall control. 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 or as set forth in the Approved Plans. 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 of the planned commencement date for 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 in accordance with the schedule of public improvements set forth on **Exhibit C**, 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, reasonably 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 within the then-current phase of construction, the Town shall have the right, but not the duty, to inspect materials and workmanship, at Developer's cost. All materials and work must materially conform to the Civil Engineering Construction Plans. Any material or work not materially conforming to the Civil Engineering Construction Plans shall be promptly removed, repaired or replaced, at Developer's expense to such extent as is necessary to make such material or work materially and substantially conform to the Civil Engineering Construction Plans, as reasonably determined by 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 or Developer has obtained the Town's written consent to an extension.

2.7 **Performance Guarantee:** To secure the construction, installation, improvement and completion of the Subdivision Improvements, Developer shall furnish to the Town a bond in a form approved by the Town, cash escrow deposited with the Town, or an irrevocable letter of credit substantially 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; provided that, upon issuance of the Notice of Construction Acceptance for any phase of the Development, the Town agrees to release a portion of the Performance Guarantee reasonably attributable to such phase, based on the approved phasing plan.

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 a plan for stormwater improvements, an irrigation system, landscaping and soil amendments, fencing, entry-way signage, street signs and posts, street lighting, parks, open space, trails 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. 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; provided that in the event of any conflict between the foregoing, the Development Plan shall control. 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 yard 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 homeowners association(s). 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 for the Development or any phase of the Development, 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 reasonable 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 have been completed in accordance with the Approved Plans, 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 have not been completed in conformance with the Approved Plans, the Town, in coordination with Developer,

shall prepare a punch list of all Subdivision Improvements that are not in material or substantial compliance with the Approved Plans, subject to any changes that have been approved by the Town. After curing the defects and matters set forth on the punch list, Developer shall provide documentation evidencing the same and the Town shall thereafter use reasonable efforts to promptly re-inspect the Subdivision Improvements. If the Subdivision Improvements are materially and substantially in conformance with the Approved Plans, then 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 bond in a form approved by the Town, cash escrow deposited with the Town or an irrevocable letter of credit in the form attached hereto as **Exhibit D** in which the Town is designated as the beneficiary. 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 for the Development or any phase of the Development, the Town shall provide written Notice of Construction Acceptance of the applicable Public Improvements and written approval of the Private Improvements located within such phase to Developer. At its reasonable 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, Developer shall 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 that the Public Improvements are free from defects. 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 ten (10) days after Developer's receipt of written notice from the Town requesting such maintenance, repairs or replacements, Developer shall not have undertaken with due diligence to make the same, the Town may make such maintenance, repairs or replacements at Developer's expense and shall be entitled to draw upon the Maintenance Guarantee, either before undertaking to make such repairs or at any time thereafter, or the Town may charge Developer for the reasonable costs thereof. In case of emergency, as reasonably 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 reasonable discretion and upon written advisement to Developer, be responsible for routine maintenance of the Public Improvements (street sweeping, snow removal, etc.), which assumption shall thereafter relieve Developer from the obligation to perform such maintenance.

5.5 ***Final Acceptance:*** Two (2) years after the Town's issuance of the Notice of Construction Acceptance, Developer shall make a written request to the Town for final inspection of the Subdivision Improvements. If the Town reasonably determines that the Subdivision Improvements are free of defects in materials and workmanship and have been repaired and maintained to the extent required hereunder, 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 reasonably 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 hereunder, 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 reasonably deems appropriate.

Upon issuance of the Notice of Final Acceptance, the Maintenance Guarantee shall be released to Developer and thereafter null and void, and the Town shall thereafter maintain, repair, and replace the Public Improvements dedicated to the Town. Notice of Final Acceptance and all releases shall be recorded at the office of the Weld 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 Weld 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 homeowners association(s); and (3) the Dry Utilities shall be owned, operated and maintained, as appropriate and otherwise authorized, by the Developer, the homeowners association(s) 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.

6.3 The homeowners association(s) shall own and maintain the stormwater infrastructure for the Development. Developer shall provide the Town with a proposed operations and maintenance manual for the stormwater infrastructure for review and reasonable approval concurrently with the Civil Engineering Construction Plans. Upon approval, Developer shall execute an operations and maintenance agreement with the Town addressing, among other issues, notification and remedies related to the operations, maintenance and repair of the stormwater infrastructure. The operations and maintenance agreement shall be executed prior to issuance of the Notice of Construction Acceptance.

BUILDING PERMITS

7.1 The Town shall not issue building permits for the Development until: (1) the Final Plat has been recorded with the Weld County Clerk and Recorder; (2) Developer has paid all applicable use tax due and owing to the Town and all other fees required by the Town, including but not limited to water and tap fees, impact fees, storm drainage fees and cash-in-lieu payments due, if any, to the Weld County School District RE-5J; (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 executed the operations and maintenance agreement related to the stormwater infrastructure; 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 reasonably 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 Developer is not in material compliance with this Agreement, the Final Plat, the Resolution or the Approved Plans, the Town may withhold the issuance of additional building permits.

7.4 Notwithstanding anything to the contrary contained in this Agreement, if the conditions described in Section 7.1 are satisfied and/or complete and the Developer is not in default of the terms of this Agreement, then the Town agrees to issue building permits, subject to standard review and approval, for any lot within a phase of the Development that has received a Notice of Construction Acceptance of the Public Improvements and written notice of approval of the Private Improvements.

OPERATION STANDARDS

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

8.2 Developer shall be responsible to 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 reasonably object to the weed management plan. Developer further agrees to use the appropriate herbicide and undertake mowing of the property within the Development.

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 reasonably 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 the actual, direct cost thereof, including a reasonable administrative fee. Developer shall pay the Town for all actual, direct costs incurred by the Town in the performance of the above said service along with a reasonable administrative fee within ten (10) days of the Town submitting an invoice for said services. If Developer does not remit the costs, in addition to other remedies, the Town may draw on the Performance Guarantee or Maintenance Guarantee.

8.6 Developer shall use commercially reasonable efforts to ensure that Developer's subcontractors cooperate with the Town's construction inspectors in all manners. Developer shall take commercially reasonable steps 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 Developer shall dedicate all outlots and tracts containing private drives, open space, park areas, and trails to the homeowners association(s). The open spaces, parks, and trails shall be available for public use. Developer may maintain ownership of all other outlots and tracts, such as commercial outlots or tracts (if any).

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 violating applicable federal and state laws applicable to water quality, water bodies and wetlands. All drainage and holding ponds shall be kept substantially free of standing water by whatever commercially reasonable means 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 reasonable 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 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 reasonable attorney's fees related thereto whether or not such liability, claims or demands are groundless, false or fraudulent.

10.2 **Insurance:** Developer shall for itself and for its contractors, subcontractors, representatives and agents engaged in the design, construction or installation of the 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 insured on such liability policies. Whenever requested by the Town, but not more than once per six (6) month period, Developer agrees to 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, except to the extent caused by the negligence or willful misconduct of the Town. 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 as such may accrue prior to 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 the actual, reasonable cost of 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, governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as amended.

DEFAULTS AND REMEDIES

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

11.2 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. 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. 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 beyond any applicable notice and cure period in any material obligation under this Agreement, the Town may, at its discretion, cure such default 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. 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.

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

13.7 **Notice:** All notices, consents, applications or other instruments provided for under this Agreement shall be deemed properly given and received: (1) when personally delivered and received, when sent by messenger service, or when forwarded by facsimile or electronic mail delivery, but only upon confirmation of receipt of such facsimile or 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:
6037 JOHNSTOWN, LLC,
Attention: JD Padilla
144 N Mason St. Unit 4
Fort Collins, CO 80524
Email: jd@postmoderndevelopment.com

TO TOWN:
TOWN OF JOHNSTOWN
Attention: Town Manager
450 S. Parish Ave.
P. O. Box 609
Johnstown, CO 80534
Email: MLeCerf@JohnstownCO.gov

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

13.9 **Vested Right.** The Final Plat shall have vested rights 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 material and substantial compliance with the Approved Plans, this Agreement, the Final Plat, the Resolution, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations and shall be substantially free of any defects in materials and workmanship.

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

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

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

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

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

[Remainder of page intentionally left blank.]

**SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT
FOR
THE TOWN OF JOHNSTOWN
(PURVIS FARMS)**

EXHIBITS

TABLE OF CONTENTS

EXHIBIT A:	Legal Description of the Property
EXHIBIT B-1:	Copy of Final Plat
EXHIBIT B-2:	Town Resolution Approving Development
EXHIBIT B-3:	Additional Terms, Conditions or Provisions
EXHIBIT C:	Schedule of Public Improvements & Costs
EXHIBIT D:	Irrevocable Letter of Credit Form

EXHIBIT A

**LEGAL DESCRIPTION
(Property)**

A parcel of land situate in the South Half of Section Six (6), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.) being more particularly described as follows:

ALL OF THE N 1/2 OF THE SW 1/4 AND ALL OF THE SW 1/4 OF THE SW 1/4 OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF WELD, STATE OF COLORADO

EXCEPT THAT PART OF THE SW 1/4 OF THE SW 1/4 DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF SAID SECTION 6, 519 FEET NORTH OF THE SW CORNER THEREOF; THENCE EAST 252 FEET;

THENCE NORTH 346 FEET;

THENCE WEST 252 FEET;

THENCE SOUTH 346 FEET TO THE PLACE OF BEGINNING, AND AS CONVEYED BY DEED RECORDED MARCH 12, 1907 IN BOOK 273 AT PAGE 300, WELD COUNTY RECORDS:

AND FURTHER EXCEPTING CONVEYANCES TO THE DEPARTMENT OF HIGHWAYS, STATE OF COLORADO, AS RECORDED MAY 10, 1957 IN BOOK 1477 AT PAGE 299, 301 AND 303, WELD COUNTY RECORDS; AND TO PERMANENT EASEMENTS FOR IRRIGATION DITCH AS CONVEYED TO DEPARTMENT OF HIGHWAYS, STATE OF COLORADO BY INSTRUMENTS RECORDED MAY 10, 1957 IN BOOK 1477 AT PAGE 307, 308 AND 309, WELD COUNTY RECORDS; AND FURTHER EXCEPTING THAT PART OF THE SW 1/4 OF THE SW 1/4 OF SAID SECTION 6 CONVEYED BY DEED RECORDED FEBRUARY 23, 1951 IN BOOK 1295 AT PAGE 477, WELD COUNTY RECORDS

AND

THAT PORTION OF THE SE 1/4 OF SECTION 6, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH P.M., TOWN OF JOHNSTOWN, COUNTY OF WELD, STATE OF COLORADO, DESCRIBED AS FOLLOWS: CONSIDERING THE SOUTH LINE OF SAID SE 1/4 OF SECTION 6 AS BEARING N 81° 06' 55" W WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO:

COMMENCING AT THE SW CORNER OF THE SE 1/4 OF SAID SECTION 6;

THENCE N 03° 23' 56" E ALONG THE WEST LINE OF THE SE 1/4 OF SAID SECTION 6, A DISTANCE OF 1326.67 FEET TO THE NW CORNER OF ROLLING HILLS RANCH PHASE-1 SAID POINT BEING THE POINT OF BEGINNING:

THENCE S 80° 54' 20" E, ALONG THE NORTH LINE OF SAID PHASE-1 A DISTANCE OF 47.06 FEET;

THENCE N 02° 47' 49" E, A DISTANCE OF 1328.21 FEET TO A POINT ON THE NORTH LINE OF THE SE 1/4 OF SAID SECTION 6;

THENCE N 81° 12' 35" W, A DISTANCE OF 33.02 FEET TO THE NW CORNER OF SAID SE 1/4;

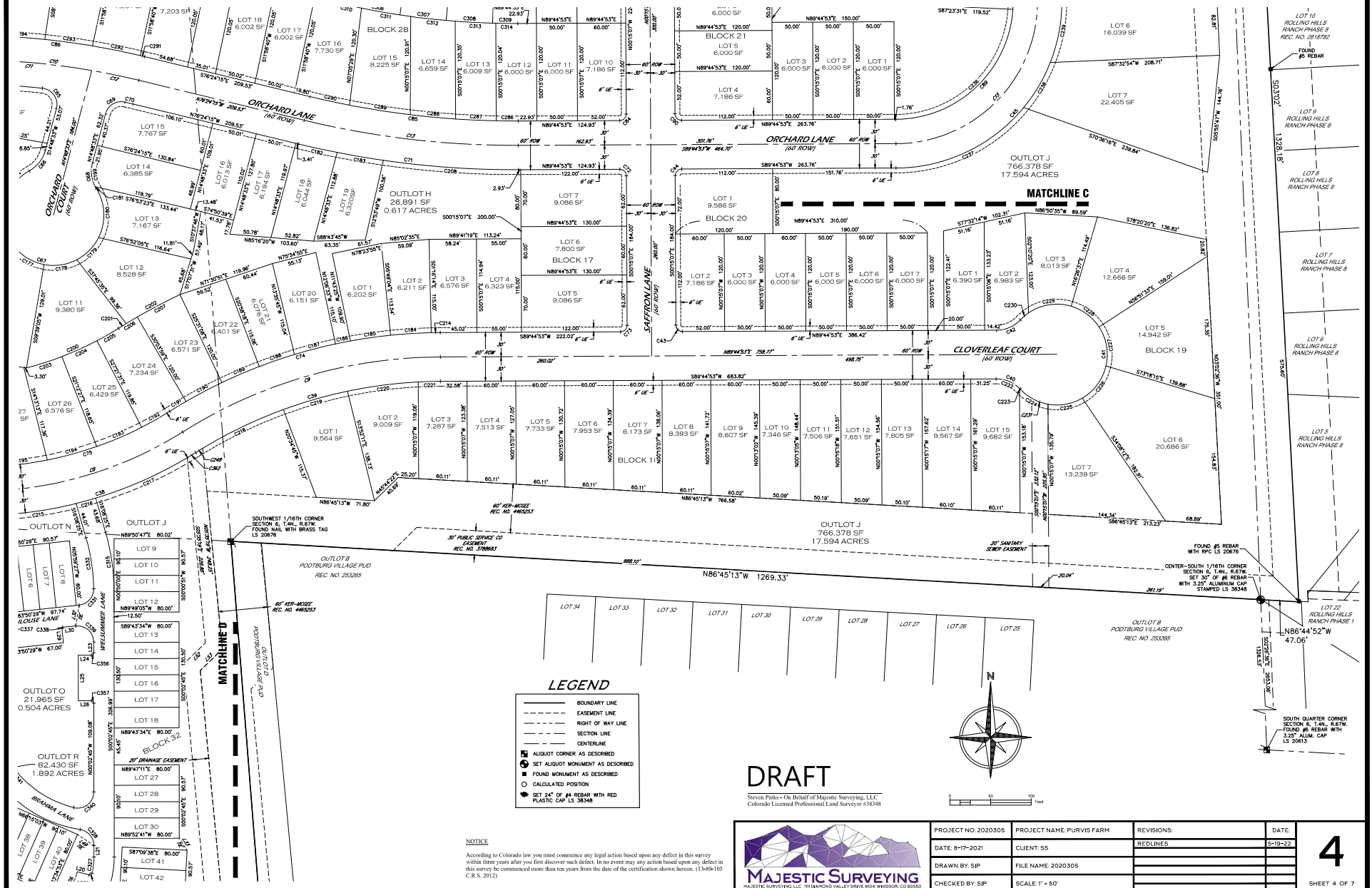
THENCE S 03° 23' 56" W, ALONG THE WEST LINE OF SAID SE 1/4, A DISTANCE OF 1326.57 FEET TO THE POINT OF BEGINNING.

EXHIBIT B-1

PLAT

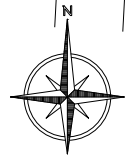
(SEE ATTACHED)

PURVIS FARM



LEGEND

- BOUNDARY LINE
- - - EASEMENT LINE
- · - · - RIGHT OF WAY LINE
- · - · - SECTION LINE
- ⊕ ALIQUOT CORNER AS DESCRIBED
- ⊙ SET ALIQUOT MONUMENT AS DESCRIBED
- ⊞ FOUND MONUMENT AS DESCRIBED
- CALCULATED POSITION
- ⊙ SET 2" OF #4 REBAR WITH RED PLASTIC CAP LS 38348



DRAFT

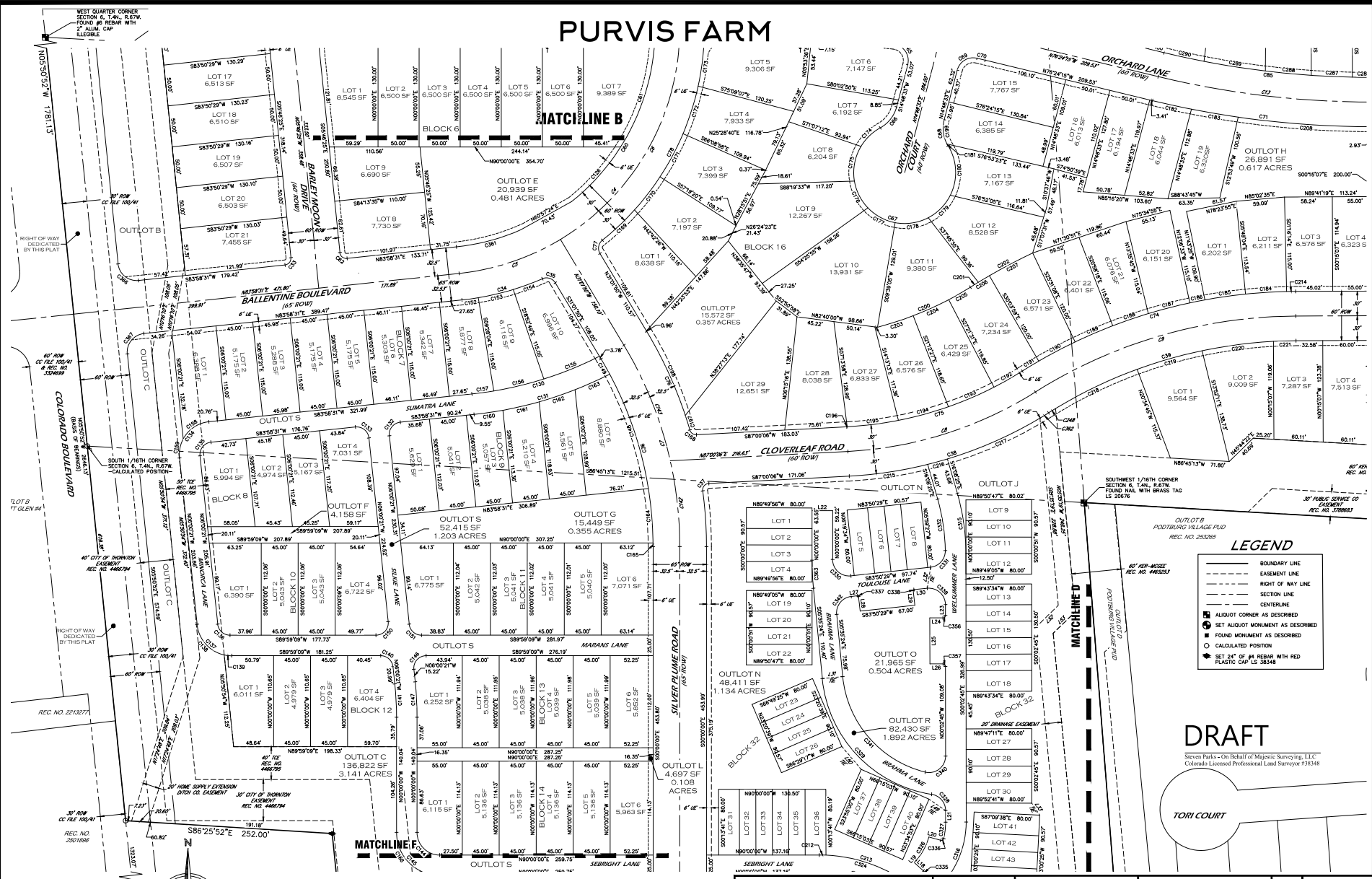
Steven Parks - De Richard of Majestic Surveying, LLC
 Colorado Licensed Professional Land Surveyor #33348

NOTICE

According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon. (13-8-105 C.R.S. 2012)

PROJECT NO: 2020305	PROJECT NAME: PURVIS FARM	REVISIONS:	DATE:
DATE: 8-17-2021	CLIENT: SS	REDLINES	8-19-22
DRAWN BY: SIP	FILE NAME: 2020305		
CHECKED BY: SIP	SCALE: 1" = 50'		

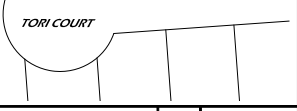
PURVIS FARM



LEGEND

- BOUNDARY LINE
- - - EASEMENT LINE
- · - · - RIGHT OF WAY LINE
- · - · - CENTERLINE
- ⊙ ALIQUOT CORNER AS DESCRIBED
- ⊙ SET POINT MONUMENT AS DESCRIBED
- ⊙ FOUND MONUMENT AS DESCRIBED
- ⊙ CALCULATED POSITION
- ⊙ SET 24" OF #4 REBAR WITH RED PLASTIC CAP LS 38348

DRAFT
 Steven Parks - On Behalf of Majestic Surveying, LLC
 Colorado Licensed Professional Land Surveyor #39438



NOTICE
 According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown herein. (13-80-105 C.R.S. 2012)



PROJECT NO: 2020305	PROJECT NAME: PURVIS FARM	REVISIONS:	DATE:
DATE: 8-17-2021	CLIENT: SS	REDLINES:	8-19-22
DRAWN BY: SIP	FILE NAME: 2020305		
CHECKED BY: SIP	SCALE: 1" = 50'		

PURVIS FARM



DRAFT

Steven Parks - On Behalf of Majestic Surveying, LLC
Colorado Licensed Professional Land Surveyor #38348

NOTICE
According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon. (13-CR-105 C.S.R. 2012)



PROJECT NO: 2020305	PROJECT NAME: PURVIS FARM	REVISIONS:	DATE:
DATE: 8-17-2021	CLIENT: SS	REDLINES:	8-19-22
DRAWN BY: SIP	FILE NAME: 2020305		
CHECKED BY: SIP	SCALE: 1" = 50'		

6

SHEET 6 OF 7

PURVIS FARM

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C2	232.69	9770.00	219.98	232.67	N89°30'33"W
C2	119.18	790.00	839.28	119.24	S79°16'00"W
C3	41.81	816.00	219.23	41.60	S87°17'42"W
C4	439.69	300.00	83591.11	401.38	N41°35'10"W
C4	136.94	300.00	26981.41	137.76	N53°55'50"W
C6	302.76	300.00	57492.50	290.02	N28°54'00"W
C7	257.25	475.00	31915.00	254.17	N53°55'50"W
C8	240.23	475.00	29113.88	239.42	N72°24'17"W
C9	334.48	630.00	630.00	334.67	S74°46'40"W
C10	211.56	900.00	137.50	213.06	N83°12'08"W
C11	154.37	900.00	949.94	154.58	N85°10'10"W
C12	59.19	900.00	336.92	59.18	N78°11'38"W
C13	283.86	1100.00	1370.52	285.21	S81°19'41"W
C14	264.28	175.00	8651.33	239.87	N49°29'30"W
C15	281.96	175.00	9248.23	253.82	N43°17'44"W
C16	417.89	350.00	9756.87	397.91	S42°26'36"W
C17	219.10	350.00	5012.52	212.16	S19°20'01"W
C18	198.79	350.00	4933.33	196.74	S67°34'14"W
C19	284.73	1200.00	137.50	284.08	N83°12'08"W
C20	193.35	800.00	1370.52	192.88	S81°19'41"W
C21	123.88	820.00	838.31	123.56	N81°37'20"W
C22	40.07	780.00	254.30	40.06	S88°31'42"W
C23	12.57	8.00	90700.00	11.31	N45°10'07"W
C24	114.67	760.00	8930.31	114.52	S47°50'00"W
C25	43.15	840.00	219.23	43.14	S89°13'42"W
C26	13.87	8.00	90700.00	11.31	N45°10'07"W
C27	13.87	8.00	90700.00	11.31	N45°10'07"W
C28	140.20	280.00	28414.84	138.74	S73°39'21"W
C29	68.07	400.00	9730.04	67.92	S79°52'00"W
C30	247.69	62.00	228353.53	112.88	S442733.53"W
C31	68.11	400.00	4933.33	60.17	N121°24'18"W
C32	162.90	280.00	3320.38	160.66	N53°55'50"W
C33	12.57	8.00	89145.98	11.29	N370°52'18"W
C34	101.62	332.00	1739.40	101.23	N73°11'21"W
C35	18.00	12.50	82301.00	16.48	N72°16'59"W
C36	236.65	442.00	31915.00	236.73	N39°30'50"W
C37	13.22	8.00	94490.00	11.31	S39°48'00"W
C38	281.31	650.00	29113.88	284.54	N72°24'17"W
C39	311.75	570.00	3166.28	313.68	S73°46'00"W
C40	33.40	41.00	49145.98	32.84	N64°54'38"W
C41	295.23	62.00	22720.47	85.48	N070°13'10"W
C42	33.04	41.00	46719.29	32.15	S35°54'04"W
C43	12.57	8.00	90700.00	11.31	S45°10'07"W
C44	12.57	8.00	90700.00	11.31	S45°10'07"W
C45	332.64	205.00	92581.33	297.33	N43°17'44"W
C46	309.58	205.00	86713.33	289.99	N49°29'30"W
C47	33.21	41.00	46282.26	32.32	S61°30'06"W
C48	298.25	62.00	22720.47	85.48	S0107°13"W
C49	33.22	41.00	46282.26	32.32	S61°30'06"W
C50	12.57	8.00	89248.67	11.29	N47°00'00"W
C51	12.57	8.00	89414.88	11.29	N44°24'18"W
C52	186.10	770.00	1370.52	185.65	S81°19'41"W
C53	291.87	1230.00	1370.52	291.18	S16°43'45"W
C54	12.57	8.00	90700.00	11.31	S45°10'07"W
C55	12.57	8.00	90700.00	11.31	S45°10'07"W
C56	12.57	8.00	90700.00	11.31	N45°10'07"W
C57	12.11	8.00	86416.88	10.99	S48°31'42"W
C58	358.03	220.00	93144.22	319.81	S432733.53"W
C59	13.95	8.00	94568.34	11.79	N47°00'00"W
C60	219.00	270.00	46728.22	213.04	N81°37'20"W
C61	129.27	270.00	27915.22	128.24	S0107°13"W
C62	13.87	8.00	86713.33	13.34	S023°07'00"W
C63	13.37	8.00	96428.22	11.87	S42°26'36"W
C64	93.20	870.00	6781.18	93.15	N85°55'52"W
C65	34.44	20.00	89401.68	30.34	N31°31'36"W

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C66	33.32	41.00	46292.25	33.32	N38°01'16"W
C67	296.35	62.00	22720.47	85.48	S79°17'42"W
C68	33.32	41.00	46292.25	33.32	S023°07'00"W
C69	30.75	20.00	88258.96	27.81	S58°51'30"W
C70	10.40	870.00	2047.10	10.40	S74°46'40"W
C71	273.11	1100.00	1370.52	272.44	S81°19'41"W
C72	12.57	8.00	90700.00	11.31	N45°10'07"W
C73	12.57	8.00	90700.00	11.31	N44°44'53"W
C74	351.20	630.00	3156.25	346.67	S74°46'40"W
C75	226.74	445.00	29113.88	224.30	N72°24'17"W
C76	131.15	507.50	14482.24	130.79	N233°37'38"W
C77	17.99	12.50	82277.07	16.48	S101°41'10"W
C78	274.10	350.00	4739.24	266.29	N273°32'02"W
C79	12.03	8.00	96713.33	10.93	S48°54'37"W
C80	12.57	8.00	90700.00	11.31	S45°10'07"W
C81	277.63	1170.00	1370.52	276.88	N83°12'08"W
C82	200.60	830.00	1370.52	200.11	S81°19'41"W
C83	12.57	8.00	90700.00	11.31	N45°10'07"W
C84	12.57	8.00	90700.00	11.31	N4444'53"W
C85	286.51	1070.00	1370.52	287.88	S81°19'41"W
C86	220.68	930.00	1370.52	220.16	N81°37'20"W
C87	12.57	8.00	90700.00	11.31	S45°10'07"W
C88	218.91	145.00	8631.33	198.75	N4629'06"W
C89	236.28	145.00	8292.13	210.31	N61°54'16"W
C90	12.57	8.00	90700.00	11.31	S45°10'07"W
C91	12.57	8.00	90700.00	11.31	S45°10'07"W
C92	36.03	860.00	2708.47	36.03	S89°30'18"W
C93	61.11	820.00	4741.11	61.08	S62°29'56"W
C94	50.06	820.00	33947.14	50.05	N89°40'24"W
C95	12.34	820.00	0514.43	12.34	N8729'16"W
C96	25.51	780.00	1927.28	25.51	S8759'38"W
C97	14.56	780.00	1047.90	14.56	S8973'55"W
C98	0.18	819.97	0705.45	0.18	S8418'27"W
C99	0.34	760.00	0701.31	0.34	S8418'50"W
C100	50.04	760.00	3746.21	50.03	S8612'48"W
C101	50.27	760.00	3747.33	50.26	S8959'36"W
C102	13.77	850.00	0498.59	13.77	S8938'55"W
C103	56.14	820.00	11291.97	56.14	S8418'27"W
C104	63.11	280.00	1254.49	62.97	S72°07'11"W
C105	290.85	280.00	4717.10	30.94	S6327'11"W
C106	22.39	40.00	3754.25	22.10	N7720'54"W
C107	45.88	40.00	1032.50	46.84	N173°12'17"W
C108	37.00	62.00	3411.23	36.45	N3811'07"W
C109	55.31	62.00	3078.10	55.49	N8050'16"W
C110	45.48	62.00	4207.37	44.45	S5236'00"W
C111	49.10	62.00	4522.33	47.83	S0854'25"W
C112	60.28	62.00	5612.30	58.41	S4133'06"W
C113	48.10	40.00	8954.12	48.45	N0629'52"W
C114	19.87	40.00	8919.50	19.87	S6273'47"W
C115	28.87	840.00	1758.99	28.87	S8820'32"W
C116	14.28	840.00	1036.27	14.28	S8030'47"W
C117	25.80	280.00	5747.47	25.79	S2325'50"W
C118	54.36	280.00	11072.24	54.27	S1643'45"W
C119	51.20	280.00	10284.41	51.13	S0550'43"W
C120	31.58	280.00	6727.47	31.57	S0232'31"W
C121	67.08	220.00	1728.11	66.82	S0529'24"W
C122	77.42	220.00	2029.45	77.02	S7523'10"W
C123	107.47	220.00	2758.22	106.41	S4822'55"W
C124	82.79	220.00	2135.41	82.30	S7702'59"W
C125	23.29	220.00	6703.45	23.27	S8639'06"W
C126	89.73	220.00	1902.94	89.31	N41°35'10"W
C127	4.71	3.00	90700.00	4.74	S4320'00"W
C128	4.71	3.00	89258.96	4.24	S45000'00"W
C129	4.71	3.00	89258.96	4.24	S45000'00"W
C130	162.77	447.50	20592.27	161.88	N7333'17"W

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD	CH BEARING
C131	173.18	475.00	2059.59	172.21	N7332'31"W
C132	23.57	15.00	89361.11	21.22	S3856'05"W
C133	23.57	15.00	90701.39	21.22	N0421'05"W
C134	62.82	40.00	89361.11	56.36	S3856'05"W
C135	23.57	15.00	89361.11	21.22	S3856'05"W
C136	21.99	15.00	84007.11	20.08	S4803'36"W
C137	62.31	42.50	84007.11	58.88	S4803'36"W
C138	52.86	42.50	71233.49	49.64	S4142'16"W
C139	9.35	42.50	1236.11	9.34	S8734'46"W
C140	21.99	15.00	84007.11	20.08	N4800'36"W
C141	40.62	387.50	6700.21	40.67	N0320'17"W
C142	105.18	475.00	1241.13	104.96	N0820'36"W
C143	150.07	475.00	1820.37	151.43	N21°17'31"W
C144	43.20	27.50	90700.00	38.89	S4320'00"W
C145	42.47	52.50	90700.00	72.35	S4320'00"W
C146	25.13	15.00	95959.99	22.29	S4194'24"W
C147	43.24	41.50	6700.21	43.22	N0320'17"W
C148	147.70	442.50	15077.28	147.02	N1842'59"W
C149	21.20	442.50	2450.27	21.25	N2938'16"W
C150	25.13	15.00	95959.99	22.29	N4159'24"W
C151	21.99	15.00	84007.11	20.08	S4800'36"W
C152	19.88	33.00	3728.34	19.88	N8214'12"W
C153	47.13	33.00	7329.97	43.70	N7840'52"W
C154	33.71	33.00	6700.21	33.79	N8644'29"W
C155	73.26	447.50	9252.47	71.89	N6744'27"W
C156	62.82	447.50	8916.85	62.57	N1614'24"W
C157	26.89	447.50	3728.34	26.89	N0214'12"W
C158	36.28	40.00	5613.94	37.32	S3556'43"W
C159	23.54	40.00	33947.14	23.07	S1051'17"W
C160	35.48	47.50	4789.90	35.47	N8148'26"W
C161	45.38	47.50	5700.22	44.34	N7650'21"W
C162	46.13	47.50	5739.59	46.11	N7122'30"W
C163	41.65	47.50	5739.59	41.18	N8548'37"W
C164	66.43	44.00	8780.27	66.27	N0431'16"W
C165	4.27	442.50	0333.12	4.27	N0076'36"W
C166	57.64	52.50	6254.20	54.79	S3137'10"W
C167	24.83	52.50	2795.00	24.90	S7627'10"W
C168	12.57	8.00	76442.88	9.94	S4348'50"W
C169	53.79	330.00	9270.24	53.74	N4641'59"W
C170	50.85	330.00	8748.40	50.79	N3779'52"W
C171	59.67	330.00	10291.37	59.59	N2804'18"W
C172	60.27	330.00	1032.50	60.84	N173°12'17"W
C173	49.07	330.00	8319.		

EXHIBIT B-2

RESOLUTION APPROVING PLAT

(SEE ATTACHED)

EXHIBIT B-3

ADDITIONAL TERMS, CONDITIONS OR PROVISIONS (Purvis Farms)

Section Index:

1. Easement Holders Written Approval or Agreements
2. Street Improvements at Colorado Boulevard and CO Highway 60
3. Sanitary Sewer Extension Reimbursement
4. Utility Easement
5. Ditch Approvals

-
1. Prior to Town approval of the Civil Engineering Construction Engineering Plans and the Development Plan, Developer shall provide the Town with written evidence of approval from easement holders that will be affected by the Subdivision Improvements to construct the Subdivision Improvements, including, but not limited to, the landscaping and walks. Any agreement that will be assigned to the Town upon Final Acceptance of Public Improvements shall be reviewed and approved by the Town prior to Developer's execution of such agreement.
 2. Street Improvements at Colorado Boulevard and CO Highway 60:
 - a. Developer shall design and construct full-width improvements to the portion of Colorado Boulevard that is adjacent to, and slightly south of, the Development, as set forth in the Civil Engineering Construction Engineering Plans, to the Town's design standards. The Town agrees to reimburse Developer for improvements to the west half of Colorado Boulevard, extending from the center line to the edge of the roadway on the west side ("West Half Improvements"), inclusive of reimbursement for design engineering and construction costs, on the condition that, prior to commencement of construction of the West Half Improvements, Developer provides the cost estimate for the West Half Improvements to the Town for review and written approval. Subsequent to completion of the West Half Improvements and receipt of Notice of Construction Acceptance, Developer may submit an invoice to the Town for recovery of the cost of the West Half Improvements, which invoice shall, absent good faith grounds, reflect the cost previously approved by the Town. The Town agrees to pay the invoice within thirty (30) days of receipt.
 - b. Prior to Notice of Final Acceptance for the Public Improvements noted in Sec 2.a above, Developer shall pay a cash-in-lieu fee equal to 25% of the estimated cost, but not to exceed \$100,000, to the Town for needed intersection and signalization improvements for the intersection of State Highway 60 and Colorado Boulevard.

- c. Prior to Notice of Construction Acceptance, Developer shall secure necessary easements and construct, at minimum, an interim 8-foot asphalt sidewalk along the full frontage of State Highway 60 west to the Colorado Boulevard intersection. Alternatively, Developer may construct a 10-foot concrete walk in its ultimate location along this frontage that meets Town standards.
 - d. Prior to construction along State Highway 60, Developer shall coordinate all necessary plan and permitting processes and approvals with the Colorado Department of Transportation (CDOT) related to access to and improvements abutting State Highway 60. Developer shall provide a copy of all permits and approved plans to the Town prior to Notice of Construction Acceptance.
3. Prior to recordation of the Final Plat, Developer shall reimburse the Town for the cost to extend the equivalent of an 8-inch sanitary sewer line from the Property to the Town's North Sanitary Sewer Interceptor in the amount of \$260,000.
4. Within ten (10) days of execution of this Agreement and prior to recordation of the Final Plat, Developer shall provide an executed utility easement for Parcel #105909300001 (SE corner of Parish and CR 46.5), in the form attached as Exhibit 1 to this Exhibit B-3, which Parcel is owned by Developer, to facilitate the Town's sanitary sewer interceptor project. Concurrent with such execution, the Town shall compensate Developer for the easement in the amount \$2,493.00.
5. Prior to approval of the Civil Engineering Construction Plans, Developer shall obtain approval for improvements to the Consolidated Home Supply Extension Ditch Co. lateral, from the Consolidated Home Supply Ditch Company ("Ditch Company") and provide the approved plans to the Town. Except for improvements installed in the public right-of-way, the Ditch Improvements shall be Private Improvements and shall be operated and maintained by the Ditch Company or a homeowners' association.



Town of Johnstown

March 25, 2022

Mr. JD Padilla
Post Modern Development, LLC
144 N Mason St. Unit 4
Fort Collins, CO 80524

Re: Permanent Waterline Pipeline Easement and Temporary Construction Easement and Amended and Restated Permanent Sanitary Sewer Easement and Temporary Construction Easement.

Dear Mr. Padilla:

In consideration of the execution of the “Permanent Easement and Temporary Construction Easement,” and the “Temporary Construction Easement,” between the Town of Johnstown (“Johnstown”) and Post Modern Development, LLC (“Post Modern”) (collectively the “Easement Agreements”), which allow Johnstown to install a sanitary sewer pipeline over, under and across Post Modern’s property located in the SW ¼ of Section 9, Township 4 North, Range 67 West of the 6th P.M., Weld County, Colorado, Johnstown hereby agrees to pay to Post Modern TWO THOUSAND FOUR HUNDRED NINETY-THREE and 00/100 DOLLARS (\$2,493.00).

Post Modern acknowledges and understands that it shall be responsible for its own legal and engineering fees related to the review, and negotiation of the Easement Agreements.

Sincerely,

Matt LeCerf
Town Manager

The Community That Cares

www.TownofJohnstown.com

P: 970.587.4664 | 450 S. Parish Ave, Johnstown CO | F: 970.587.0141

TOWN OF JOHNSTOWN

SANITARY SEWER EASEMENT AGREEMENT

THIS SANITARY SEWER EASEMENT AGREEMENT (“Agreement”) is made this ____ day of _____ 2022, between Post Modern Development, LLC (“Grantor”), and the TOWN OF JOHNSTOWN, a Colorado home-rule municipal corporation of the State of Colorado (“Town”), whose legal address is 450 S. Parish Avenue, Johnstown CO 80534. Grantor and the Town may be collectively referred to herein as the “Parties.”

WITNESSETH:

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants, sells, and conveys to the Town, its successors and assigns, a permanent right to enter, reenter, occupy and use property situate in the County of Weld, State of Colorado, more fully described on Exhibit A attached hereto and incorporated herein by this reference (the “Property”), to construct, lay, install, inspect, monitor, maintain, repair, renew, substitute, change the size of, replace, remove, relocate and operate one or more underground sanitary sewer pipelines and all underground and surface appurtenances thereto (collectively, the “Improvements”) in, on, under, through, over and across the Property.

IT IS HEREBY MUTUALLY COVENANTED AND AGREED by and between the Parties as follows:

1. Upon reasonable advance notice, the Town, by and through its officers, employees or agents, shall have and may exercise the right of ingress and egress in, on, under, through, over and across the Property for any purpose needful for the full enjoyment of the right of occupancy and/or use provided for herein.
2. Grantor shall neither cause nor permit the construction or placement of any structure or building, temporary or permanent, the planting of any tree, woody plant or nursery stock, or the drilling or operation of any well on the Property. Grantor shall not construct or install new fencing across or within the Property without the prior written approval of the Town. Grantor shall not impound water or other substances on or above the property nor store or dispose of any dangerous, toxic, or hazardous substance on or under the property. Any of the foregoing obstructions situated on or below the Property without Town approval shall be removed by the Grantor or Grantor’s successors upon written demand by the Town or may be removed by the Town without liability for damages arising therefrom.
3. The Town shall restore or repair to its original condition or as close thereto as possible, except as necessarily modified to accommodate the Improvements, any damages caused on said Property arising out of the construction or reconstruction, maintenance or repair of said Improvements in the exercise of the rights hereby granted to the Town. Topsoil shall be replaced in cultivated and agricultural areas, and any excess earth resulting from installations by the Town shall be removed from the Property at the sole expense of the Town. The Town shall maintain the

surface elevation and quality of the soil by correcting any settling or subsiding that may occur as a result of the work done by the Town. The Town shall have a reasonable amount of time to make any such restorations.

4. The Town shall have and may exercise the right of subjacent and lateral support to whatever extent is necessary or desirable for the full, complete and unmolested enjoyment of the rights herein granted. It is specifically agreed that Grantor shall neither take nor permit any action which would impair or in any way decrease or increase the ground level or the lateral or subjacent support for the Improvements within the Property.

5. Grantor retains the right to the undisturbed use and occupancy of the Property insofar as such use and occupancy is consistent with and does not impair any grant or covenant herein contained.

6. If the Town by recorded written instrument terminates or releases its rights herein granted and ceases to use the same, all right, title and interest of the Town hereunder shall cease and terminate and Grantor shall hold the Property, as the same may then be, free from the rights so abandoned and shall own all material and structures of the Town so abandoned, but nothing herein shall be construed as working a forfeiture or abandonment of any interest derived hereunder and not owned by the Town at the time of the abandonment of the Town's rights.

7. Grantor warrants that it has full right and lawful authority to convey the real property interests and make the grant contained herein, and promises and agrees to defend and indemnify the Town in the exercise of the Town's rights hereunder against any defect in title or Grantor's right to make the grant contained herein.

8. Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the Parties hereto. The rights herein granted touch and concern the real property of the Grantor and shall be deemed covenants running with the Property.

9. This writing constitutes the whole agreement between the Parties and no additional or different oral representation, promise or agreement shall be binding on any of the Parties hereto with respect to the subject matter of this instrument.

10. The signatories hereto warrant that they have full and lawful authority to make the grant, covenants and promises herein above contained as Grantor and the covenants and promises herein above made as the Town.

11. The Town shall have the right to assess the Grantor the cost of correcting any conditions created by the Grantor in violation of this Agreement.

12. The Parties agree that this Agreement shall be recorded in the office of the Weld County Clerk and Recorder's Office.

IN WITNESS WHEREOF, the Parties hereto have executed this instrument as of the day and year first above written.

GRANTOR: Post Modern Development, LLC

Name:
Title:

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me by _____ this
____ day of _____, 2022 by _____ as
_____ of _____, Grantor.

My commission expires:

Witness my hand and official seal.

Notary Public

[S E A L]

TOWN OF JOHNSTOWN, COLORADO

By: _____
Matthew S. LeCerf, Town Manager

ATTEST:

Diana Seele, Town Clerk

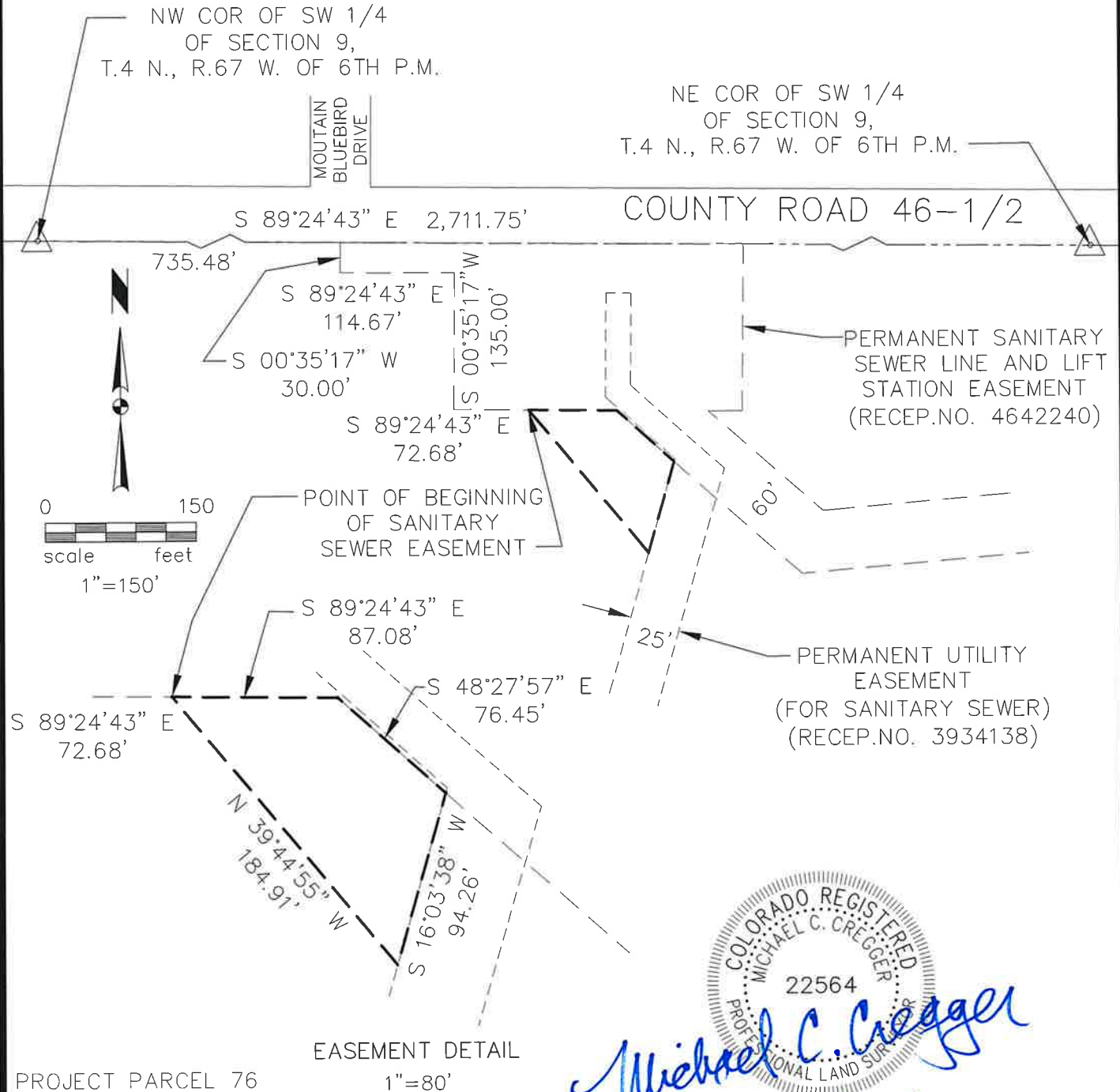
[TOWN SEAL]

EXHIBIT A

Property Description - attached

EXHIBIT SANITARY SEWER EASEMENT

LOCATED IN THE SW 1/4 OF SECTION 9,
T.4 N., R.67 W. OF 6TH P.M., WELD COUNTY, COLORADO



PROJECT PARCEL 76
REV 9-23-21



Michael C. Cregger
9/23/21

EXHIBIT
SANITARY SEWER EASEMENT
LOCATED IN THE SW 1/4 OF SECTION 9,
T.4 N., R.67 W. OF 6TH P.M., WELD COUNTY, COLORADO

LEGAL DESCRIPTION

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, WELD COUNTY, COLORADO BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 9, AND CONSIDERING THE NORTH LINE OF SAID SOUTHWEST QUARTER TO BEAR SOUTH 89°24'43"EAST, WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO;

THENCE SOUTH 89°24'43"EAST, 735.48 FEET TO THE NORTHWEST CORNER OF THE PERMANENT SANITARY SEWER AND LIFT STATION EASEMENT DESCRIBED IN EXHIBIT A-5 OF THE DEED OF PERPETUAL EASEMENT, RECORDED AT RECEPTION NO. 4642240; THENCE ALONG THE WESTERLY LIMITS OF SAID PERMANENT SANITARY SEWER AND LIFT STATION EASEMENT THE FOLLOWING FOUR (4) COURSES: 1) SOUTH 00°35'17"WEST, 30.00 FEET; 2) SOUTH 89°24'43"EAST, 114.67 FEET; 3) SOUTH 00°35'17"WEST, 135.00 FEET; 4) SOUTH 89°24'43"EAST, 72.68 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG THE LIMITS OF SAID EASEMENT THE FOLLOWING TWO (2) COURSES: 1) SOUTH 89°24'43"EAST, 87.08 FEET; 2) SOUTH 48°27'57"EAST, 76.45 FEET TO THE WESTERLY LIMITS OF THE PERMANENT UTILITY EASEMENT DESCRIBED IN EXHIBIT A-1 OF THE TOWN OF JOHNSTOWN PERMANENT UTILITY EASEMENT, RECORDED AT RECEPTION NO. 3934138; THENCE ALONG THE WESTERLY LIMITS OF SAID PERMANENT UTILITY EASEMENT, SOUTH 16°03'38"WEST, 94.26 FEET; THENCE DEPARTING SAID WESTERLY EASEMENT LIMITS, NORTH 39°44'55"WEST, 184.91 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING 9,389 SQUARE FEET (0.22 ACRE), MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, MICHAEL C. CREGGER, DO HEREBY CERTIFY THAT THIS EXHIBIT AND LEGAL DESCRIPTION WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION. THIS EXHIBIT DOES NOT CONSTITUTE A LAND SURVEY AS DEFINED BY COLORADO STATUTES.

DATE

9/23/2021

PROFESSIONAL LAND SURVEYOR
COLORADO REGISTRATION NO. 22564
FOR AND ON BEHALF OF IMEG CORPORATION

Michael C. Cregger

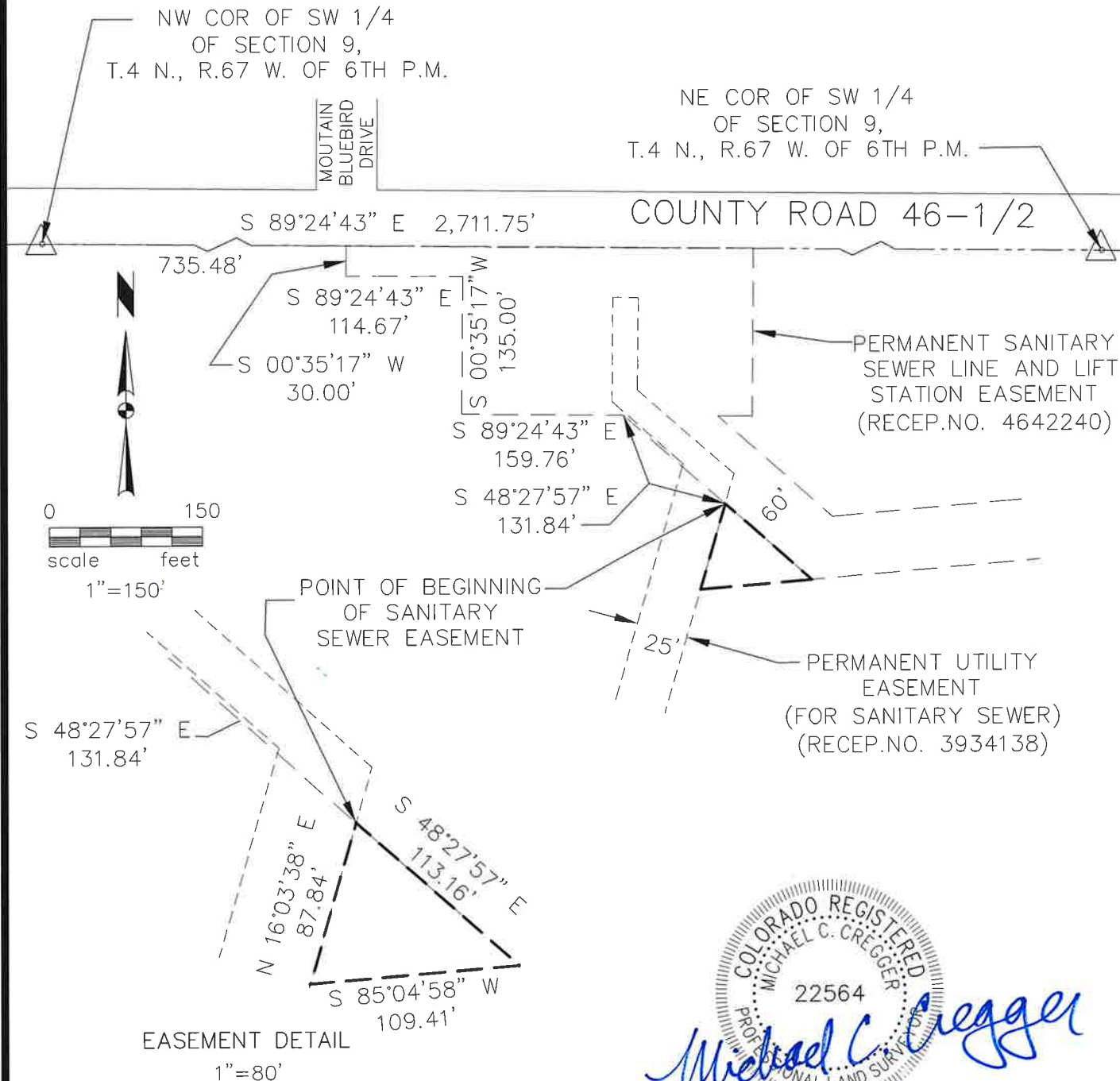


PROJECT PARCEL 76
REV 9-23-21



SHEET 2 OF 2

EXHIBIT
 SANITARY SEWER EASEMENT
 LOCATED IN THE SW 1/4 OF SECTION 9,
 T.4 N., R.67 W. OF 6TH P.M., WELD COUNTY, COLORADO



Michael C. Cregger

 9/23/21

PROJECT PARCEL 76



EXHIBIT
SANITARY SEWER EASEMENT
LOCATED IN THE SW 1/4 OF SECTION 9,
T.4 N., R.67 W. OF 6TH P.M., WELD COUNTY, COLORADO

LEGAL DESCRIPTION

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, WELD COUNTY, COLORADO BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 9, AND CONSIDERING THE NORTH LINE OF SAID SOUTHWEST QUARTER TO BEAR SOUTH 89°24'43"EAST, WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO;

THENCE SOUTH 89°24'43"EAST, 735.48 FEET TO THE NORTHWEST CORNER OF THE PERMANENT SANITARY SEWER AND LIFT STATION EASEMENT DESCRIBED IN EXHIBIT A-5 OF THE DEED OF PERPETUAL EASEMENT, RECORDED AT RECEPTION NO. 4642240; THENCE ALONG THE WESTERLY LIMITS OF SAID PERMANENT SANITARY SEWER AND LIFT STATION EASEMENT THE FOLLOWING FIVE (5) COURSES: 1) SOUTH 00°35'17"WEST, 30.00 FEET; 2) SOUTH 89°24'43"EAST, 114.67 FEET; 3) SOUTH 00°35'17"WEST, 135.00 FEET; 4) SOUTH 89°24'43"EAST, 159.76 FEET; 5) SOUTH 48°27'57" EAST 131.84 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG THE LIMITS OF SAID EASEMENT, SOUTH 48°27'57"EAST, 113.16 FEET; THENCE DEPARTING SAID WESTERLY EASEMENT LIMITS, SOUTH 85°04'58" WEST 109.41 FEET TO THE EASTERLY LIMITS OF THE PERMANENT UTILITY EASEMENT DESCRIBED IN EXHIBIT A-1 OF THE TOWN OF JOHNSTOWN PERMANENT UTILITY EASEMENT, RECORDED AT RECEPTION NO. 3934138; THENCE ALONG THE EASTERLY LIMITS OF SAID PERMANENT UTILITY EASEMENT, NORTH 16°03'38" EAST, 87.84 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING 4,486 SQUARE FEET (0.10 ACRE), MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, MICHAEL C. CREGGER, DO HEREBY CERTIFY THAT THIS EXHIBIT AND LEGAL DESCRIPTION WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION. THIS EXHIBIT DOES NOT CONSTITUTE A LAND SURVEY AS DEFINED BY COLORADO STATUTES.

DATE

9/23/2021

PROFESSIONAL LAND SURVEYOR
COLORADO REGISTRATION NO. 22564
FOR AND ON BEHALF OF IMEG CORPORATION

Michael C. Cregger



PROJECT PARCEL 76



IMEG CORPORATION

SHEET 2 OF 2

TOWN OF JOHNSTOWN

TEMPORARY CONSTRUCTION AND ACCESS EASEMENT

THIS TEMPORARY CONSTRUCTION AND ACCESS EASEMENT AGREEMENT (“Agreement”) is made this ____ day of _____ 2022, between Post Modern Development, LLC (“Grantor”), and the TOWN OF JOHNSTOWN, a Colorado home-rule municipal corporation of the State of Colorado (“Town”), whose legal address is 450 S. Parish Avenue, Johnstown CO 80534. Grantor and the Town may be collectively referred to herein as the “Parties.”

I. CONVEYANCE OF REAL PROPERTY

For and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, Grantor, subject to the terms and conditions set forth below, hereby grants and conveys to the Town, its successors and assigns, a temporary construction and access easement on, over, under and across the real property described fully on Exhibit A, attached hereto and incorporated herein by this reference (the “Property”), for the purposes of constructing and installing a sanitary sewer line and carrying out all other activities related thereto (“Easement”). Grantor further grants to the Town (i) the right to mark the location of said Easement for the benefit of construction services and (ii) the right to cut and clear trees, brush, debris, and other obstructions on the Property that might interfere with the use thereof by construction services.

II. TERMS AND CONDITIONS

Grantor and the Town agree that the Easement granted to the Town above shall remain subject to the following terms and conditions for so long as such interests may exist:

A. Improvements Within Property.

1. Grantor shall not construct or place any structure or improvement of any kind on any part of the Property without the Town’s express written approval if the same in any way impairs the use of the Easement.

2. Any structure or improvement of any kind situated on the Property without Town approval shall be removed by the Grantor upon written demand by the Town or may be removed by the Town without liability for damages arising therefrom.

3. Grantor shall not store or dispose of any dangerous, toxic or hazardous substance on the Property.

B. Subjacent and Lateral Support. Grantor shall take no action which would impair or in any way modify the lateral or subjacent support of the Property without obtaining the specific written permission of the Town.

C. Rights Reserved by Grantor: Exclusivity of Permanent Easement.

1. Subject to paragraph II.A. and II.B. above, Grantor hereby retains the right to undisturbed use and occupancy of the Property, insofar as such use and occupancy is consistent with and does not impair any rights granted to the Town respecting the use and rights herein

granted. Grantor shall not erect or construct any structures or improvements or perform any other activities that will impede the ability of the Town to enjoy the rights herein granted.

D. Title Verification by Town: Grantor's Warranty.

1. Grantor warrants that Grantor has full right and lawful authority to convey the real property interests contained herein and promises and agrees to indemnify and defend the Town in the exercise of any rights granted to Town under this Agreement against any defect in Grantor's title to the property involved or Grantor's right to make any of the grants herein contained.

E. Agreements Binding: Run with Grantor's Property.

1. Each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the Parties.

2. The Easement herein granted touches and concerns the real property of the Grantor and shall be deemed a covenant running with the Property.

F. Miscellaneous.

1. The Town shall have the right to assess the Grantor the cost of correcting any conditions created by the Grantor in violation of this Agreement.

2. The Town hereby agrees to restore the Property to its original condition, as close as is practical to do so, upon completion of the construction.

3. The rights granted herein to the Town may be exercised, without limitation, by the Town's officers, employees or agents.

4. The Parties agree that neither has made nor authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein and no oral representation, promise, or consideration different from the terms herein contained shall be binding on Grantor or the Town or their agents or employees.

5. This Agreement shall terminate upon completion of the construction and installation of the sanitary sewer line and all other activities related thereto.

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

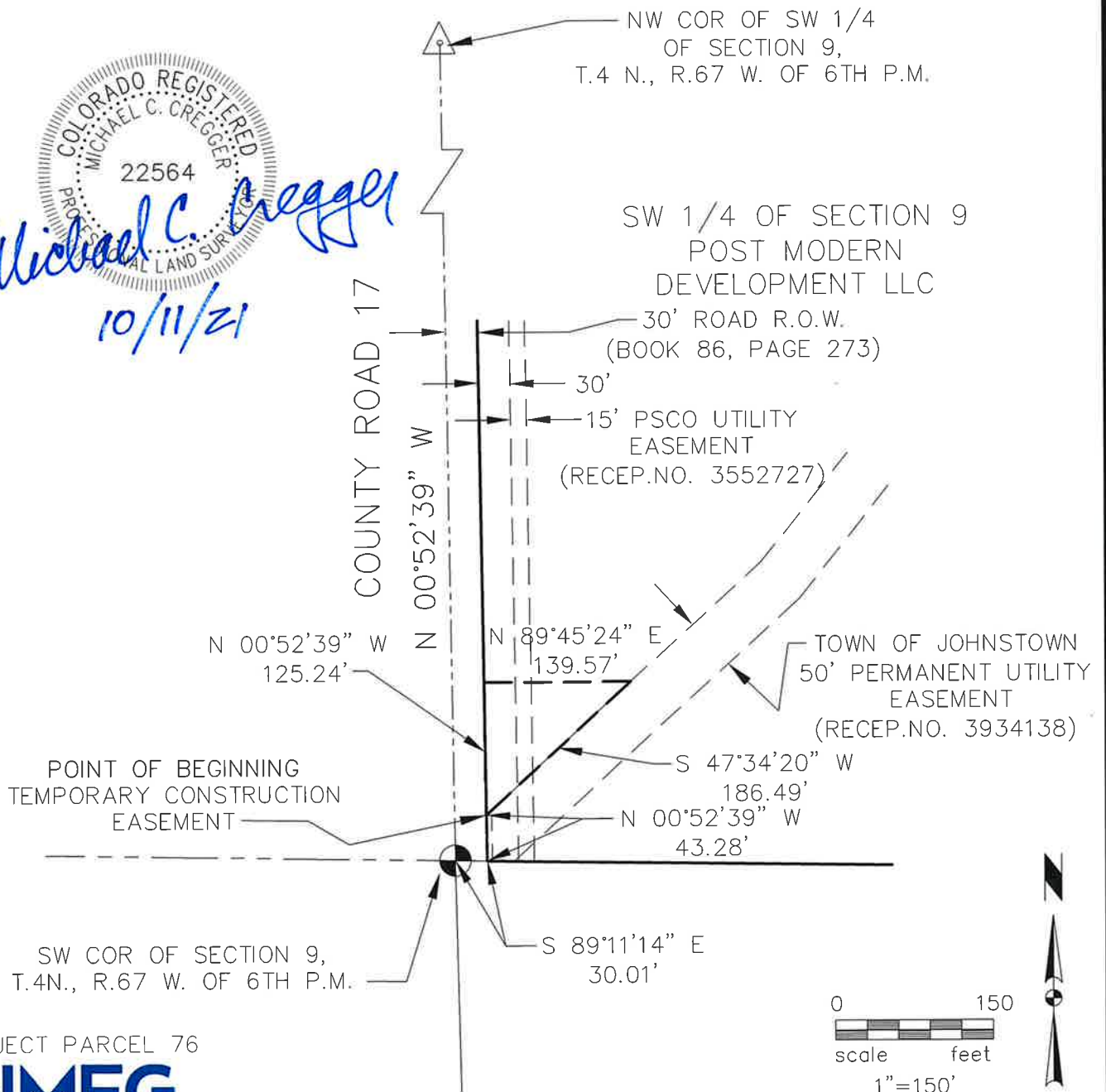
EXHIBIT A

Legal Description Exhibit - attached

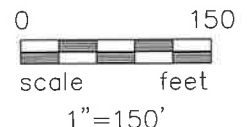
EXHIBIT
 TEMPORARY CONSTRUCTION EASEMENT
 LOCATED IN THE SW 1/4 OF SECTION 9,
 T.4 N., R.67 W. OF 6TH P.M., WELD COUNTY, COLORADO



Michael C. Cregger
 10/11/21



PROJECT PARCEL 76



SHEET 1 OF 2

EXHIBIT
TEMPORARY CONSTRUCTION EASEMENT
LOCATED IN THE SW 1/4 OF SECTION 9,
T.4 N., R.67 W. OF 6TH P.M., WELD COUNTY, COLORADO

LEGAL DESCRIPTION

A PORTION OF THE SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 4 NORTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF JOHNSTOWN, WELD COUNTY, COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 9, AND CONSIDERING THE WEST LINE OF SAID SOUTHWEST QUARTER TO BEAR NORTH 00°52'39" WEST, WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER, SOUTH 89°11'14" EAST, 30.01 FEET TO THE EAST RIGHT-OF-WAY LINE OF COUNTY ROAD 17; THENCE ALONG SAID RIGHT-OF-WAY LINE, NORTH 00°52'39" WEST, 43.28 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING ALONG SAID RIGHT-OF-WAY LINE, NORTH 00°52'39" WEST, 125.24 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, NORTH 89°45'24" EAST, 139.57 FEET TO THE WESTERLY LIMITS OF A TOWN OF JOHNSTOWN PERMANENT UTILITY EASEMENT, DESCRIBED AT RECEPTION NO. 3934138; THENCE ALONG SAID WESTERLY EASEMENT LIMITS, SOUTH 47°34'20" WEST, 186.49 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING 8,739 SQUARE FEET (0.20 ACRE), MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, MICHAEL C. CREGGER, DO HEREBY CERTIFY THAT THIS EXHIBIT AND LEGAL DESCRIPTION WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION. THIS EXHIBIT DOES NOT CONSTITUTE A LAND SURVEY AS DEFINED BY COLORADO STATUTES.

10/11/2021
DATE

Michael C. Cregger
PROFESSIONAL LAND SURVEYOR

COLORADO REGISTRATION NO. 22564
FOR AND ON BEHALF OF IMEG CORP



PROJECT PARCEL 76



IMEG CORPORATION

SHEET 2 OF 2

EXHIBIT C

**SCHEDULE OF PUBLIC IMPROVEMENTS & COST
(SEE ATTACHED)**



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

Purvis Farms
 Johnstown, Colorado
Public Improvements
Letter OF Credit Worksheet

To: Attention: JD Padilla
 970.407.7808
jd@postmoderndevelopment.com

From: Joe Schumacher (cell) 970.397.9880
 Justin Marshall (cell) 970.397.9875

Estimate Date: **March 15th**
 Plans Dated: **12/3/21 Sanderson-Stewart**

PURVIS FARMS - PROJECT TOTAL	
Item	Total
GENERAL CONDITIONS	\$276,886.45
EROSION CONTROL	\$149,200.00
LANDSCAPE, MONUMENTATION, WATTLE	\$2,171,702.00
EARTHWORK	\$523,705.92
SEWER MAIN	\$2,098,902.48
WATER MAIN	\$2,175,783.44
STORM MAIN	\$2,162,821.20
CURB, GUTTER & SIDEWALKS	\$2,123,599.58
ASPHALT PAVING	\$1,796,046.70
Total:	\$13,478,647.77

Inclusions:

TBD

Exclusions:

TBD

Crow Creek Construction, LLC:

By: _____
 Title: _____
 Attest: _____
 Date: _____

Accepted:

By: _____
 Title: _____
 Attest: _____
 Date: _____

GENERAL CONDITIONS	UNIT	QUANTITY	UNIT COST	EXTENDED
Surveying	LS	1.0	\$213,185.75	\$213,185.75
Signs & Striping	LS	1.0	\$63,700.70	\$63,700.70
			Subtotal:	\$276,886.45

EROSION CONTROL	UNIT	QUANTITY	UNIT COST	EXTENDED
Silt Fence	LF	11,250.0	\$1.37	\$15,412.50
Concrete Wash Out	EA	3.0	\$1,250.00	\$3,750.00
Vehicle Tracking Pad	EA	4.0	\$1,262.50	\$5,050.00
Temporary Seeding & Mulching	AC	110.0	\$1,136.25	\$124,987.50
			Subtotal:	\$149,200.00

LANDSCAPE, MONUMENTATION, WATTLE	UNIT	QUANTITY	UNIT COST	EXTENDED
Landscaping	LS	1.0	\$2,171,702.00	\$2,171,702.00
				\$2,171,702.00

EARTHWORK	UNIT	QUANTITY	UNIT COST	EXTENDED
Strip site 4" Place on Non-Structural Areas	CY	50,509.0	\$2.08	\$105,058.72
Onsite Cut To Fill	CY	192,040.0	\$2.18	\$418,647.20
			Subtotal:	\$523,705.92

SEWER MAIN	UNIT	QUANTITY	UNIT COST	EXTENDED
8" Sanitary Sewer Main	LF	13,300.0	\$38.25	\$508,725.00
10" Sanitary Sewer Main	LF	3,360.0	\$40.25	\$135,240.00
4' Sanitary Sewer Manhole	EA	100.0	\$3,290.77	\$329,077.00
6' Sanitary Sewer Manhole	EA	11.0	\$7,189.11	\$79,893.11
4" Sewer Service	EA	384.0	\$1,415.33	\$543,486.72
Boring and Steel Casing	LF	430.0	\$669.81	\$288,018.30
Boring and Steel Casing (w/ Slide Rail Launch Shaft)	LF	135.0	\$1,588.61	\$214,462.35
			Subtotal:	\$2,098,902.48

WATER MAIN	UNIT	QUANTITY	UNIT COST	EXTENDED
Tie into 16" Main (Wet Tap)	EA	3.0	\$6,409.38	\$19,228.14
8" Water Main	LF	17,580.0	\$40.39	\$710,056.20
8" Horizontal Bends	EA	69.0	\$449.75	\$31,032.75
8" Fittings	EA	31.0	\$580.47	\$17,994.57
8" Gate Valve	EA	125.0	\$1,922.55	\$240,318.75
8" Full Lowering	EA	5.0	\$6,167.63	\$30,838.15
3/4 Water Service	EA	383.0	\$1,765.16	\$676,056.28
Fire Hydrant	EA	30.0	\$6,989.57	\$209,687.10
Boring and Steel Casing	LF	365.0	\$659.10	\$240,571.50
			Subtotal:	\$2,175,783.44

STORM MAIN	UNIT	QUANTITY	UNIT COST	EXTENDED
Rip Rap Basin- Type L Rip Rap (Budget)	TN	780.00	\$78.54	\$61,261.20
48" RCP Class III	LF	1,768.0	\$181.82	\$321,457.76
48" FES	EA	2.0	\$2,659.07	\$5,318.14
42" RCP Class III	LF	2,088.0	\$148.34	\$309,733.92
42" FES	EA	1.0	\$2,740.06	\$2,740.06
36" RCP Class III	LF	3,284.0	\$122.49	\$402,257.16
36" FES	EA	5.0	\$2,484.68	\$12,423.40
30" RCP Class III	LF	1,160.0	\$96.51	\$111,951.60
30" FES	EA	2.0	\$2,015.23	\$4,030.46
24" RCP Class III	LF	2,456.0	\$72.42	\$177,863.52
24" FES	EA	3.0	\$1,736.11	\$5,208.33
18" RCP Class III	LF	1,176.0	\$54.21	\$63,750.96
18" FES	EA	3.0	\$1,619.77	\$4,859.31
10' Type R Inlet	EA	32.0	\$9,820.10	\$314,243.20
Double Combo Type C Inlet	EA	2.0	\$8,133.93	\$16,267.86
4' Manhole	EA	32.0	\$3,883.55	\$124,273.60
5' Manhole	EA	5.0	\$5,087.82	\$25,439.10
6' Manhole	EA	24.0	\$4,828.88	\$115,893.12
8' Manhole	EA	2.0	\$11,343.00	\$22,686.00
Detention Pond Outfalls	EA	3.0	\$20,387.50	\$61,162.50
			Subtotal:	\$2,162,821.20

CURB, GUTTER & SIDEWALKS	UNIT	QUANTITY	UNIT COST	EXTENDED
30" Curb and Gutter	LF	22,700.0	\$23.64	\$536,628.00
5' Sidewalk	LF	22,770.0	\$25.76	\$586,555.20
6' Sidewalk	LF	1,950.0	\$30.30	\$59,085.00
8' Sidewalk	LF	12,735.0	\$42.42	\$540,218.70
Radius	EA	32.0	\$1,212.00	\$38,784.00
Inlet Tie In	EA	32.0	\$1,414.00	\$45,248.00
Directional Handicap Ramp	EA	62.0	\$2,171.50	\$134,633.00
Crossspan (Budget - No Crossspans called out)	SY	512.0	\$64.39	\$32,967.68
Square Radii w/ Spandrel	EA	32.0	\$2,525.00	\$80,800.00
Radius	EA	34.0	\$2,020.00	\$68,680.00
			Subtotal:	\$2,123,599.58

ASPHALT PAVING	UNIT	QUANTITY	UNIT COST	EXTENDED
Paving Local 6"/12" ABC	SY	21,405.0	\$45.35	\$970,716.75
Paving Local Collector 6"/12" ABC	SY	8,900.0	\$45.35	\$403,615.00
Colorado Blvd: Widening 6"/12" ABC	SY	6,000.0	\$45.35	\$272,100.00
State Hwy 60: Widening 7.5"/11" ABC	SY	2,175.0	\$57.17	\$124,344.75
Mill and Overlay 2"	SY	2,085.0	\$12.12	\$25,270.20
			Subtotal:	\$1,796,046.70

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 Purvis Farms, dated the day _____ of _____, 2022, between the Town of Johnstown and 6037 Johnstown, LLC, a Colorado limited liability corporation.

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.

