

OPERATIONS AND MAINTENANCE
INTERGOVERNMENTAL AGREEMENT
FOR
LEDGE ROCK CENTER COMMERCIAL
JOHNSTOWN, COLORADO

THIS OPERATIONS AND MAINTENANCE INTERGOVERNMENTAL AGREEMENT FOR LEDGE ROCK CENTER COMMERCIAL, JOHNSTOWN, COLORADO (“Agreement”) is made and entered into on this ___ day of _____, 2022 (“Effective Date”) by and between THE TOWN OF JOHNSTOWN, COLORADO, a home-rule municipality of the Counties of Larimer and Weld, State of Colorado (“Town”), and LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the state of Colorado (“District”) (collectively, the “Parties”).

RECITALS

WHEREAS, Ledge Rock Center, LLC, a Kansas limited liability company (“Developer”), is the owner of, or is the anticipated 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”), which Property is or is anticipated to be within the boundaries of the District;

WHEREAS, the Developer intends to construct a destination retail shopping center containing approximately 785,000 square feet of new retail uses on the Property (“Project”);

WHEREAS, the District was formed pursuant to the applicable provisions of the Colorado Special District Act by Court Order in Weld County, District Court, Case No. 2021CV030566 and is subject to the service plan approved by the Town of Johnstown Town Council by Resolution No. 2021-28 on September 8, 2021 as the same may be modified from time to time (“Service Plan”);

WHEREAS, the Developer intends to convey portions of the Property to the District;

WHEREAS, the District is authorized to finance, design, plan, construct, install, complete, operate and maintain public improvements related to and necessitated by the Project;

WHEREAS, the Service Plan contemplates that the Parties execute an operations and maintenance intergovernmental agreement defining the duties and obligations of the District to operate, maintain, repair and replace the public improvements, authorizing the Town to undertake the unfulfilled duties of the District at the District’s expense and providing the Town with access for such undertakings and confirming the District’s authority to raise revenue to pay for such activities by, among other legally available means, compelling the District to impose a mill levy to reimburse the Town for any reasonable costs incurred in the event the Town undertakes the unfulfilled duties of the District;

WHEREAS, the Parties along with the Developer also entered into a Development and Reimbursement Agreement for Ledge Rock Center, Johnstown, Colorado (“Development and

Reimbursement Agreement”), which provides that the Town and the District enter into an operations and maintenance intergovernmental agreement establishing, among other matters, the rights and responsibilities of the District and the Town regarding the maintenance of the Public Spaces and the pledge of the District of PILOT Payment General Fund Revenues to the funding of operations and maintenance expenses;

WHEREAS, at the election held on November 2, 2021, the District presented the following Ballot Issues B and CC to its eligible electors:

SHALL LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT TAXES BE INCREASED \$10,000,000 ANNUALLY, COMMENCING IN 2021, OR BY SUCH GREATER OR LESSER ANNUAL AMOUNT AS MAY BE DERIVED FROM AN AD VALOREM MILL LEVY NOT IN EXCESS OF 25 MILLS ANNUALLY (PROVIDED THAT SUCH MAXIMUM MILL LEVY SHALL BE ADJUSTED UP OR DOWN TO ACCOUNT FOR CHANGES IN LAW OR THE METHOD BY WHICH ASSESSED VALUATION IS CALCULATED OCCURRING AFTER 2021, SO THAT TO THE EXTENT POSSIBLE, THE ACTUAL TAX REVENUES GENERATED BY THE MILL LEVY, AS ADJUSTED, ARE NEITHER DIMINISHED NOR ENHANCED AS A RESULT OF SUCH CHANGES), THE REVENUES THEREFROM TO BE USED FOR THE PURPOSE OF PAYING THE DISTRICT'S OPERATIONS, MAINTENANCE, AND OTHER EXPENSES; AND SHALL THE PROCEEDS OF SUCH TAXES AND INVESTMENT INCOME THEREON BE COLLECTED AND SPENT BY THE DISTRICT AS A VOTER-APPROVED REVENUE CHANGE IN 2021 AND IN EACH YEAR THEREAFTER, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, OR SECTION 29-1-301, COLORADO REVISED STATUTES, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE DISTRICT?

SHALL LEDGE ROCK CENTER COMMERCIAL METROPOLITAN DISTRICT BE AUTHORIZED TO ENTER INTO ONE OR MORE MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS EVIDENCED BY AN INTERGOVERNMENTAL AGREEMENT OR AGREEMENTS CONCERNING THE PROVISION OF PUBLIC IMPROVEMENTS WITH A REGIONAL AUTHORITY, THE TOWN OF JOHNSTOWN, COLORADO OR ONE OR MORE OTHER GOVERNMENTAL UNITS OR GOVERNMENTALLY-OWNED ENTERPRISES, CONTAINING SUCH TERMS AND CONDITIONS AS THE BOARD OF DIRECTORS OF THE DISTRICT MAY DETERMINE TO BE NECESSARY AND APPROPRIATE AND PROVIDING FOR PAYMENTS BY THE DISTRICT IN AN AGGREGATE AMOUNT NOT TO EXCEED \$173,785,200 OF TAX REVENUES DERIVED FROM AN AD VALOREM MILL LEVY IMPOSED BY THE DISTRICT ON ALL TAXABLE PROPERTY?

WHEREAS, Ballot Issues B and CC were approved by the eligible electors and, among other matters, authorize the District to impose a mill levy for the District's operations and maintenance expenses and authorize the fiscal obligations of the District set forth in this Agreement; and

WHEREAS, pursuant to C.R.S. § 29-1-203, the Parties are authorized to enter into cooperative agreements and contracts for certain specified purposes, and intend that this Agreement constitute such an intergovernmental agreement with respect to the operation and maintenance of the public improvements.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The Recitals set forth above are incorporated herein by reference.
2. Definitions. For purposes of this Agreement, the following terms have the meanings indicated below:
 - A. Annual Maintenance Report. As defined in Paragraph 4 below.
 - B. District Streets. The streets that will be constructed as a part of the Public Improvements that will not be dedicated to the Town.
 - C. Pedestrian Walkways and Trails. The sidewalks, walkways and trails to be constructed as a part of the Public Improvements that will not be dedicated to the Town.
 - D. Public Art. The Art located in Public Spaces that will be acquired and installed as a part of the Public Improvements that will not be dedicated to the Town.
 - E. Public Improvements. The improvements generally, but not completely, described in Exhibit B that will be owned and maintained by the District, including but not limited to Public Spaces, the Public Art, the Public Plazas, the Public Parking Facilities, the Pedestrian Walkways and Trails, District Streets and the Public Landscaping.
 - F. Public Landscaping. The landscaping that will be constructed or, as appropriate, installed in the Public Spaces as a part of the Public Improvements that will not be dedicated to the Town.
 - G. Public Parking Facilities. The parking lots and structures that will be constructed or, as appropriate, installed in the Public Spaces as a part of the Public Improvements that will not be dedicated to the Town.
 - H. Public Plazas. The plazas that will be constructed or, as appropriate, installed in the Public Spaces as a part of the Public Improvements that will not be dedicated to the Town.
 - I. Public Spaces. The property upon which the Public Art, Public Parking Facilities, Public Plazas, Public Streets and Pedestrian Walkways and Trails are to be located.

Terms not defined herein shall have the meaning set forth in the Development and Reimbursement Agreement.

3. Operation and Maintenance of Public Improvements. The District shall operate and maintain the Public Improvements in first-class condition to a level equivalent to the initial installation plans and specifications approved by the Town (“Maintenance Standard”). Among the

other operations and maintenance obligations, the District shall ensure that the Public Landscaping is consistently maintained to a high quality, which shall include, but not be limited to, regular grass cutting, tree trimming and seasonal flower planting. The District shall perform maintenance of the Public Improvements based on the Maintenance Standard at regular intervals to sustain the Maintenance Standard. The Town shall at all times retain the right to determine whether the District is properly operating and maintaining the Public Improvements as required herein.

4. Annual Maintenance Report. The District shall provide an Annual Maintenance Report to the Town by April 1 of each calendar year, documenting: (1) the dates of inspections of the Public Improvements during the prior calendar year; (2) the remedial actions, if any, undertaken during the prior calendar year; and (3) the Public Improvements, if any, requiring modification, repair or reconstructive work during the current calendar year, the schedule to accomplish such work and the source of funding for such work. The Annual Maintenance Report shall also contain the District's reserve plan for the operating and maintenance obligations required herein for the next ten consecutive years for the pavement associated with the District Streets, Pedestrian Walkways and Trails, Public Parking Facilities and Public Plazas and for the next three consecutive years for the remaining Public Improvements ("Reserve Plan"). If the Town Manager objects to the schedule to accomplish the work set forth in subpart (3) or to the Reserve Plan, the District shall promptly, within fifteen (15) days, revise and resubmit the Annual Maintenance Report to address or conform to the Town's recommendations and requirements.

5. Annual Budget and Appropriations. To the extent permitted by law, the District agrees to budget and appropriate sufficient funds annually to operate and maintain the Public Improvements to the Maintenance Standard. Funds to pay for operations and maintenance of the Public Improvements may include PILOT Payment General Fund Revenues and, after payment of Bonds, may include Add-On PIF Revenues.

6. Town Inspection; Notice; Cure. The Town shall have the right to enter the Property at all reasonable times to inspect the Public Improvements. If, upon inspection, the Town, in its sole discretion, determines that the District has failed to properly operate, maintain, repair or replace the Public Improvements to the Maintenance Standard, the Town may provide written notice to the District of the default, requiring that corrective work be performed within thirty (30) days or, if the failure cannot be cured in thirty (30) days, then commenced in thirty (30) days and diligently pursued to completion. The Town then may, in its sole discretion, extend the time period for the corrective work. The Town's receipt of an Annual Maintenance Report shall not limit or otherwise act as a waiver of the Town's right to inspect the Public Improvements and require corrective work as set forth herein. The Town's rights hereunder shall exist regardless of whether the Town Manager requests a modification to the schedule or the Reserve Plan as set forth in Paragraph 4(B).

7. Town Performance of Maintenance and District Reimbursement Obligation. If the corrective work is not performed or commenced and diligently pursued within the time specified in Paragraph 6 above, the Town may enter the Property and perform the corrective work to bring the applicable Public Improvement to the Maintenance Standard. Upon completion of the work, the Town shall provide written notice of the cost of the corrective work to the District, which may include the Town's documented administrative costs in enforcing this obligation, including but not limited to the Town's reasonable attorney's fees. The District shall reimburse the Town's costs

within thirty (30) days of receipt of the written notice. Notwithstanding the foregoing, if the Town, in its sole discretion, determines that corrective work needs to be immediately performed to protect the public health or safety, the Town may undertake to complete such corrective work without providing notice to the District and shall be entitled to reimbursement for the costs of such work as set forth herein.

8. Imposition and Pledge of Mill Levy. If the District does not reimburse the Town prior to December 1 of the fiscal year in which the Town submits its invoice pursuant to Paragraph 7, and is unable to pay prior to the end of such fiscal year, then, by December 15 of such fiscal year, the District shall certify a mill levy that is sufficient to fully reimburse the Town for the outstanding costs and for interest at the statutory rate, which shall be paid as soon as possible after the District's receipt of the tax revenue collected as a result of the mill levy. For invoices submitted on or after December 1 of any given year that are not paid pursuant to Paragraph 7 and the District is unable to pay, the District shall certify the mill levy by December 15 of the following fiscal year.

9. Legal Opinions. On or prior to the seventh day after the Effective Date, the District shall deliver an opinion of its outside counsel addressed to the Town, solely with respect to this Agreement, which opinion shall state in substance that, assuming this Agreement has been duly authorized, executed and delivered by the Parties hereto, the Agreement constitutes a valid and binding agreement of the District enforceable according to its terms, subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity. Such opinion may also contain additional exceptions or qualifications as are agreed to in writing by the Town and the District. With at least thirty (30) days' written notice by the District and the District's delivery of funds to the Town sufficient to pay for the costs and expenses of an opinion, outside counsel to the Town shall provide the District with a similar opinion.

10. Term. This Agreement shall commence on the date first shown above and, unless sooner terminated, shall continue in perpetuity.

11. Town's Limited Obligations. Nothing in this Agreement shall be construed to require the Town to inspect, operate, maintain, repair or replace the Public Improvements. The Town's undertaking of any of the District's obligations as set forth in this Agreement shall not relieve the District from the continuing obligations to inspect, operate, maintain, repair or replace the Public Improvements as set forth in this Agreement, the Service Plan, the Development and Reimbursement Agreement and as otherwise required.

12. Modification and Amendments. This Agreement, including but not limited to the Maintenance Standard referenced herein, may only be modified, amended, terminated or superseded in writing by the Parties in an amendment to this Agreement that is properly approved and executed in accordance with applicable law.

13. Notices. Any notice or communication required under this Agreement between the Parties must be in writing, and may be given either personally, by electronic mail upon confirmation of receipt by the intended recipient or by certified mail, return receipt requested. If personally delivered, a notice will be deemed to have been given when delivered to the party to whom it is addressed. If given by certified mail, the same will be deemed to have been given and

received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent, or (ii) three days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. A Party may, by giving written notice to the other Party, designate additional persons to whom notices or communications shall be given or designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to the Town:

Matt LeCerf, Town Manager
Town of Johnstown
450 South Parish Avenue
Johnstown, CO 80534
mlecerf@townofjohnstown.com

With a copy to:

Avi Rocklin, Town Attorney
1437 N. Denver Avenue #330
Loveland, CO 80538
avi@rocklinlaw.com

and

MaryAnn M. McGeady
Erica Montague
McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
legalnotices@specialdistrictlaw.com

If to the District:

Ledge Rock Center Commercial
Metropolitan District
c/o Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
Email: doleary@spencerfane.com

With a copy to:

David O'Leary
Spencer Fane LLP
1700 Lincoln Street, Suite 2000
Denver, CO 80203
Email: doleary@spencerfane.com

14. No Waiver. Delays in enforcement or the waiver of any one or more breaches of this Agreement shall not constitute a waiver of any of the remaining terms or obligations.

15. Assignment; Binding Effect. This Agreement shall be binding upon and, except as otherwise provided in this Agreement, shall inure to the benefit of the Parties' successors in interest. The District may, subject to the Town's prior written consent, assign its obligation to inspect, operate, maintain, repair and replace the Public Improvements under this Agreement. Notwithstanding the foregoing, the District shall remain liable for the obligation to reimburse the Town for the costs of corrective work as set forth in Paragraphs 7 and 8 of this Agreement.

16. No Joint Venture or Partnership. No form of joint venture or partnership exists between the Parties hereto, and nothing contained in this Agreement will be construed as making the Parties joint venturers or partners.

17. 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 buyers and materialmen, laborers or others providing work, services or materials for the Public Improvements.

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

19. Insurance. District shall, at a minimum, carry insurance in the types and amounts set forth below:

A. District shall acquire and maintain, during the entire term of the Agreement, statutory workers' compensation insurance coverage, commercial general liability insurance coverage and automobile liability insurance coverage in no less than the amounts set forth in subparagraph D below. Town shall be named as an additional insured on District's commercial general liability insurance and automobile liability insurance. Such additional insured coverage shall provide defense and indemnity coverage only for actions arising from District's acts, actions, omissions or neglect but shall not provide defense or indemnity coverage for Town's negligent acts, actions, omissions. Any such policy of insurance obtained to comply with this paragraph shall provide that Town shall receive thirty (30) days written notice prior to the policy's cancellation, non-renewal or modification to any provisions of such policy affecting the insurance coverage requirements under the Agreement.

B. Prior to commencing any work under the Agreement, District shall provide Town with a certificate or certificates evidencing the insurance required by this paragraph, as well as the amounts of coverage for the respective types of coverage. If the coverage required under this paragraph expires during the term of the Agreement, District shall provide replacement certificate(s) evidencing the continuation of the required policies.

C. If any policy obtained by District is a claims-made policy, the following conditions shall apply: the policy shall provide District the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. District agrees to purchase this extended reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall not be later

than the date the Agreement is signed by the parties to the Agreement. If District purchases a subsequent claims-made policy in place of any prior policy, the retroactive date of such subsequent policy shall be no later than the date the Agreement is signed by the parties to the Agreement.

D. District shall acquire and maintain during the entire term of the Agreement, statutory workers' compensation insurance coverage, comprehensive general liability insurance coverage, and automobile liability insurance coverage in the following amounts:

i. Workers' Compensation Insurance in accordance with applicable law, including employers' liability.

ii. Commercial general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$2,000,000.00 general aggregate. Coverage shall include all major divisions of coverage and be on a comprehensive basis including:

- a. premises operations;
- b. personal injury liability without employment exclusion;
- c. blanket contractual;
- d. broad form property damages;
- e. medical payments;
- f. independent contractors coverage.

iii. Commercial automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident covering any auto.

iv. All coverages specified above shall waive any right of subrogation against Town and its Council members, officers, agents, and employees; such waiver of subrogation shall apply solely to acts, actions, omissions or neglect of District, and in no way limits the right of subrogation for acts, actions, omissions or neglect of Town or others. The policies shall state: "Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation in accordance with the terms of the agreement provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder."

20. District Indemnity. To the extent permitted by law, the District shall defend, indemnify, assume all responsibility for and hold the Town, its Council members, officers, agents, and employees, collectively the "Indemnified Parties" or singularly, each an "Indemnified Party") harmless, including without limitation, for attorney's fees and costs, from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the District's activities undertaken pursuant to this Agreement.

A. If any claim relating to the matters indemnified against pursuant to this Agreement is asserted against an Indemnified Party that may result in any damage for which any Indemnified Party is entitled to indemnification under this Agreement, then the Indemnified Party shall promptly give notice of such claim to the District.

B. Upon receipt of such notice, the District shall have the right to undertake, by counsel or representatives of its own choosing, the good faith defense, compromise or settlement of the claim, such defense, compromise or settlement to be undertaken on behalf of the Indemnified Party.

C. The Indemnified Party shall cooperate with the District in such defense at the District's expense and provide the District with all information and assistance reasonably necessary to permit the District to settle and/or defend any such claim.

D. The Indemnified Party may, but shall not be obligated to, participate at its own expense in a defense of the claim by counsel of its own choosing, but the District shall be entitled to control the defense unless the Indemnified Party has relieved the District from liability with respect to the particular matter.

E. If the District elects to undertake such defense by its own counsel or representatives, the District shall give notice of such election to the Indemnified Party within ten (10) days after receiving notice of the claim from the Indemnified Party.

F. If the District does not so elect or fails to act within such period of ten (10) days, the Indemnified Party may, but shall not be obligated to, undertake the sole defense thereof by counsel or other representatives designated by it, such defense to be at the expense of the District.

G. The assumption of such sole defense by the Indemnified Party shall in no way affect the indemnification obligations of the District.

H. Notwithstanding anything to the contrary herein, an Indemnified Party shall have the right to approve of the settlement a claim made against it.

21. Mediation. If a dispute arises under this Agreement that the Parties are not able to mutually resolve, prior to commencing litigation, the non-breaching Party shall first submit the matter to mediation conducted by a neutral mediator. The Parties shall attempt to agree upon a mediator and shall endeavor to find a mediator having experience in construction-related matters. If the Parties are unable to agree upon a mediator, either Party may apply to the Judicial Arbitrator Group in Denver, Colorado, for appointment of a mediator. The cost of the mediation shall be shared equally by the Parties.

22. 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.

23. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining or substantially deprive such Party of the benefit of its bargain under this Agreement. The Parties shall cooperate in reforming this Agreement to the extent required to most fully effect the intent of any such invalid, void or unenforceable term, provision, covenant or condition.

24. Costs and Attorneys' Fees. If the District breaches this Agreement, the District 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.

25. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the parties and supersedes all prior agreements or understandings.

26. 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.

27. Findings. The Town hereby finds and determines that execution of this Agreement is in the best interests of the public health, safety and general welfare of the citizens of the Town and the provisions of this Agreement are consistent with the Johnstown Area Comprehensive Plan and development laws, regulations and policies of the Town. The District Board finds that this Agreement is in the best interests of the District.

28. Further Assurances. Each Party shall execute and deliver to the others all such other further instruments and documents as may be reasonably necessary or requested by another Party to confirm or clarify the intent of the provisions of this Agreement, and to carry out and effectuate this Agreement in order to provide and secure to the other Parties the full and complete enjoyment of their rights and privileges under this Agreement.

29. Authority. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

30. Compliance with the Law. The District shall comply with all federal, state and local laws and regulations in the performance of the obligations under this Agreement.

31. 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.

32. Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the set forth above.

[The Remainder of this Page Intentionally Left Blank]

THE TOWN OF JOHNSTOWN,
a home-rule municipality of the County of
Weld, State of Colorado

By: _____
Gary Lebsack, Mayor

Attest:

Diana Seele, Town Clerk

EXHIBIT A

Legal Description:

A parcel of land, being a part of Lot B and Lot A, of Exemption No. 1060-11-1-RE2092, Reception Number 2585002, and Subdivision Exemption 665, Reception Number 2585001, situated in the Northeast One-Quarter of Section 11, Township 4 North, Range 68 West of the Sixth Principal Meridian, County of Weld, State of Colorado. And more particularly described as follows:

Commencing at the southwest corner of Lot B, of Exemption No. 1060-11-1-RE2092, Reception Number 2585002, said point being 30 feet North of the center quarter corner of Section 11, N00°26'18"W along the west line of the northeast quarter of said section, a distance of 1,345.97 feet to the POINT OF BEGINNING;

Thence continuing N00°26'18"W along said section line, a distance of 1,273.42 feet to point being the northwest corner of Lot B and being 8.80 feet South of the north quarter corner of Section 11;

Thence departing said section line S89°50'18"E along the north line of Lot B and the south line of Right of Way Deed, Book 1477 Page 290, the following four (4) courses:

- 1) S89°50'18"E, a distance of 951.74 feet;
- 2) N84°27'12"E, a distance of 100.44 feet;
- 3) S89°50'18"E, a distance of 1,112.78 feet;
- 4) N89°14'58"E, a distance of 489.65 feet to a point on being on the east line of the northeast quarter of said section;

Thence departing said Right of Way and along said section line S00°23'51"E, a distance of 347.96 feet;

Thence departing said section line S89°33'42"W, a distance of 927.10 feet;

Thence N00°26'18"W, a distance of 91.18 feet;

Thence S89°33'42"W, a distance of 501.74 feet;

Thence S00°26'18"E, a distance of 729.45 feet;

Thence S11°14'20"W, a distance of 464.76 feet;

Thence N61°09'39"W, a distance of 250.26 feet to the start of a tangential curve;

Thence along said curve to the left having a radius of 435.00 feet, a delta angle of 29°16'39", a chord bearing of N75°47'59"W, a chord length of 219.87 feet, an arc length of 222.28 feet;

Thence S89°33'42"W, a distance of 699.91 to the POINT OF BEGINNING.

Said described parcels of land contain approximately 46.646 acres, more or less (+)

Additional District Boundaries based on subsequent inclusions:

Inclusion Area 1 Parcel – North portion of the NW Quarter Section - Legal Description:

A parcel of land being Lot 2 and Lot 4, of Plat Of Oxy Land Subdivision, Reception Number 4785196, situated in the Northwest One-Quarter of Section 11, Township 4 North, Range 68 West of the Sixth Principal Meridian, County of Weld, State of Colorado.

Said described parcel contains approximately 58.36 acres, more or less.

Inclusion Area 2 Parcel - Northeast portion of NW Quarter Section – Legal Description:

A parcel of land, being a part of the Northwest One-Quarter of Section 11, Township 4 North, Range 68 West of the Sixth Principal Meridian, County of Weld, State of Colorado. And more particularly described as follows:

Commencing at the southwest corner of Lot B, of Exemption No. 1060-11-1-RE2092, Reception Number 2585002, said point being 30 feet North of the center quarter corner of Section 11, S89°05'20"W along the north right of way deed granted to the Great Western Railway Company, recorded Book 190, Page 81, a distance of 70 feet to the southernmost corner of a right of way deed granted to the Town of Johnstown;

Thence departing said railroad right of way and continuing along the western edge of said Johnstown right of way N00°26'18"W, a distance of 1,878.95 feet to the POINT OF BEGINNING;

Thence continuing along said western edge the following two courses:

- 1) S89°59'56"W, a distance of 170.70 feet;
- 2) Thence N00°00'04"W, a distance of 640.26 feet to a point being a corner of said right of way;

Thence departing said western edge and over said right of way N88°55'34"E, a distance of 165.82 feet;

Thence S00°26'18"E, a distance of 643.38 feet to the POINT OF BEGINNING.

Said described parcel contains approximately 2.479 acres, more or less.

Future Inclusion Area 3 Parcel – Southeast portion of the NW Quarter Section – Legal Description:

A parcel of land, being a part of the Northwest One-Quarter of Section 11, Township 4 North, Range 68 West of the Sixth Principal Meridian, County of Weld, State of Colorado. And more particularly described as follows:

Commencing at the southwest corner of Lot B, of Exemption No. 1060-11-1-RE2092, Reception Number 2585002, said point being 30 feet North of the center quarter corner of Section 11,

N24°04'19"W, a distance of 174.61 feet to a point on the north line of a 25' Pipeline Temporary Workspace Easement, Reception Number 4765224, and the POINT OF BEGINNING;

Thence along said line S89°32'09"W, a distance of 573.56 to a point on the east line of 50' Pipeline Right Of Way, Reception Number 1930795 & Reception Number 1930796;

Thence along said line N10°30'55"W, a distance of 1,235.32 feet;

Thence departing said line N89°33'42"E, a distance of 789.71 feet to a point on the west line of Right Of Way Deed, Reception Number 4690405;

Thence continuing along said line S00°26'18"E, a distance of 1,216.00 feet to the POINT OF BEGINNING.

Said described parcel contains approximately 19.031 acres, more or less.

EXHIBIT B
Public Improvements