

**BOUNDARY AGREEMENT
BETWEEN THE TOWN OF MILLIKEN AND TOWN OF JOHNSTOWN**

This Boundary Agreement (“Agreement”) is made and entered into this ____ day of _____, 2024 (“Effective Date”), by and between the Town of Milliken, Colorado, a Colorado statutory municipality (“Milliken”), and the Town of Johnstown, Colorado, a Colorado home rule municipality (“Johnstown”). Milliken and Johnstown may collectively be referred to herein as “Parties” or singularly as a “Party” or “municipality.”

WHEREAS, continued growth in Milliken and Johnstown suggests that increased coordination between the Parties may result in better management for directing growth and development to maintain the identity of both communities; and

WHEREAS, Milliken recently updated and adopted its Comprehensive Plan, which contains a Milliken Growth Management Area and a Three Mile Plan in compliance with § 31-12-105(1)(e), C.R.S. and includes consideration of areas found within the unincorporated area of Weld County; and

WHEREAS, Johnstown recently updated and adopted its Comprehensive Plan, which contains a Johnstown Growth Management Area and a Three Mile Plan in compliance with § 31-12-105(1)(e), C.R.S. and includes consideration of areas found within the unincorporated area of Weld County; and

WHEREAS, certain unincorporated territory of Weld County is located between Milliken and Johnstown; and

WHEREAS, Milliken and Johnstown recognize that unincorporated land generally lying in the area between their present municipal boundaries is attractive for development activity and has the potential to experience rapid growth and development, giving rise to potential concerns regarding adequate open space, flood control, groundwater, ecological and environmental impacts, appearance and other related issues; and

WHEREAS, Milliken and Johnstown further recognize that growth and development will be accompanied by increased needs and demands for municipal services, including, but not limited to, transportation and road infrastructure, government and police services, the provision of utilities, the furnishing of public safety and health services, parks and recreational facilities and services, site and subdivision planning, building inspection, code enforcement services and other similar such services; and

WHEREAS, Milliken and Johnstown, along with their respective citizens, are and will be vitally affected by the growth and development, and an attempt to address and solve such issues and provide for the welfare and prosperity of the residents and property owners in said municipalities will be benefitted by mutual action and intergovernmental cooperation; and

WHEREAS, to accomplish the foregoing, Milliken and Johnstown recognize the desirability of establishing jurisdictional boundaries between their respective municipalities to

plan effectively and efficiently for orderly growth and development, the provision of services, the conservation of available resources for all of their respective citizens, the promotion of economic viability of both municipalities, the raising of revenue sufficient to meet the needs of the citizens, as well as to avoid unnecessary duplication of governmental services; and

WHEREAS, the Parties intend that, by entering into this Agreement, cooperation will be promoted between the municipalities as such may relate to exchanging information as each municipality considers land development proposals within their respective jurisdictional limits and/or revisions to their respective comprehensive plans; and

WHEREAS, increased coordination and cooperation between the Parties, including planning for and managing growth and development of land, recognition of appropriate growth patterns, communication of development policies and regulations, and consultation on provision of services, will enhance the ability of the municipalities to achieve their respective individual and common community goals; and

WHEREAS, Milliken and Johnstown are authorized under the Local Government Land Use Control Enabling Act, §§ 29-20-101 *et seq.*, C.R.S., to enter into mutually binding and enforceable agreements to further intergovernmental cooperation regarding planning, zoning and related powers; and

WHEREAS, this Agreement is entered into by Milliken and Johnstown pursuant to constitutional and statutory authority as well as other powers inherently granted to statutory and home rule municipalities by the State of Colorado.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and obligations contained herein and the recitals hereinabove set forth, the sufficiency of which are hereby acknowledged, it is hereby mutually agreed by and between Milliken and Johnstown as follows:

Section 1. Boundary Line

The Parties hereby agree that the line delineating the jurisdictional boundaries of Milliken and Johnstown is depicted on the map attached hereto and incorporated herein by reference as Exhibit A (“Boundary Line”).

Section 2. Annexation Policy Relative to Boundary Line

Except as otherwise provided in this Agreement, the following shall control annexations:

1. Milliken agrees not to annex, solicit the annexation of, enter into any agreement to annex, commence proceedings to annex or entertain a petition to annex any territory which lays beyond the Milliken side of the Boundary Line; and
2. Johnstown agrees not to annex, solicit the annexation of, enter into any agreement to annex, commence proceedings to annex or entertain a petition to annex any territory which lays beyond the Johnstown side of the Boundary Line.

The Parties further agree that they shall not, in any manner, become directly or indirectly involved with the annexation of the aforesaid jurisdictional territory of the other municipality, or oppose the other municipality's annexation, except as provided herein.

In the event that either municipality is contacted by any person in connection with any matter involving the annexation of land which lies within the jurisdictional territory of the other municipality, the contacted municipality shall immediately refer such person to the other municipality for exclusive disposition thereof.

Section 3. Annexation Policy Relative to Roads and Rights-of-Way

Notwithstanding any provision of this Agreement to the contrary, the Parties acknowledge and agree that, should an otherwise permissible annexation be contemplated that includes property abutting existing public roads or rights-of-way divided in some manner by the Boundary Line, the annexation that occurs first in any given location will include the entire width of the road or right-of-way, and the annexing municipality shall therefore have jurisdiction over the road segment or right-of-way. In no event shall any road or right-of-way be used as a flagpole or otherwise to annex property beyond the Boundary Line in violation of this Agreement. Annexations of property abutting proposed roads or rights-of-way that do not yet exist and will be divided in some manner by the Boundary Line shall be addressed by a separate written agreement between the Parties at the time the annexation is processed.

Section 4. Sewer Service Boundaries

As "Designated Management and Operating Agencies" recognized by the North Front Range Water Quality Planning Association's 208 Areawide Water Quality Management Plan, the Parties agree to cooperate in the establishment and modification of their wastewater utility service area boundaries. If either party files a petition with the North Front Range Water Quality Planning Association or other agency or unit of government with respect to wastewater utility service, the other party agrees to cooperate. The Parties agree to oppose any third-party request for modifications of wastewater utility service area boundaries in the boundaries of either municipality.

The Parties further acknowledge and agree that Johnstown's Central Wastewater Treatment Plant should be disconnected from Milliken's 208 Plan and included in Johnstown's 208 Plan. When Johnstown desires, Johnstown agrees to undertake the action and incur the costs associated with such disconnection and inclusion and Milliken agrees to cooperate fully therewith.

Section 5. Minimum Development Standards

The Parties agree to require development within their jurisdictional boundaries to comply with their respective municipal codes relating to stormwater drainage and detention, soil erosion and sedimentation control, stream and wetlands protection, floodplain regulations and public improvements standards. Nothing shall prevent either Party, at such Party's discretion, from issuing a variance based on reasonable hardship and/or pursuant to the standards set forth in their respective municipal codes following, with respect to properties located within 500 feet of the Boundary Line, twenty-one (21) days' written notice to the other Party. If the Party receiving

notice objects to the variance or has concerns related thereto, the Parties shall meet and confer to discuss such Party's objections or concerns.

Section 6. Joint Impacts, Roadways and Infrastructure

The Parties agree to jointly consult with each other and plan future road improvements for arterial roads and rights-of-way that traverse or parallel both municipalities. With regard to such planning, the Parties agree to cause improvements to be accomplished according to uniform and consistent standards. If the Parties' standards differ, then the roadwork shall be improved and/or maintained to the stricter traffic control mechanisms and standards. When improvements to said roads are constructed by developers, the Parties shall cooperate with each other and with the developers to recapture expenses on a proportional basis for any improvements benefitting properties outside the particular development, regardless of whose municipal boundaries the benefitted property may be located.

With regard to collector and minor (local) streets and rights-of-way, as well as commercial development service drives and parking facility ingresses/egresses, the Parties agree that, where practical, the same will interconnect across municipal boundary lines and that neither municipality will subsequently close or vacate a street connection without the consent of the other municipality. Any such interconnections shall be made in a uniform and consistent manner. The Parties agree that mutual issues of importance in effectuating this policy, such as, but not limited to, access standards, signalization, and other related issues, including cost apportionment therefor, shall be included in and determined by a separate written agreement between the Parties.

The Parties agree to cooperate in the installation of a traffic light at State Highway 60 and Weld County Road 19 and to work with the Colorado Department of Transportation and Weld County in furtherance thereof. The Parties agree to allocate the cost of such traffic light evenly, with each Party paying fifty percent (50%) of the cost, and to jointly attempt to obtain grant funding for such traffic light.

This Section 6 shall not be construed so as to prevent the Parties from joining in and executing an intergovernmental agreement that may be multi-jurisdictional with multiple municipalities, counties, and/or the State of Colorado relative to road planning and construction.

The Parties agree to cooperate in the planning and construction of future utilities, including but not limited to, water and sewer lines, in rights-of-way or in utility easements, provided that the rights-of-way or easements are restored to the condition prior to construction or to a higher, more improved condition. If either Party desires to place a utility in the other Party's right-of-way or easement, on the condition that the Party installing the utility is solely responsible for the installation and cost of such construction, the Party in whose right-of-way or easement the utility is being installed shall not charge a fee to the other Party. The Parties shall confer in good faith to determine the location and installation methods of said utilities. This Agreement does not, expressly or by implication, authorize the installation of utilities in rights-of-way or easements by third-parties. The Parties may, by separate written agreement, share in utility infrastructure and service provision in order to assist development if they find it desirable to share or provide utilities beyond their corporate boundaries.

The Parties shall cooperate in planning and constructing linked bicycle/pedestrian trails between the municipalities and those that connect with regional bicycle/pedestrian trail systems.

Section 7. Notice of Development Proposals and Comprehensive Plan Revisions

Each Party agrees to furnish the other Party with written notice of all executed petitions and/or applications for the annexation, zoning, platting, subdividing, and/or development of any parcel of land located within 500 feet of the Boundary Line. Such notice shall be sent to the other Party at least twenty-one (21) days prior to any public hearing on the matter so that such Party may comment on the proposal and appear as an interested party and be heard.

In addition to the requirements imposed by § 24-32-3209, C.R.S., each Party agrees to furnish the other Party with written notice of any proposal to amend its Comprehensive Plan that affects land within 500 feet of the Boundary Line. Such notice shall be sent to the other Party at least twenty-one (21) days prior to any public hearing on the matter so that such Party may comment on the proposal and appear as an interested party and be heard.

Section 8. Statutory Rights Preserved

This Agreement shall not be construed so as to limit or adversely affect the right of either Party to file an objection to or litigation over any proposed Weld County zoning, planning or development or any other extraterritorial land use proposed by a third party.

Section 9. Divided Parcels

The Parties acknowledge that there may now or in the future be lots, parcels, or tracts of land under single ownership that lie on both sides of the Boundary Line. In the event such property divided by the Boundary Line is proposed for development, the Parties agree to cooperate in the development of such property as may be required to provide municipal services and avoid the duplication of municipal services wherever possible. Nothing that may be accomplished by such cooperation shall be construed as, or have the effect of, changing or abrogating the Boundary Line.

Section 10. Greenbelt Between Municipalities

The Parties agree that they mutually desire to have a “greenbelt” (i.e. open space buffer) lying between their respective municipalities. The greenbelt may be either undeveloped land or parkland that is landscaped with trees and other vegetation, but not occupied by recreational buildings or structures. Small-scale and occasional furnishings such as park benches shall not, however, be construed as recreational structures. Pedestrian/bicycle trails may be installed in such greenbelt. The exact width and nature of the greenbelt, and the share of the cost applicable to each municipality, shall be determined on a case-by-case basis at the time any development proposal is reviewed and approved along the Boundary Line by either municipality. Alternatively, the greenbelt may be acquired or created by separate municipal action that may include the procurement of grants. Each Party agrees to cooperate with the other Party as necessary relative to any grant applications or similar actions for the acquisition of open space for the greenbelt.

In lieu of a greenbelt, because of the existence of perimeter roads, the Parties agree to require certain basic design standards that would be uniform for both municipalities for the appearance of

roads that traverse or parallel both municipalities, which may be known as a “scenic entry corridor” for both municipalities. Except for projects or structures that have already received approvals from one of the Parties, these minimum standards include, but are not limited to:

1. A minimum setback of 100 feet from the road right-of-way on each side;
2. No buildings, structures, access drives or facilities (such as parking lots), except driveway aprons crossing the setback leading to features beyond the setback, may be located within such setbacks, except for the following: a) stormwater detention/retention facilities; b) any required street lighting; c) approved small-scale mass transit facilities such as bus shelters or bus stops; and d) small-scale furnishings such as park benches; and e) governmental regulatory or identification signs; and
3. Setbacks shall be landscaped with trees and other vegetation. Existing tree preservation shall be encouraged where applicable.

While the boundaries may change, a depiction of the proposed greenbelt of 250’ from either side of the Boundary Line is set forth on Exhibit A, attached hereto and incorporated herein by reference.

Section 11. Effect on Other Parties or Boundary Agreements/IGAs

This Agreement is intended to describe rights and responsibilities only as between the named parties hereto. It is not intended to and shall not be deemed to confer rights to any persons or entities not named as parties hereto. Nothing contained in this Agreement shall be used or construed to affect, support, bind or invalidate the boundary claims of either Party insofar as they affect any municipality or county not a party to this Agreement. Nothing contained in this Agreement shall be construed to require Milliken or Johnstown to annex any property or to provide services to any property, except that, if a municipality does not desire to annex property on such Party’s side of the Boundary Line and the property owner then seeks annexation into the other municipality, assuming the annexation is lawful, the other municipality may annex such property. Nothing contained in this Agreement shall be construed to require either Party to obtain boundary agreements or similar intergovernmental agreements with other governmental entities or to plan for land uses for properties on a Party’s side of the Boundary Line, and thus it is recognized that some unincorporated areas may remain undesignated by boundary agreements.

Section 12. Amendment and Enforcement

This Agreement may be amended by a mutual written agreement approved by the respective governmental bodies of both Parties. The Parties recognize and acknowledge that a breach of the covenants contained in this Agreement by either Party will cause irreparable damage to the other, the exact monetary value of which will be difficult or impossible to ascertain, and that the remedies at law for any such breach will be inadequate. Accordingly, the Parties agree that, in the event of a breach of any of the covenants contained in this Agreement, in addition to any other remedy which may be available at law or in equity, the non-breaching party shall be entitled to specific performance and injunctive relief. Notwithstanding the foregoing, nothing contained in this Agreement shall be construed to entitle either Party to a judgment for monetary damages against the other for violation of the terms of this Agreement.

Section 13. Disputes

The Parties agree that, should there be a dispute in regard to the interpretation any of this Agreement, before any litigation is initiated, the Parties must first proceed, in good faith, to mediation, which shall be initiated by written notice from one Party to the other. The Parties will share equally the cost of mediation. In the event the Parties are unable to agree upon a mediator, the mediation shall take place at the Judicial Arbiter's Group, Inc., a Colorado corporation, in Denver, Colorado. The procedures and methodology for mediation shall be determined by the mediator. Appointment of the mediator shall take place no later than thirty (30) days following written notification as provided in this paragraph and mediation shall be completed, absent excusable circumstances, no later than ninety (90) days thereafter.

Section 14. Severability

If any provision of this Agreement shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction as to either Party or as to both Parties, such invalidation shall not affect any other provisions of this Agreement which can be given effect without the invalid provision (except that if a requirement limitation in such provision is declared invalid as to one Party, any corresponding requirement or limitation shall be deemed invalid as to the other Party), and to this end the provisions of this Agreement are to be severable.

Section 15. Term

The term of this Agreement shall commence on the Effective Date and terminate on December 31, 2044. On or about one-year prior to the expiration of the term, the Parties confer and attempt in good faith to negotiate an extension of this Agreement, an amendment to this Agreement or a new Boundary Agreement.

Section 16. Governing Law and Venue

This Agreement shall be construed in accordance with the laws of the State of Colorado. Venue for any legal action shall be in Weld County, State of Colorado.

Section 17. Entire Agreement

The provisions of this Agreement represent the entire and integrated agreement between the Parties and supersede all prior negotiations, representations and agreements, whether written or oral.

Section 18. Notices

Notices shall be provided to the respective party by hand delivery, first-class mail, postage prepaid or by electronic mail delivery on the condition that the intended recipient acknowledges receipt thereof as follows:

Town of Johnstown
Attention: Town Manager
450 S. Parish Avenue
P.O. Box 609

Johnstown, CO 80534
Email: mlecerf@johnstownco.gov [as automatically amended when there is a new Town Manager]

Town of Milliken
Attention: Town Administrator
P.O. Box 290
Milliken, CO 80543
Email: CPowell@millikenco.gov [as automatically amended when there is a new Town Administrator]

Section 19. Recording and Availability of Agreement

This Agreement shall be recorded in the Office of the Weld County Clerk and Recorder. Each Party shall make available for public inspection copies of this Agreement in their respective Town Clerk's offices.

IN WITNESS WHEREOF, the above parties hereto have caused this Agreement to be executed the day and year first above written.

TOWN OF MILLIKEN

Attest:

Elizabeth Austin, Mayor

Caree Rinebarger, Town Clerk

TOWN OF JOHNSTOWN

Attest:

Troy D. Mellon, Mayor

Hannah Hill, Town Clerk