

Water and Sewer Service Agreement

THIS WATER AND SEWER SERVICE AGREEMENT is made and entered into this ___ day of _____ 2023, by and between **GILLAM DEVELOPMENT CORPORATION, INC.**, a Colorado corporation (“Developer”), and **THE TOWN OF JOHNSTOWN**, a Colorado municipal corporation, (“Town”), collectively sometimes referred to as the “Parties” and singularly as “Party.”

WITNESSETH:

WHEREAS, Developer owns an interest in a portion of land located in a portion of the SE1/4 of Section 1, Township 4 North, Range 68 West of the 6th P.M., Town of Johnstown, County of Weld, State of Colorado, known as Corbett Glen Filing 3, Amended Plat of Outlot A and described more particularly in Exhibit “A” (“Subject Property”); and

WHEREAS, the Subject Property has been annexed to the Town and was the subject of an Annexation Agreement between Ronald S. Sloan, Lawrence E. Sloan, Donald S. Sloan, Joanne Sloan, Wanda Lou Krebill, and Anna Belle Lenore Cook, as Owner, and the Town dated September 16, 1996; and

WHEREAS, the Subject Property is being developed as 3 single family lots with a total of 0.20 acre of residential irrigated landscaping (3,000 ft² per lot); and

WHEREAS, Developer and the Town desire to set forth their agreement concerning water rights dedication, preliminary projections of water and sewer demand and a current commitment by the Town for water and sewer service for the Subject Property.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Water and Sewer Demand Studies. In compliance with the Town Water Rights Dedication Ordinance (“Ordinance”), Developer has submitted to the Town a preliminary water and sewer demand analysis for the Subject Property dated April 4, 2023. Said analysis was received by the Town, is on file with the Town and, as modified by the Town’s Water Engineer by memorandum dated August 16, 2023, is hereby accepted by the Town. The analysis provides that the projected water and sewer demand for the Subject Property is as follows:

Development Component	Demand (AF/YR)	Consumption (AF/YR)
Residential In-Building	0.99	0.05
Residential Irrigation	0.51	0.43
Total	1.50	0.48

2. Water Rights Dedication. Developer will dedicate 1.5 acre-feet of raw water pursuant to an agreement between Developer and Twin Silos, LLC, a Colorado limited liability company ("Twin Silos"), wherein Twin Silos agreed to transfer 0.135 acre-feet of surplus raw water credit set forth in that certain Water and Sewer Service Agreement ("WSSA") executed between Twin Silos and the Town on or about February 28, 2019, to Developer. Evidence of said agreement is attached as Exhibit "B".

3. Surplus dedication credit. None.

4. Commitment to serve. Subject to Developer's performance of all the covenants contained herein and payment of all required fees, the Town commits to provide to the Subject Property up to 0.99 acre-feet per year of water supply for residential in-building use together with the corresponding sewer service and 0.51 acre-feet for residential irrigation, as described above.

5. Future review of water usage and dedication requirements. In accordance with the Ordinance, the Town reserves the right to review actual water usage within the Subject Property at a point in time after water usage has been established to confirm the adequacy of the water demand projections made by the Developer, and to require additional water rights dedication and/or cash-in-lieu payments, if necessary, based on actual water usage.

6. Payment of Water Court Transfer fees. Upon execution of this Agreement, Developer shall pay to the Town the sum of Four Hundred and Fifty dollars (\$450.00) as payment of the water court transfer fees required by the Ordinance. This payment is only for the dedication of 1.5 acre-feet per year of estimated water demand and estimated consumptive use of 0.48 acre-feet per year (3 SFE) for the Subject Property. Pursuant to Paragraph 5, above, if future review requires additional dedication of water, additional water court transfer fees will be required at the time of dedication. Further, in accordance with the Ordinance, additional water court transfer fees will be required in connection with future development of any property to which all or any portion of the surplus dedication credit is subsequently assigned pursuant to a future mutual agreement of the Parties in accordance with the Ordinance and this Agreement.

7. Notices. All notices required or permitted to be given hereunder shall be in writing and shall be deemed given: (a) upon hand delivery, (b) upon deposit with Federal Express, UPS or other nationally recognized overnight courier service, receipt required, or (c) when transmitted via email, provided the sending party receives a read-receipt for the email or the receiving party acknowledge receipt thereof. All notices shall be addressed as follows:

TO DEVELOPER:

Gillam Development Corporation, Inc.
Attn: Bruce W. Gillam
100 Rolling Hills Ranch Dr.
Johnstown, CO 80534
Email: rhrfor97@aol.com

TO THE TOWN:

Town of Johnstown
c/o Town Clerk
P.O. Box 609
450 S Parish Ave.
Johnstown, CO 80534
Email: hhill@johnstownco.gov

WITH A COPY TO
THE TOWN ATTORNEYS:

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

Peter J. Ampe
Hill & Robbins, P.C.
3401 Quebec St., Suite 3401
Denver, CO 80264
Email: peterampe@hillandrobbsins.com

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

8. Default. In the event of default by either Party hereunder, the non-defaulting Party shall notify the defaulting Party in writing of such default(s), specifying the nature and extent thereof. If such default is not cured within thirty (30) days, the non-defaulting Party shall be entitled to such remedies as are provided by law, including the Town's ordinances.

9. Successors and assigns. The benefits and burdens of this Agreement shall respectively inure to and be binding upon the successors and assigns of the Parties hereto. This agreement shall not be assigned without the prior written consent of the other Party, which shall not be unreasonably withheld.

10. Amendment or modification. No amendment or modification of this Agreement shall be of any force or effect unless in writing and executed by the Parties hereto with the same formality as this Agreement.

11. Attorney's fees and costs. If any judicial proceedings may hereafter be brought to enforce any of the provisions hereof, including an action for specific performance and/or damages, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable

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expert witness fees.

12. Waiver. The waiver of any breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by said Party, concerning either the same or any other provision of this Agreement.

13. Headings for convenience only. Paragraph headings and titles contained herein are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

14. Non severability. Each paragraph of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties hereto.

15. Choice of laws and venue. This Agreement and the rights and obligations of the Parties hereto shall be governed by the laws of the State of Colorado. Venue for any legal action shall be in the County of Weld, State of Colorado.

16. Entire agreement. This Agreement constitutes the entire agreement between the Parties related to the subject matter hereof and any prior agreements pertaining thereto whether oral or written have been merged or integrated into this Agreement.

17. No Presumption. Each Party acknowledges that it has carefully read and reviewed the terms of this Agreement. Each Party acknowledges that the entry into and execution of this Agreement is of its own free and voluntary act and deed, without compulsion. 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. The Parties agree that this Agreement reflects the joint drafting efforts of all Parties and 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.

18. Recordation. This Agreement will be recorded by the Town at Developer's expense in the office of the Clerk and Recorder of Weld County, Colorado, shall run with the Subject Property, will be binding upon the Parties hereto and the permitted successors and assigns of the Developer and will constitute notice of this Agreement to all persons or entities not parties hereto.

*IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

Signatures follow.

A handwritten signature in blue ink, appearing to be "A. J. Smith", is written over the "Signatures follow" text.

GILLAM DEVELOPMENT CORPORATION, INC.

By *Bruce W. Gillam*
Bruce W. Gillam, President

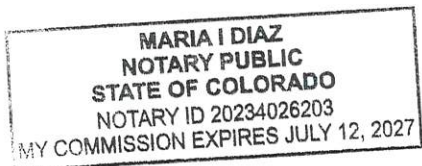
ATTEST:

Secretary

STATE OF COLORADO)
) ss
COUNTY OF Weld)

SUBSCRIBED AND SWORN to before me this 03 day of November,
2023 by Bruce W. Gillam, President of Gillam Development Corporation, Inc.

Witness my hand and official seal.



Maria I. Diaz

Notary Public
Maria I. Diaz

117 4th St. Greeley CO. 80637

Address

Telephone

My Commission Expires: July 12, 2027

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[Signature]

TOWN OF JOHNSTOWN, COLORADO,
a municipal corporation

By: _____
Troy D. Mellon, Mayor

ATTEST:

By: _____
Hannah Hill, Town Clerk

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[Handwritten signature]

EXHIBIT A

LEGAL DESCRIPTION

Outlot A of Corbett Glen Filing 3 according to the final Plat as recorded September 21, 2006 as Document Number 3421288 in the Weld County Clerks Records, all situated in a portion of the Southeast Quarter of Section 1, Township 4 North, Range 68 West of the 6th Principal Meridian, Town of Johnstown, Weld County, Colorado.

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EXHIBIT B
RAW WATER CREDIT ALLOCATION ACKNOWLEDGMENT

Twin Silos, LLC, a Colorado limited liability company, hereby acknowledges and agrees that the Town of Johnstown may transfer and allocate 1.5 acre-feet of surplus raw water credit set forth in that certain Water and Sewer Service Agreement (“WSSA”) executed between Twin Silos and the Town on or about February 28, 2019 to Gillam Development Corporation, Inc. for use at the property known as Corbett Glen Filing 3, Amended Plat of Outlot A.

The undersigned certifies that they are authorized to execute this Raw Water Allocation Acknowledgment on behalf of Twin Silos, Inc.

Twin Silos, LLC

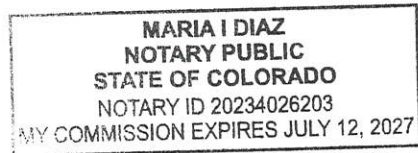
By: *Graham Eldon Dawitt*
Name: Graham Dawitt
Title: Managing Member

STATE OF COLORADO)
) ss
COUNTY OF weld)

SUBSCRIBED AND SWORN to before me this 03 day of November, 2023 by Graham Eldon Dawitt Managing Member of Twin Silos, LLC.

Witness my hand and official seal.

Maria I Diaz
Notary Public



My Commission Expires: July 12, 2027

10 *Graham Dawitt*