

FIRST AMENDMENT TO WATER AND SEWER SERVICE AGREEMENT

THIS FIRST AMENDMENT TO WATER AND SEWER SERVICE AGREEMENT (“Amendment”) is made and entered into this ____ day of _____, 2021, by and between PARISH, LLC, a Colorado limited liability company (“Parish”), and THE TOWN OF JOHNSTOWN, a Colorado municipal corporation, (“Town”), collectively sometimes referred to as “Parties.”

RECITALS

WHEREAS, on or about December 4, 2017, the Town and Parish entered into that certain Water and Sewer Service Agreement, recorded in the Weld County Clerk and Recorder at Reception No. 4400702, with respect to property located in a portion of Section 9, Township 4 North, Range 67 West of the Sixth Principal Meridian, Town of Johnstown, County of Weld, State of Colorado (“Property”), a copy of which is attached hereto and incorporated herein by reference as Exhibit A (“WSSA”); and

WHEREAS, the WSSA reflects that Parish is entitled to a raw water credit for the first phase of the development of the Property, referenced therein, and for purposes hereof, as the Phase I Property, in the amount of 45.45 acre-feet per year of raw water (“Phase I Water Credit”); and

WHEREAS, the Phase I Water Credit includes: (i) 25.45 acre-feet of water arising from Consolidated Home Supply Ditch and Reservoir Company Certificates 6813 and 6811 and a credit from Stroh Farm Filing No. 7 (“Home Supply/Stroh Water”) and (ii) 20 acre-feet arising from an Agreement among Colorado Sweet Gold, LLC, A.L. Gilbert Company and the Town of Johnstown dated March 3, 2008, specifically set aside for “landscaping and commercial uses that generate sales tax revenue and/or employment opportunities” (“Commercial/Employment Water”); and

WHEREAS, Townhome Developers, LLC, a Colorado limited liability company, is the owner of a portion of the Phase I Property, known as the 1st Replat of Block 1 Mountain View West Subdivision Replat, as more particularly described on Exhibit B attached hereto and incorporated herein by reference (“Townhome Property”); and

WHEREAS, Parish desires to allow Townhome Developers to use a portion of the Phase I Water Credit for the Townhome Property as set forth herein; and

WHEREAS, to memorialize the foregoing, including the amount of raw water credit allocated to Townhome Developers and the surplus available to Parish, the Parties desire enter into this Amendment.

AGREEMENT

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. **Recitals.** The Recitals are incorporated into this Amendment as if fully set forth herein.

2. **Allocation of Raw Water Credit and Commitment.** Parish hereby agrees that Townhome Developers may use raw water credit in the amount of 29.31 acre-feet per year from the Phase I Water Credit for the Townhome Property. The water credit is allocated as follows: (i) 24.7 acre-feet of water from the Home Supply/Stroh Water and (ii) 4.61 acre-feet from the Commercial/Employment Water.

3. **Surplus Raw Water Credit.** Based on the foregoing, Parish retains a surplus raw water credit with the Town as follows:

Home Supply/Stroh Water

WSSA Credit	25.45
<u>Less: Townhome Developers Allocation</u>	<u>24.70</u>
Surplus Credit	.75

Upon execution of a subsequent agreement with the Town and payment of the appropriate water court transfer fee, Parish shall be entitled to use the Home Supply/Stroh Water credit anywhere within the Property.

Commercial/Employment Water

WSSA Credit	20.00
<u>Less: Townhome Developers Allocation</u>	<u>4.61</u>
Surplus Credit	15.39

Upon execution of a subsequent agreement with the Town, Parish shall be entitled to use the Commercial/Employment Water credit within the Property for landscaping and commercial uses that generate sales tax revenue and/or employment opportunities but shall not hereinafter be entitled to use the water for residential development, residential irrigation or internal streets that primarily serve residential development.

5. **Validity of WSSA.** Except as modified herein, the WSSA shall remain in full force and effect. To the extent of a conflict, the terms of this Amendment shall control.

CALIFORNIA JURAT WITH AFFIANT STATEMENT

GOVERNMENT CODE § 8202

See Attached Document (Notary to cross out lines 1-6 below)

See Statement Below (Lines 1-6 to be completed only by document signer[s], *not* Notary)

1 _____

2 _____

3 _____

4 _____

5 _____

6 _____

Signature of Document Signer No. 1

Signature of Document Signer No. 2 (if any)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Stanislaus

Subscribed and sworn to (or affirmed) before me

on this 9th day of September, 2021,
by _____ Date _____ Month _____ Year

(1) David S. Gilbert

(and (2) ~~_____~~),
Name(s) of Signer(s)

proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.



Signature Zoe Anne Kilkenny
Signature of Notary Public

Seal
Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: First Amendment to Water + Sewer Service Agreement Document Date: 9 Sep 2021

Number of Pages: 2 Signer(s) Other Than Named Above: none



FedEx Package
Express US Airbill

FedEx Tracking Number **8093 9197 3859**

1 From Please print and press hard.
Date **9SEP2021** Sender's FedEx Account Number **1090-0371-9**

Sender's Name **DAVID S. GILBERT** Phone **209.840.5743**
Company **A L GILBERT CO (PARISH, LLC**
Address **304 N. YOSEMITE AVE**
City **CAKDALE** State **CA** ZIP **95361**
Dept./Floor/Suite/Room

2 Your Internal Billing Reference
First 24 characters will appear on invoice.
3 To Recipient's Name **FRED CROCI** Phone ()

Company
Address **1295 MAIN STREET UNITS** Dept./Floor/Suite/Room
We cannot deliver to P.O. boxes or P.O. ZIP codes.
Address Use this line for the HOLD location address or for continuation of your shipping address.
City **WINDSOR** State **CO** ZIP **80550**

Form ID No. **0200**

4 Express Package Service *To most locations.
For packages up to 150 lbs.
For packages over 150 lbs., use the
FedEx Express Freight US Airbill.

2013 BUSINESS DAYS
 FedEx 2Day A.M.
Saturday Delivery, NOT available.
 FedEx 2Day
Delivery is selected.
 FedEx Standard Overnight
Saturday Delivery, NOT available.
 FedEx Priority Overnight
Monday unless Saturday Delivery is selected.
 FedEx First Overnight
Monday unless Saturday Delivery is selected.
Friday shipments will be delivered on Monday unless Saturday Delivery is selected.
Saturday shipments will be delivered on Monday unless Saturday Delivery is selected.

5 Packaging *Declared value limit \$500.
 FedEx Envelope* FedEx Pak* FedEx Box FedEx Tube Other

6 Special Handling and Delivery Signature Options Fees may apply. See the FedEx Service Guide.
 Saturday Delivery
Not available for FedEx Standard Overnight, FedEx 2Day A.M., or FedEx Express Saver.
 No Signature Required
Packages may be left without obtaining a signature for delivery.
 Direct Signature
Someone at recipient's address may sign for delivery.
 Indirect Signature
No one is available at recipient's address. Signature address may sign for delivery. For residential deliveries only.

Does this shipment contain dangerous goods?
 No Yes
As per attached Shipper's Declaration, not required.
 Dry Ice
Dry Ice, 3 UN 1895
 Cargo Aircraft Only
Restrictions apply for dangerous goods — see the current FedEx Service Guide.

7 Payment Bill to:
 Sender
FedEx Account No. Recipient Third Party Credit Card Cash/Check
Enter FedEx Acct. No. or Credit Card No. below.
5% DBB

Total Packages Total Weight Total Declared Value
lbs \$ **00**
644

6 Leave the packing to the pros at FedEx Office.
Go to fedex.com/office

fedex.com 1800.GoFedEx 1800.463.3339

Insert shipping document here.

PULL AND RETAIN THIS COPY BEFORE AFFIXING TO THE PACKAGE. NO POUCH NEEDED.

EXHIBIT A

Mountain View West Subdivision Legal Description

A portion of the Northwest Quarter of Section 9, Township 4 North, Range 67 West of the Sixth Principal Meridian, Town of Johnstown, County of Weld, State of Colorado, being more particularly described as follows:

Commencing at the southwest corner of said northwest corner of Section 9:

Thence, N00°28'15"W, along the west line of said northwest quarter of section 9 a distance of 1327.68 feet to the north 1/16th corner of said Section 9;

Thence, N00°28'15"W continuing along said line, a distance of 91.42 feet to the boundary line of the Johnstown Colony Addition to the Town of Johnstown, recorded March 23, 1935 in Book 7, Page 3 at the Weld County Clerk and Records Office;

Thence, S89°29'12"E, along the south line of said addition a distance of 30.00 feet to the Point of Beginning.

Thence from the Point of Beginning N89°29'12"E, continuing along said south line a distance of 381.35 feet;

Thence N00° 10'54"W along the east line of said addition a distance of 501.47 feet to the south boundary line of the Purvis Addition to the Town of Johnstown recorded April 18, 1984 in book 8 page 4 at the Weld County Clerk and Records Office;

Thence S88°43'02"E along the south line of said addition a distance of 1004.35 feet to a point on the westerly right-of-way line of the Great Western Railroad and a point on a non-tangent curve to the right;

Thence along said westerly right-of-way line the following two (2) courses:

1) Thence 395.20 feet along the arc of said curve having a radius of 1870.10 feet, a Delta angle of 12° 06'29" and being subtended by a chord bearing S10°38'36"E a distance of 394.48 feet to a point of tangency;

2) Thence S04° 35'21"E along said westerly right-of-way a distance of 1515.63 feet to a point on a line that is 30 feet northerly of and parallel the southerly line of said Northwest quarter of Section 9;

Thence N89°01'19"W along said parallel line a distance of 1546.77 feet to a point on a line 30 feet easterly of and parallel with the west line of said Northwest Quarter of Section 9;

Thence N00° 28'15"W along said parallel line a distance of 1389.87 feet to the Point of Beginning.

EXHIBIT B

PROPERTY DESCRIPTION

A parcel of land being Block One (1) Mountain View West Subdivision Replat, Amendment No. 1 recorded July 22, 2021 at Reception No. 4738024 within the records of the Weld County Clerk and Recorder, and a portion of the platted right-of-way of Molinar Street, situate in the Northwest Quarter (NW1/4) of Section Nine (9), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), Town of Johnstown, County of Weld, State of Colorado being more particularly described as follows;

COMMENCING at the North Sixteenth corner of Section 9 and assuming the West line of the Northwest Quarter of the Northwest Quarter (NW1/4NW1/4) of said Section 9, as monumented by a #6 rebar with a 3.25" aluminum cap stamped LS 30829 at the South end and by a #6 rebar with a 3.25" aluminum cap LS 24993 at the North end, as bearing North 00°51'26" West, being a grid bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983, a distance of 1327.67 feet with all other bearings contained herein being relative thereto;

The linear dimensions as contained herein are based upon the "U.S. Survey Foot."

THENCE North 00°51'26" West along the West line of the NW1/4NW1/4 of said Section 9 a distance of 91.60 feet to the Westerly projection of the North right-of-way line of Molinar Street;

THENCE North 89°06'06" East along said Westerly projection and said North right-of-way line a distance of 391.49 feet to the West line of said Block One (1) Mountain View West Subdivision Replat, Amendment No. 1 and to the **POINT OF BEGINNING**;

THENCE North 00°34'00" West a distance of 501.47 feet;

THENCE South 89°06'08" East a distance of 1004.35 feet to the West right-of-way line of the Great Western Railway and to a Point on a Curve (POC);

THENCE along said West right-of-way line and the arc of a non-tangent curve concave to the Southwest a distance of 395.20 feet, said curve has a Radius of 1870.10 feet, a Delta of 12°06'29" and is subtended by a Chord bearing South 11°01'42" East a distance of 394.46 feet;

THENCE South 04°58'27" East a distance of 693.37 feet;

THENCE South 89°30'29" West a distance of 378.93 feet to a POC;

THENCE along the arc of a non-tangent curve concave to the Southwest a distance of 45.26 feet, said curve has a Radius of 74.50 feet, a Delta of 34°48'29" and is subtended by a Chord bearing North 25°35'25" West a distance of 44.57 feet to a Point of Reverse Curvature (PRC);

THENCE along the arc of a curve concave to the Northeast a distance of 36.86 feet, said curve has a Radius of 65.50 feet, a Delta of 32°14'48" and is subtended by a Chord bearing North 26°52'16" West a distance of 36.38 feet, to a Point of Compound Curvature (PCC);

THENCE along the arc of a curve concave to the East a distance of 97.58 feet, said curve has a Radius of 544.03 feet, a Delta of 10°16'37" and is subtended by a Chord bearing North 05°36'34" West a distance of 97.45 feet;

THENCE North 00°28'15" West a distance of 355.93 feet to a PC;

THENCE along the arc of a curve concave to the Southeast a distance of 19.51 feet, said curve has a Radius of 13.50 feet, a Delta of 82°47'53" and is subtended by a Chord bearing North 40°55'42" East a distance of 17.86 feet, to a POC;

THENCE along the arc of a non-tangent curve concave to the West a distance of 64.18 feet, said curve has a Radius of 51.50 feet, a Delta of 71°23'56" and is subtended by a Chord bearing North 00°26'31" West a distance of 60.10 feet;

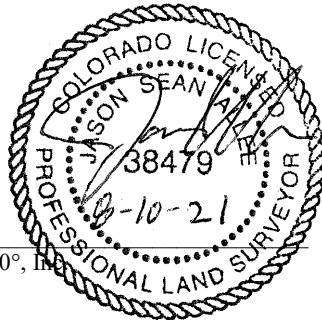
THENCE South 89°29'12" West a distance of 719.02 feet

THENCE North 00°34'00" West a distance of 2.78 feet to the to the **POINT OF BEGINNING**.

Said parcel of land contains 17.29 Acres (753,279 sq.ft.), more or less (+/-), and is subject to any rights-of-way or other easements of record as now existing on said described parcel of land.

SURVEYORS CERTIFICATE

I, Jason S. Allee, a Colorado Licensed Professional Land Surveyor do hereby state that this Property Description was prepared by me or under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.



Sheet 1 of 1

Jason S. Allee – on behalf of Lat40°, Inc.
Colorado Licensed Professional
Land Surveyor #38479

Lat40°, Inc.
Professional Land Surveyors
6250 W. 10th Street, Unit #2
Greeley, CO 80634
(970) 515-5294