

**FIRST AMENDMENT TO
SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT
FOR
TOWN OF JOHNSTOWN
(Johnstown Farms Filing No. 3)**

FIRST AMENDMENT TO SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT FOR TOWN OF JOHNSTOWN (Johnstown Farms Filing No. 3) (this “**Amendment**”) is made and entered into the ____ day of _____, 2021 by and between the TOWN OF JOHNSTOWN, COLORADO, a municipal corporation (the “**Town**”), TF JOHNSTOWN FARMS, L.P., a Delaware limited partnership (“**Developer**”) and JOHNSTOWN FARMS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**” and together with the Town and the Developer, the “**Parties**”).

Recitals

WHEREAS, the Parties previously entered into that certain Subdivision Development and Improvement Agreement for Town of Johnstown (Johnstown Farms Filing No. 3) dated December 2, 2019 and recorded in the real property records of the Clerk and Recorder for Weld County, Colorado on February 21, 2020 at Reception No. 4568151 (the “**Agreement**”); and

WHEREAS, the Developer has commenced construction of the Public Improvements as contemplated by the Agreement; and

WHEREAS, in connection with certain development and construction matters relating to the Public Improvements, the Parties have determined that certain Developer obligations cannot reasonably be satisfied as contemplated by the Agreement; and

WHEREAS, the Parties now desire to amend the Agreement to modify and/or address certain obligations related to the inverted siphon, electric utility undergrounding, Weld County Road 46 ½ improvements, regional trail/sidewalk railroad crossing and certain railroad crossing agreements relating to the Development, as set forth herein.

Amendment

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Amendments.

1.1 Inverted Siphon. Paragraph 1 of Exhibit B-3 of the Agreement is hereby deleted in its entirety.

1.2 Electric Utility Weld County Road 46 ½. Paragraph 6 of Exhibit B-3 of the Agreement is hereby deleted in its entirety and in its place inserted the following:

6. **Electric Utility Weld County Road 46 ½.** Except as provided in this Paragraph 6, as part of the Public Improvements, Developer shall underground the electric utility on the south side of Weld County Road 46 ½ adjacent to the Property. Notwithstanding the foregoing, the Developer and the Town acknowledge and agree that a portion of such undergrounding comprising approximately 300 linear feet along the Weld County Road 46 ½ bridge adjacent to the Property (as generally depicted on Schedule 1 attached to this Exhibit B-3, the “**Phase 2 Undergrounding Improvements**”) is not feasible until such time as the Town completes the contemplated widening of the Weld County Road 46 ½ bridge adjacent to the Property as set forth in Paragraph 5 to this Exhibit B-3. In lieu of Developer completing such undergrounding, Developer shall pay the Town cash-in-lieu in the amount of \$270,208.06 (as described on Schedule 1) for the Town to underground, or cause the undergrounding of, the Phase 2 Undergrounding Improvements at such time as the Town undertakes widening of the Weld County Road 46 ½ bridge adjacent to the Property (the “**Undergrounding Fee**”). The Town hereby agrees that the Developer’s payment of the Undergrounding Fee shall fully satisfy Developer’s and the Subject Property’s obligations relating to the Phase 2 Undergrounding Improvements. Unless otherwise agreed by the Town Manager in writing, the Undergrounding Fee shall be paid prior to the Town’s Initial Acceptance of the Public Improvements.

1.3 **Regional Sidewalk Connectivity.** Paragraph 7 of Exhibit B-3 of the Agreement is hereby deleted in its entirety and in its place inserted the following:

7. **Regional Sidewalk Connectivity.** Connectivity of a regional trail system is a priority for the Town and, accordingly, the Developer shall construct as a part of the Public Improvements, in accordance with the *revised* approved Civil Engineering Construction Plans, a sidewalk along a portion of the southern one-half of the Weld County Road 46 ½ adjacent to the Property and along a portion of the northern one-half of Weld County Road 46 ½ as depicted in Schedule 2 attached to this Exhibit B-3 (“**WCR 46 ½ Sidewalk**”). The Town, at its sole expense, shall promptly repair any damage to WCR 46 ½ Sidewalk resulting from the Town’s Weld County Road 46 ½ roadway and bridge construction. Notwithstanding any contrary provision of this Paragraph 7, the Town and Developer acknowledge that the portion of WCR 46 ½ Sidewalk crossing the railroad right-of-way adjacent to the Development shall require the approval of Great Western Railroad, as the owner of the railroad right-of-way (the “**Railroad ROW**”), and the entering into of a *Public Roadway Crossing License* or similar such agreement (a “**License Agreement**”) by the Town and Great Western Railroad. The Town and the Developer anticipate that the License Agreement shall require the payment to Great Western Railroad of: (i) an initial application fee and (ii) annual license fees or a lump sum license fee. The Developer represents the Developer has paid the initial application fee to Great Western Railroad. If the License Agreement requires an annual license fee, Developer shall pay the first annual license fee and all subsequent annual licenses fees as required under the License Agreement until the Town provides notice of Initial Acceptance of the WCR 46 ½ Sidewalk, after which time the Town shall pay the annual license fee. If the License Agreement requires

a lump sum license fee, Developer shall pay a contribution to the Town for such lump sum fee in the amount of \$6,000 not later than thirty (30) after the Town's written request therefor to Developer. The Town hereby agrees that the Developer's payment of the initial application fee and license fees, as provided herein, shall fully satisfy Developer's and the Subject Property's obligations to make such payments under the License Agreement.

1.4 Railroad Utility Crossings. A new Paragraph 10 is hereby inserted into Exhibit B-3 of the Agreement as follows:

10. Railroad Utility Crossings. The Town and Developer acknowledge that two water lines and one sanitary sewer line (each, a "**Utility Crossing**") shall cross the Railroad ROW and, as such, shall require the approval of Great Western Railroad and the entering into of three crossing licenses or similar such agreements (each, a "**Utility Crossing License**") (one Utility Crossing License for each Utility Crossing) by the Town and Great Western Railroad. The Town and Developer anticipate that each of the Utility Crossing Licenses shall require the payment to Great Western Railroad of: (i) an initial application fee and (ii) annual license fees or a lump sum license fee. The Developer represents the Developer has paid the initial application fee to Great Western Railroad. If the Utility Crossing Licenses require an annual license fee, Developer shall pay the first annual license fee and all subsequent annual licenses fees as required under the applicable Utility Crossing License for each Utility Crossing until the Town provides notice of Initial Acceptance of such Utility Crossing, after which time the Town shall pay the annual license fee. If the Utility Crossing Licenses require a lump sum license fee, Developer shall pay a contribution to the Town for such lump sum fee in the amount of \$8,000 not later than thirty (30) after the Town's written request therefor to Developer. The Town hereby agrees that the Developer's payment of the initial application fee and license fees, as provided herein, shall fully satisfy Developer's and the Subject Property's obligations to make such payments under the Utility Crossing Licenses.

1.5 Weld County Road 46 ½. The Town and Developer acknowledge and agree that unforeseen circumstances have resulted in delays, outside of the control of the Town and Developer, to the construction of improvements to Weld County Road 46 ½ pursuant to the approved Civil Engineering Construction Plans ("**WCR Improvements**") as contemplated by the Agreement. Notwithstanding any provision of the Agreement to the contrary, Developer's construction, and the Town's Initial Acceptance, of the WCR Improvements shall not be a condition precedent to the Town's issuance of building permits for phase 1 of the Development; provided however, such construction and Initial Acceptance shall be a condition precedent to the Town's issuance of certificates of occupancy, temporary or final, for such phase 1.

2. Effect of Amendment. Except as expressly provided in this Amendment, the Agreement has not been amended, supplemented or altered in any way by this Amendment and the Agreement shall remain in full force and effect in accordance with its terms. If there is any

inconsistency between the terms of the Agreement and the terms of this Amendment, the provisions of this Amendment will govern and control.

[signature pages follow this page]

IN WITNESS WHEREOF, the Parties have executed this Amendment as of the date and year first set forth above.

DEVELOPER:

TF JOHNSTOWN FARMS, L.P.,
a Delaware limited partnership

By: _____
Craig Campbell, Authorized Signatory

STATE OF COLORADO)
) ss:
[CITY AND] COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Craig Campbell as Authorized Signatory of S TF JOHNSTOWN FARMS, L.P., a Delaware limited partnership.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

TOWN:

TOWN OF JOHNSTOWN, COLORADO,
a municipal corporation

By: _____
Gary Lebsack, Mayor

ATTEST:

Diana Steele, Town Clerk

APPROVED AS TO SECTION 1.1 OF THIS AMENDMENT:

DISTRICT:

JOHNSTOWN FARMS METROPOLITAN DISTRICT,
a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Craig Campbell, Authorized Signatory

ATTEST:

Secretary

STATE OF COLORADO)
) ss:
[CITY AND] COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Craig Campbell as Authorized Signatory and _____ as Secretary of JOHNSTOWN FARMS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

SCHEDULE 1
Phase 2 Underground Improvements

[follows this page]



September 10, 2021

STARWOOD LAND ADVISORS
385 INVERNESS PKWY
ENGLEWOOD, CO 80112-5853

Subject: Request For Electric OH-UG conversion at COUNTY ROAD 46 1/2, JOHNSTOWN, WELD, Colorado

Dear Kurt Jones,

I have completed the engineering design and cost estimate to provide Electric OH-UG conversion based upon information you have provided. This design is based upon Electric OH-UG conversion, as shown on the enclosed drawing. The cost to provide the requested Electric OH-UG conversion is \$234,963.53, which is non-refundable and payable in advance.

This proposal is contingent upon the following:

- All work performed during our normal work hours.
- Obtaining "Right-of-Way" at no cost to us.
- Obtaining permits as needed.
- No frost, in the ground, during construction or agreeing to pay for additional costs during frost conditions.
- There is an additional charge to open the transformer.
- Providing final grade elevations, at our equipment locations.
- Grade at trench location to be within 6 inches of the final grade.

If necessary our right-of-way agent will mail the right-of-way or easement documents to the appropriate landowners for their signature. This proposal is contingent upon receiving easements at no cost to us. Our right-of-way agent will need a copy of the Warranty Deed, the legal description, and the site drawing in order to prepare the easement for the landowner's signature.

NOTE: You must personally contact the local telephone company, the local cable TV company and/or any other utility company to arrange for the installation and payment of any costs of their facilities if they need to be relocated or disconnected along with the relocation.

If you accept the above costs and system design, please sign and date the second page of this letter and return this document to Public Service Company of Colorado, at the address shown below. After the signed and dated documents and total payment of \$234,963.53 are received via the payment process, a work order will be issued and released so your project can be placed on the construction schedule. If a check is sent via the new payment process we are unable to accept checks with any sort of Lien Waiver because our Tariffs do not make an allowance for PSCo to accept checks printed or stamped with a lien waiver. Our current lead-time to begin work after

receiving the payment and signed documents is approximately 8-10 weeks. You will be notified of the week that our construction is scheduled to begin as soon as it is available.

This proposal will be valid until 11/10/21. If you have any questions regarding this project, please call me at 303-437-7862.

Sincerely,

Chase Cronin
Chase Cronin
Pike Engineering

Mailing address: Pike Engineering
5245 Ronald Reagan Blvd Suite 104
Johnstown, CO 80534
2021.09.14 07:29:11
-06'00'

Name: Shayla Montano
Title: Design Supervisor

Re: Electric, OH-UG conversion, COUNTY ROAD 46 1/2, JOHNSTOWN

I have reviewed and approve of the enclosed design. I accept the cost of \$234,963.53 and this amount will be paid to Xcel Energy in full prior to the scheduled construction date. The Construction Cost stated above does not include special items such as but not limited to frost or rock conditions. In the event the Company encounters any special items during construction, the Company shall bill Applicant for such special items as a non-refundable contribution in aid of construction.

I will send a signed copy of this letter with the applicable agreements.

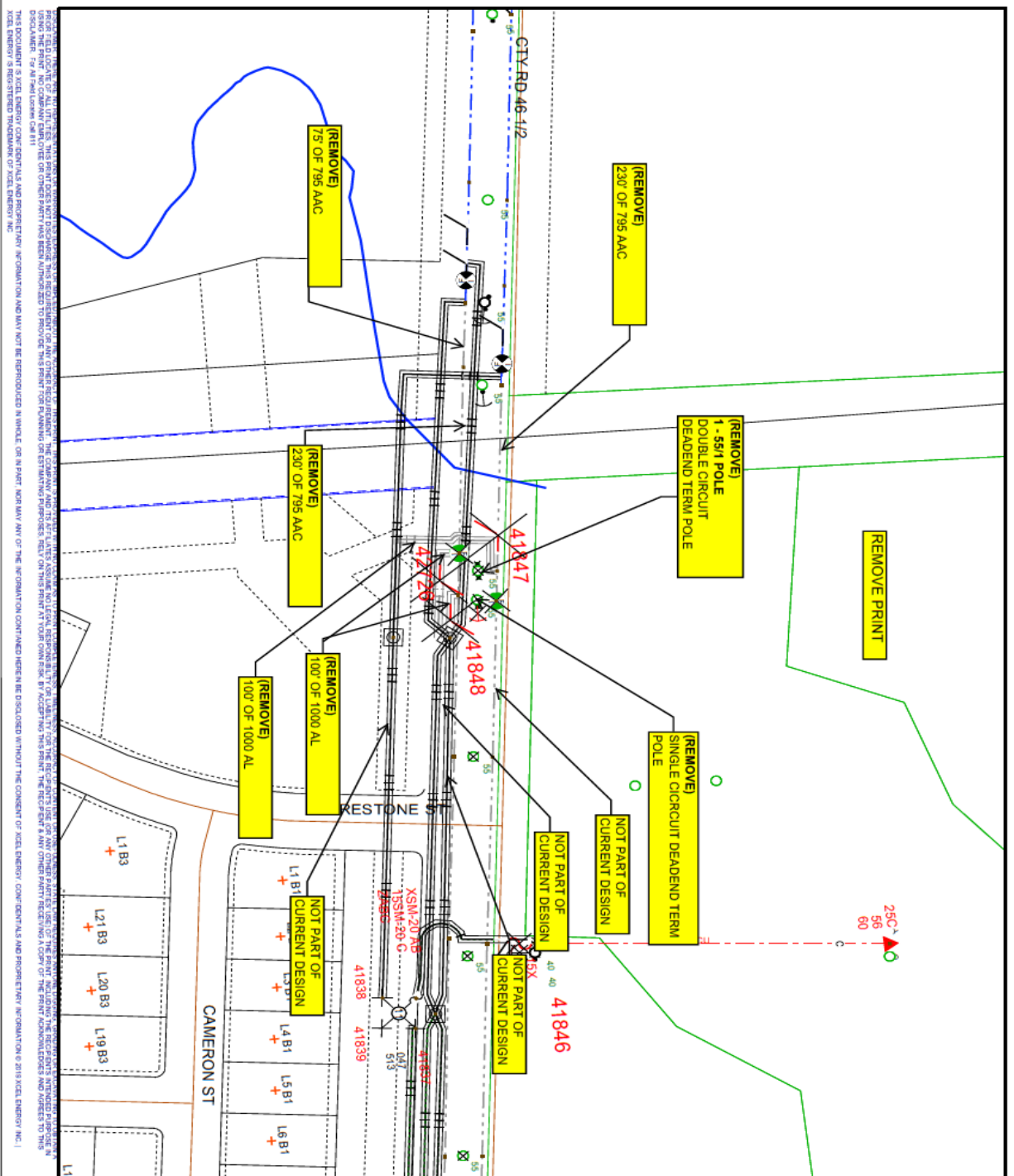
Date: _____

*Customer Signature: _____

Title: _____

Mailing address: _____

* Confidential Information



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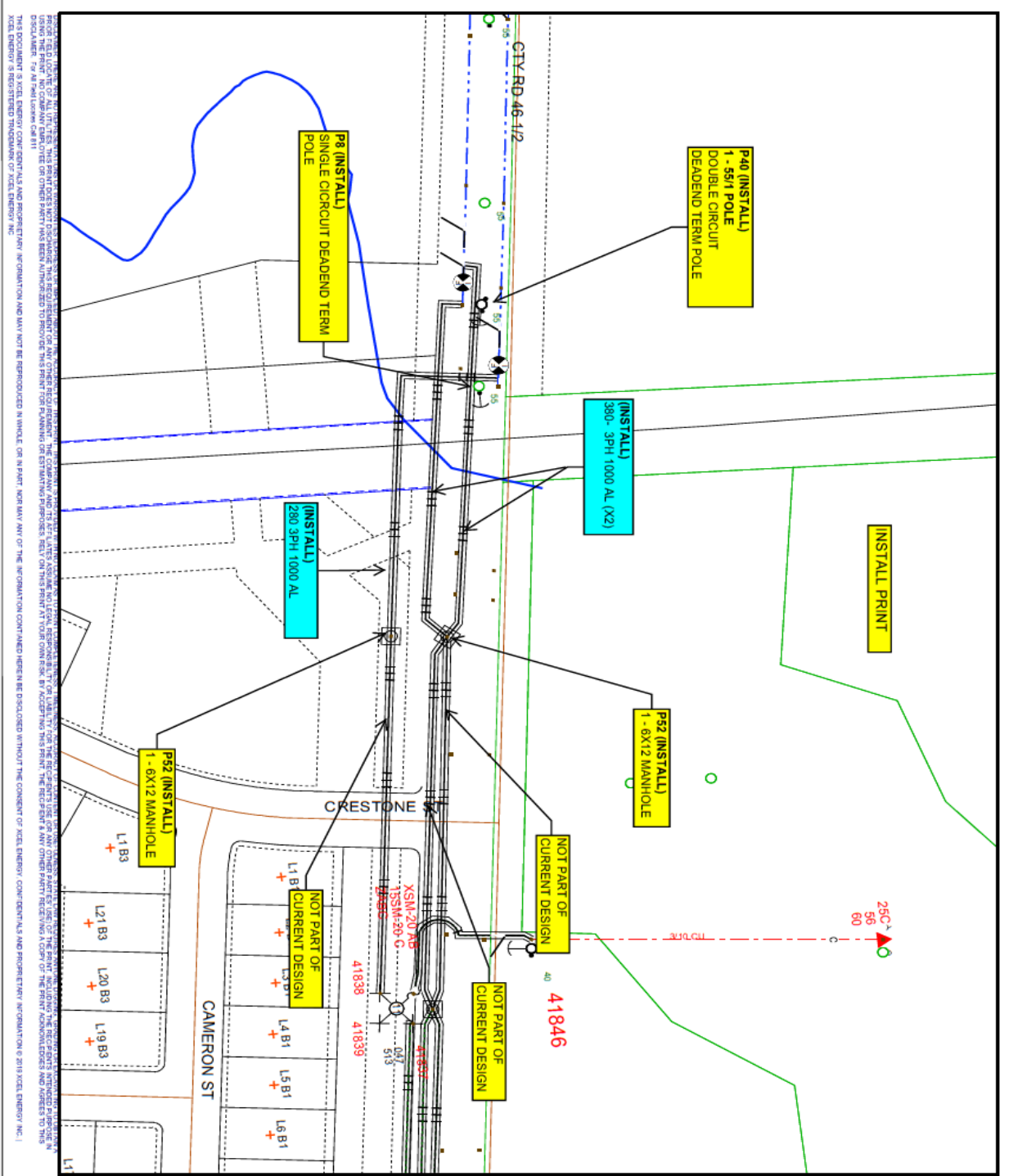


From Open Parameter	
Source Reference #	1260422
Design Number	00001044701
DesignReference ID	21485
DesignReference Name	Corncr. Case
DesignReference ID #	(001) 000-0000
Manager Approval	
Janet Lang	
E	Q
T	C
Division	Design Location
County	KOFTWINN STATION
City	
Address	
T. #N	R. #BY
Map #	2109287-03
Project	Power
Vendor	Electric
Package	Voltage
Project	Relay Diagram ID
System	GIS
Size	Pressure
Draw Date	Method
Work Order #	
Date	09/19/2021
Sheet # of #	Sheet from
Scale	1" = 60' (Scale 10')

NO CHANGES (BUILT AS DISCLOSED)
 CHANGES MADE AS INDICATED
 ALL DIMENSIONS SHALL BE ACTUAL
 MEASUREMENTS FROM THE FIELD (SEE)

Xcel Energy

CONSTRUCTION USE ONLY
 FOLDER: _____ DATE: _____
 TEAM LEADER: _____



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INSTALL PRINT

P40 (INSTALL)
1-5S1 POLE
DOUBLE CIRCUIT
DEADEND TERM POLE

(INSTALL)
390-3PH 1000 AL (X2)

P52 (INSTALL)
1-6X12 MANHOLE

NOT PART OF
CURRENT DESIGN

NOT PART OF
CURRENT DESIGN

P8 (INSTALL)
SINGLE CIRCUIT DEADEND TERM
POLE

(INSTALL)
290 3PH 1000 AL

P52 (INSTALL)
1-6X12 MANHOLE

L1 B3

L21 B3

L20 B3

L19 B3

L1 B

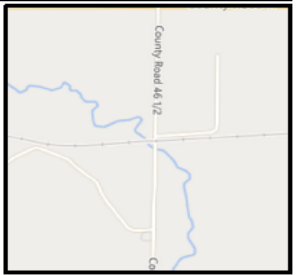
L3 B

L4 B1

L5 B1

L6 B1

L1



Work Order Information

Source Request #	: 12060422
Design Number	: 00007044701
Design/Estimate ID	: 214883
Design/Estimate Name	: Crestone Drive
Design/Estimate Ph #	: (000) 000-0000
Manager Approval	: _____

Division	: DISTRIBUTION SECTION
County	:
City	:
Address	:
T. 46	: R. 12W
S. 9	:
Map #	: 21080203
Project	:
Facility	: Voltage
Project	: Billing Plan ID
System	: Pressure
Size	: Material
Draw Date	:
Work Order #	:
Date	: 08/16/2021
Sheet #	: 1 of 2 Sheets Total
Scale	: 1" equals 100'

Xcel Energy

Scale: 1" equals 100'

Scale: 1" equals 100'

CONSTRUCTION USE ONLY

NO CHANGES (BUILT AS DISCLOSED)

CHANGES MADE AS INDICATED

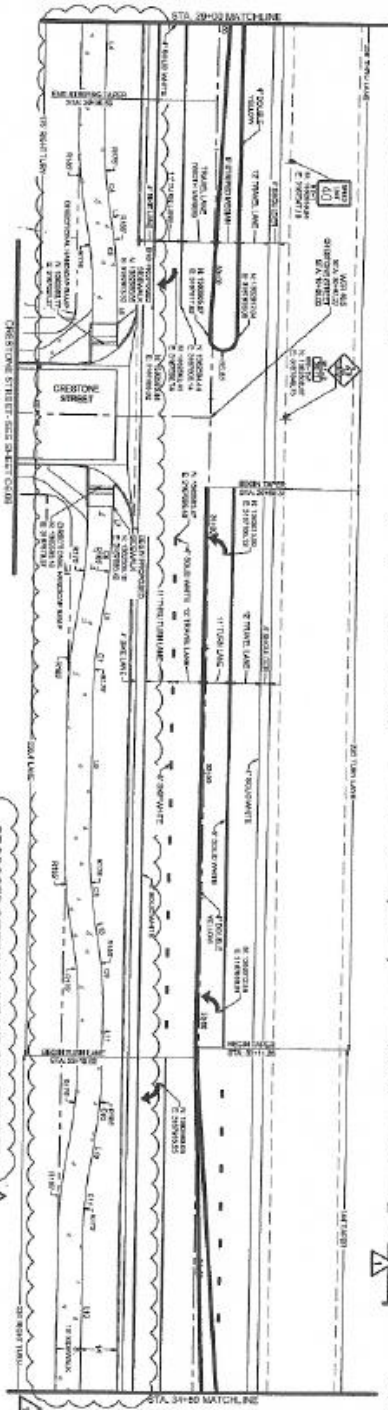
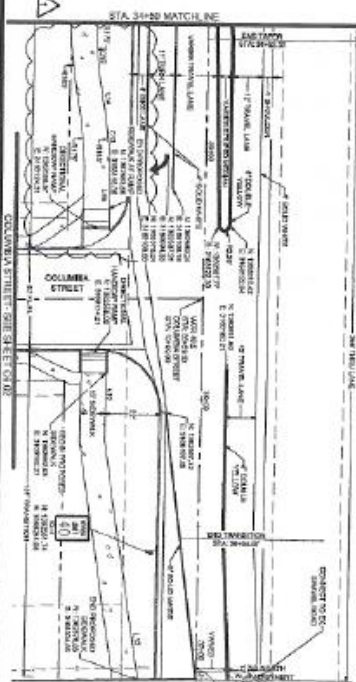
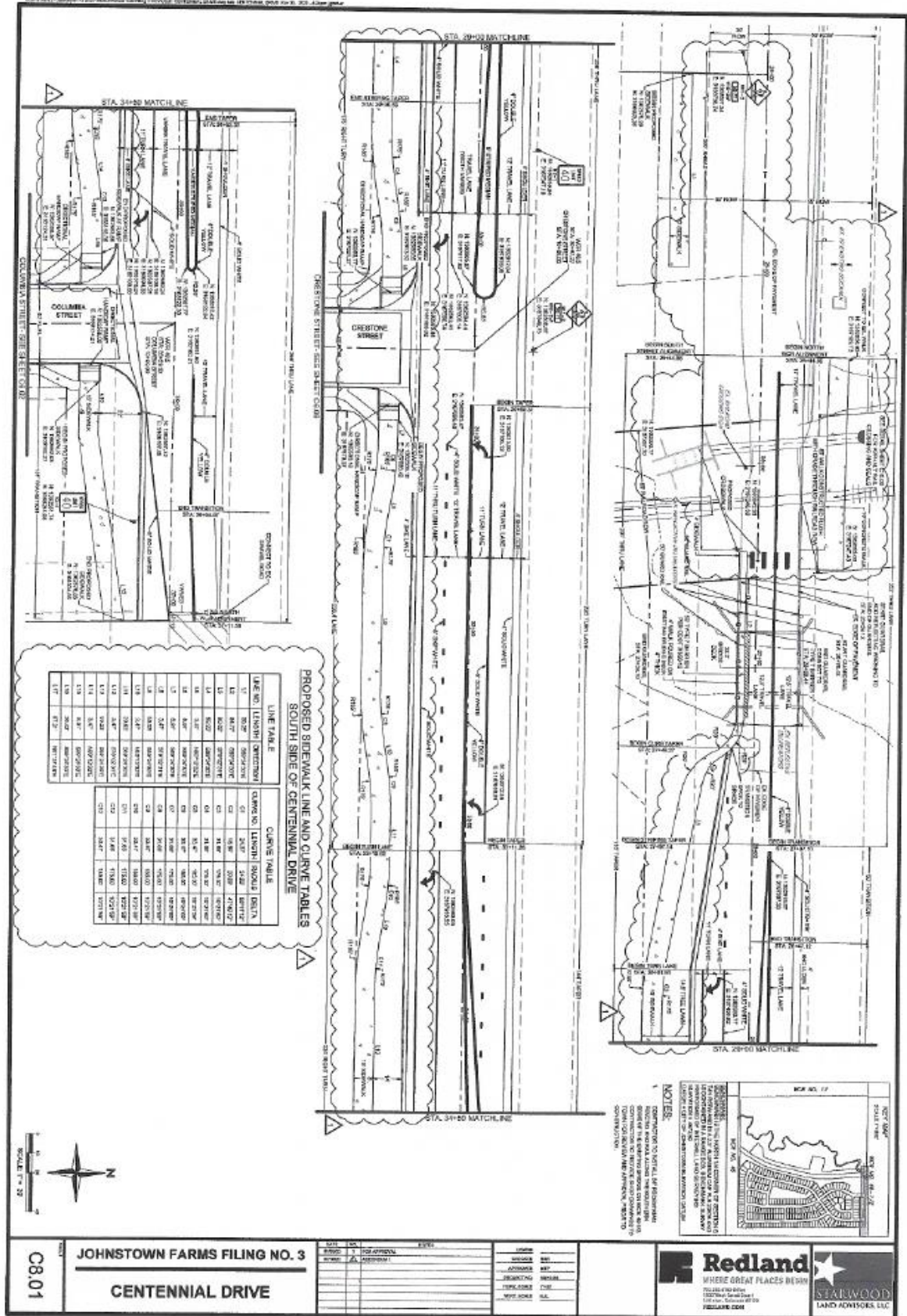
(ALL UNITS MUST HAVE ACTUAL MEASUREMENTS FROM THE FIELD SITE)

FOURMAN: _____ DATE: _____

TEAM LEADER: _____

SCHEDULE 2
Depiction of Sidewalk

[follows this page]



PROPOSED SIDEWALK LINE AND CURVE TABLES
SOUTH SIDE OF CENTENNIAL DRIVE

LINE TABLE		CURVE TABLE	
LINE NO.	LENGTH (FEET)	CURVE NO.	ANGLE (DEG)
11	80.00	01	23.87
12	81.00	02	12.87
13	82.00	03	11.87
14	83.00	04	10.87
15	84.00	05	9.87
16	85.00	06	8.87
17	86.00	07	7.87
18	87.00	08	6.87
19	88.00	09	5.87
20	89.00	10	4.87
21	90.00	11	3.87
22	91.00	12	2.87
23	92.00	13	1.87
24	93.00	14	0.87
25	94.00	15	0.87
26	95.00	16	0.87
27	96.00	17	0.87
28	97.00	18	0.87
29	98.00	19	0.87
30	99.00	20	0.87
31	100.00	21	0.87



NOTES:

1. THE PROPOSED SIDEWALK LINE IS SHOWN IN RED.
2. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
3. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
4. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
5. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
6. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
7. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
8. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
9. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.
10. THE PROPOSED SIDEWALK LINE IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.

JOHNSTOWN FARMS FILING NO. 3
CENTENNIAL DRIVE

NO.	DATE	BY	REVISION

Redland
WHERE GREAT PLACES BEGIN

SEALWOOD
LAND ADVISORS, LLC

702.244.4400
1100 N. Greenway Blvd.
FOLLIFE, CO. 80429