

DEED OF PERPETUAL NON-EXCLUSIVE EASEMENT
(Water Line)

THIS DEED OF PERPETUAL NON-EXCLUSIVE EASEMENT, is made this ____ day of _____, 2021, between Town of Johnstown, State of Colorado, a Colorado municipal corporation whose address is 450 S. Parish Avenue, Johnstown, Colorado 80534 (“Grantor”), and the City of Thornton a Colorado home rule municipality (“Grantee”), located at 9500 Civic Center Drive, Thornton, Colorado 80229. Grantor and Grantee may be individually referred to as a “Party” and collectively referred to herein as “Parties.”

WITNESSETH

1. That for and in consideration in the amount of Ten Dollars (\$10.00) and of the covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, sells, and conveys to Grantee, its successors and assigns a Perpetual Non Exclusive Easement on, under, through, over and across property owned by Grantor, as described and depicted in **Exhibit A (20-3 PE)** attached hereto and incorporated herein by this reference the (“Property”) to access, install, construct, enlarge, use, operate, maintain, replace, repair, reconstruct, improve, relocate, inspect, survey, test and remove, at any time and from time to time as may be useful to, or required by Grantee, water pipelines, conduits, vaults, meters, valves, manholes, access roads subject to paragraphs 2.a. and 5. below or any other underground water pipeline utility structures (including, but not limited to, communication facilities) and all necessary underground cables, wires and all improvements and appurtenances thereto, with above ground improvements limited to vent pipes and utility location markers (“Improvements”).

2. Grantor further grants to Grantee:

- a. While the property is unplatted and used for agricultural purposes the right to ingress and egress through, to, in, on, over, across and along Grantor’s adjoining property to access the Perpetual Easement for the purpose of exercising the rights herein granted. To the maximum extent practicable, Grantee shall use existing gates, public roads, trails or facilities for access to avoid disruption to Grantor’s adjoining property;
- b. The right to mark the location of the Perpetual Easement by suitable markers set in or on the ground; provided that permanent markers shall be placed in locations, which will not interfere with any reasonable use Grantor shall make of said Property.

3. Grantor reserves the right to use and occupy the Property for any and all lawful purposes consistent with the rights and privileges above granted and which will not interfere with or endanger any of Grantee’s Improvements or otherwise interfere with Grantee’s rights hereunder.

4. The Parties further agree that the uses of the Property by Grantor and the agreements concerning those uses shall be as follows:

- a. Grantor shall not itself or through other persons or entities, erect or construct any building or other structure, or drill or operate any well, or construct any permanent obstruction, or allow the installation of other utilities on, over or in the Property without obtaining the prior specific written permission of Grantee;
- b. With the prior specific written permission of Grantee and to the extent that Grantee determines that such project will not interfere with or endanger any of Grantee's Improvements, Grantor may, install landscaping (except trees), pavement, curbs, gutters, sidewalks, trails, parking areas and associated curb cuts, driveways, fences, sprinkler systems, posts, poles or walls within the Property;
- c. Grantor for itself, or through other persons or entities, shall take no action that would impair or in any way decrease or increase the ground level, or the lateral or subjacent support for the appurtenances and Improvements within the Property without obtaining the prior specific written permission of Grantee;
- d. Without liability for damage, Grantee may remove anything identified under subparagraphs 4.a. and b. herein that is placed on, over, or in the Property without the prior specific written permission of Grantee at Grantor's cost (including, but not limited to removal, court, collection and attorneys' fees and costs). In addition, Grantee shall have the right, without liability for damage, to cut, trim, control and remove trees, brush, and other obstructions that injure or interfere with Grantee's occupation or enjoyment of the Permanent Easement or Improvements. Grantor shall also be liable to Grantee for all costs (including, but not limited to restoration, court, collection and attorneys' fees and costs) associated with or arising from a violation of the terms of paragraph 4.

5. Any future platting of the Property into multiple lots shall cause access to the Easement to be limited to those points at which public streets as shown on the plat cross the Easement. Access from individual lots abutting or incorporating the Easement shall be limited to emergency situations only. Public street intervals shall be no less than 600 feet apart or landowner shall reserve utility access easements for maintenance vehicles to allow access through public streets within the subdivision to the Easement.

6. Grantee shall restore or repair to its original condition or as close thereto as possible, except as necessarily modified to accommodate the Improvements any damages caused on said Property, arising out of the construction or reconstruction, maintenance or repair of said Improvements in the exercise of the rights hereby granted to Grantee;

7. In case Grantee shall permanently abandon the Perpetual Easement herein granted, and cease to use the same, all right, title and interest hereunder of Grantee shall revert to the then owner of the Property.

8. Grantee is responsible for obtaining any permits, approvals and consents, and meeting any other legal obligations or requirements including those imposed by any governmental authority prior to construction of Improvements within the Property. Grantor shall not object to or otherwise interfere with any application for any such permits, approvals and consents.

9. The Parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either Party, its agents or employees.

10. Grantor promises and agrees to defend Grantee in the exercise of its rights hereunder against any defect in Grantor's title to the land involved or Grantor's rights to make the grant herein above contained.

11. The covenants herein contained shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, personal representatives, successors and assignees.

12. The signatories hereto warrant that they have full and lawful authority to make the grant, covenants and promises herein above contained as Grantor, and the covenants and promises herein above made as Grantee.

13. The Parties agree that this Perpetual Easement shall be recorded, at Grantee's sole cost, in the office of the County Clerk and Recorder's Office in which this Perpetual Easement is located.

IN WITNESS WHEREOF, the Parties have executed this Deed of Perpetual Easement effective as of the date first written above.

[Signature Pages Follow]

GRANTOR:

Town of Johnstown, State of Colorado, a Colorado municipal corporation

ATTEST:

STATE OF _____)
)ss.
COUNTY OF _____)

Subscribed and acknowledged before me this _____ day of _____ 2021, by Town of Johnstown, State of Colorado, a Colorado municipal corporation.

WITNESS my hand and official seal.

My commission expires: _____.

Notary Public

GRANTEE:

CITY OF THORNTON, COLORADO, a Colorado home rule municipality

Mark Koleber, Thornton Water Project Director

ATTEST:

Kristen N. Rosenbaum, City Clerk

APPROVED AS TO FORM:
Luis A. Corchado, City Attorney

Senior Assistant City Attorney

STATE OF COLORADO)
)ss.
COUNTY OF ADAMS)

Subscribed and acknowledged before me this _____ day of _____, 2020,
by Mark Koleber, Thornton Water Project Director, City of Thornton.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A
EASEMENT DESCRIPTION (METES AND BOUNDS INCLUDING SURVEY
DRAWING)