

**REIMBURSEMENT AGREEMENT  
CONCERNING WATERLINE ALIGNMENT**

THIS REIMBURSEMENT AGREEMENT CONCERNING WATERLINE ALIGNMENT (“Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the Town of Johnstown, a home-rule municipal corporation of the State of Colorado (“Town”), and Podtburg Dairy Limited Partnership, LLLP, a Colorado limited liability limited partnership (“Owner”) (collectively, the “Parties”).

**RECITALS**

WHEREAS, Owner owns 448.32 acres of real property generally located south, with a portion north, of Weld County Road 44 and east of Weld County Road 13 (“Colorado Boulevard”), in the Town of Johnstown, County of Weld, State of Colorado, more particularly described on Exhibit A attached hereto and incorporated herein by reference (“Property”); and

WHEREAS, to, among other reasons, accommodate development of the Property, the Town is designing, financing and constructing a waterline and related improvements along Colorado Boulevard, including the portion of Colorado Boulevard that is adjacent to the Property (the “Waterline”); and

WHEREAS, Owner is not yet prepared to commence development of the Property; and

WHEREAS, the Parties recognize and agree that the Waterline would ideally be situated in a location along Colorado Boulevard that will be advantageous to Owner’s future development of the Property; and

WHEREAS, upon the terms and conditions set forth in this Agreement, the Town agrees to incur the additional design engineering costs to determine the best location to place the Waterline along Colorado Boulevard and to thereafter place the Waterline in such beneficial location; and

WHEREAS, Owner agrees to reimburse the Town for the Town’s reasonable additional design engineering costs related to the alignment of the Waterline as further discussed and limited below;

WHEREAS, to effectuate the foregoing, the Parties desire to enter into this Agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the above premises and the covenants as hereinafter set forth, it is agreed by and between the Parties as follows:

1. Incorporation of Recitals. The Parties confirm and incorporate the foregoing recitals into this Agreement.

2. Waterline Alignment. In connection with the design and construction of the Waterline, the Town agrees to engage an engineer to ascertain the most beneficial location for the alignment of the Waterline along the portion of the roadway that is adjacent to the Property to facilitate the subsequent development of the Property and to thereafter situate the Waterline in such location, and install in the Waterline Stub connection (the "Stub Connection") to the boundary of the Property in the location mutually agreed upon (collectively, "Roadway Alignment Work"). The Stub Connection shall thereafter remain available for Owner in connection with the development of the Property. Notwithstanding anything to the contrary contained herein, the Town covenants to complete the Roadway Alignment Work no later than the date that is September 1, 2022 following the date of this Agreement. The Town shall provide as-built survey of the Waterline showing and describing the Roadway Alignment Work within 30 days after the completion of the Roadway Alignment Work.

3. Reimbursement of Town's Costs. Prior to issuance of the first building permit for the Property, or at a time prior thereto if requested by the Town, Owner shall reimburse the Town for the Roadway Alignment Work in a total amount not to exceed \$7,000. Subsequent to completion of the Roadway Alignment Work, the Town shall submit the final costs to Owner.

4. Remedy. Among all other remedies provided by law, if Owner does not reimburse the Town for the Roadway Alignment Work as provided herein, the Town shall be entitled to withhold the issuance of building permits for the Property.

5. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties and all heirs, transferees, successors and assigns hereof, and shall constitute covenants running with the land. In addition to the foregoing and to the extent excluded therefrom, this Agreement shall be binding upon all developers of the Property or any part thereof.

6. Notices. All notices required under this Agreement shall be in writing and shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the Parties herein set forth. All notices by hand-delivery shall be effective upon receipt. All notices by mail shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party, by notice to be given, may change the address to which future notices shall be sent.

Notice to Town:

Town of Johnstown  
Attn: Town Manager  
450 S. Parish Avenue  
P. O. Box 609  
Johnstown, CO 80534  
Mlecerf@townofjohnstown.com

Notice to Owner:

Podtburg Dairy Limited Partnership, LLLP  
37905 WCR 35  
Eaton, CO 80615

Notwithstanding the foregoing, notice may be provided by electronic mail (“e-mail”) on the condition that the receiving party (i) acknowledges receipt of the e-mail and (ii) does not promptly object to the form of notice.

7. **Governing Law and Venue.** The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Weld County, Colorado.

8. **Attorney’s Fees and Costs.** If any judicial proceedings may hereafter be brought to enforce any of the provisions hereof, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney’s fees and reasonable expert witness fees.

9. **Amendment.** This Agreement may be amended only by mutual agreement of the Parties. Such amendments shall be in writing, shall be recorded with the County Clerk and Recorder of Weld County, Colorado, shall be covenants running with the land and shall be binding upon all persons or entities having an interest in the Property.

10. **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.

11. **Entire Agreement.** This Agreement embodies the entire agreement of the Parties. There are no promises, terms, conditions or obligations other than those contained herein; and this Agreement supersedes all previous communications, representations or agreements, either verbal or written, between the Parties.

12. **Headings.** The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

[Signature pages attached]

TOWN OF JOHNSTOWN, COLORADO,  
A MUNICIPAL CORPORATION

ATTEST:

By: \_\_\_\_\_ By: \_\_\_\_\_  
Diana Seele, Town Clerk Gary Lebsack, Mayor

OWNER:

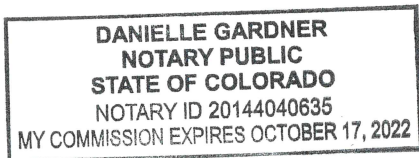
PODTBURG DAIRY LIMITED PARTNERSHIP, LLLP,  
a Colorado limited liability limited partnership

By: Marcus Podtburg  
Name: MARCUS Podtburg  
Its: Representative

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF Weld     )

The foregoing instrument was acknowledged before me this 31 day of March, 2021, by Marcus Podtburg as Representative of Podtbutrg Dairy Limited Partnership, a Colorado limited liability limited partnership.

Witness my hand and official seal.



Danielle Gardner  
Notary Public  
My Commission Expires: 10/17/2022

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**PROPERTY**

A parcel of land being a portion of the West Half of Section Eighteen (18) and the Northwest Quarter of Section Nineteen (19), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) and a portion of the East Half of Section Thirteen (13) and the North Half of Section Twenty-four (24), Township Four North (T.4N.), Range Sixty-eight West (R.68W.), Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado:

**COMMENCING** at the Northeast Corner of said Section 13 and assuming the East line of the Northeast Quarter of Section 13 as bearing South 00°02'15" East a distance of 2647.90 feet with all other bearings contained herein relative thereto:

THENCE South 00°02'15" East along the East line of the Northeast Quarter of said Section 13 a distance of 2647.90 feet to the East Quarter Corner of Section 13;

THENCE South 00°02'29" East along the East line of the Southeast Quarter of said Section 13 a distance of 1134.55 feet to the **POINT OF BEGINNING**.

THENCE North 00° 32' 02" East a distance of 3001.06 feet to the Easterly Right of Way line of Weld County Road 13;

The following Three (3) courses are along the Easterly Right of Way lines of Weld County Road 13.

THENCE South 00° 02' 15" East a distance of 1866.36 feet;

THENCE South 00° 02' 29" East a distance of 2648.03 feet;

THENCE South 00° 06' 39" West a distance of 1324.43 feet;

THENCE South 89° 43' 17" West a distance of 2680.42 feet to the Northeast Corner of Northmoor Acres Second Filing recorded March 20, 1972 as Reception No. 1585866;

The following Ten (10) courses are along the Easterly, Southerly, and Westerly lines of Tract D-1 of said Northmoor Acres Second Filing:

THENCE South 00° 06' 15" West a distance of 13.89 feet to the Southeast Corner of said Tract D-1

THENCE North 89° 44' 34" West a distance of 152.81 feet;

THENCE South 88° 54' 36" West a distance of 68.31 feet;

THENCE South 88° 58' 33" West a distance of 351.36 feet;

THENCE South 88° 41' 39" West a distance of 225.35 feet;

THENCE South 89° 11' 58" West a distance of 121.90 feet;

THENCE South 89° 47' 15" West a distance of 155.18 feet;

THENCE South 89° 38' 59" West a distance of 451.60 feet;

THENCE South 89° 26' 24" West a distance of 423.45 feet;

THENCE South 89° 05' 24" West a distance of 649.81 feet to an Easterly line of Wilson Ranch Annexation to the Town of Berthoud recorded April 23, 2004 as Reception No. 3173568;

The following Four (4) courses are along the Easterly lines of said Wilson Ranch Annexation:

THENCE North 00° 03' 04" East a distance of 43.07 feet;

THENCE South 89° 56' 54" West a distance of 20.00 feet;

THENCE North 00° 03' 04" East a distance of 1331.68 feet to the North line of the Northwest Quarter of Section 24;

THENCE North 00° 03' 04" East a distance of 30.00 feet to the Northerly Right of Way of Weld County Road 44;

THENCE North 89° 55' 24" East along said Northerly Right of Way line of Weld County Road 44 a distance of 2620.33 feet to the West line of the Southeast Quarter of said Section 13;  
THENCE North 00° 02' 05" West along said West line a distance of 857.85 feet to the Southwest corner of Lot B of Recorded Exemption No. 1061-13-4 RE-3863;

The following Seventeen (17) courses are along the Southerly lines of Lot B of Recorded Exemption No. 1061-13-4 RE-3863 recorded October 18, 2004 as Reception No. 3228383 of the Records of Weld County:

THENCE South 79° 11' 49" East a distance of 251.09 feet to a Point of Curvature;  
THENCE along the arc of a curve concave to the Northwest a distance of 92.52 feet, said curve has a Radius of 115.39 feet, a Delta of 45° 56' 32", and is subtended by a Chord bearing North 77° 50' 10" East a distance of 90.07 feet to a Point of Tangency;  
THENCE North 54° 51' 44" East a distance of 181.87 feet to a Point of Curvature;  
THENCE along the arc of a curve concave to the Southeast a distance of 144.05 feet, said curve has a Radius of 124.38 feet, a Delta of 66° 21' 24", and is subtended by a Chord bearing North 88° 02' 19" East a distance of 136.13 feet to a Point of Tangency;  
THENCE South 58° 46' 59" East a distance of 133.41 feet to a Point of Curvature;  
THENCE along the arc of a curve concave to the Northeast a distance of 115.53 feet, said curve has a Radius of 193.24 feet, a Delta of 34° 15' 17", and is subtended by a Chord bearing South 75° 54' 49" East a distance of 113.82 feet to a Point of Return Curvature;  
THENCE along the arc of a curve concave to the Southwest a distance of 285.43 feet, said curve has a Radius of 753.31 feet, a Delta of 21° 42' 34", and is subtended by a Chord bearing South 82° 11' 10" East a distance of 283.73 feet to a Point of Return Curvature;  
THENCE along the arc of a curve concave to the Northeast a distance of 378.03 feet, said curve has a Radius of 800.39 feet, A Delta of 27° 03' 40", and is subtended by a Chord bearing South 84° 51' 55" East a distance of 374.53 feet to a Point of Return Curvature;  
THENCE along the arc of a curve concave to the Southwest a distance of 179.58 feet, said curve has a Radius of 171.12 feet, a Delta of 60° 07' 42", and is subtended by a Chord bearing South 68° 19' 54" East a distance of 171.45 feet to a Point of Tangency;  
THENCE South 38° 16' 02" East a distance of 117.93 feet to a Point of Curvature;  
THENCE along the arc of a curve concave to the Northeast a distance of 58.61 feet, said curve has a Radius of 231.16 feet, a Delta of 14° 31' 38", and is subtended by a Chord bearing South 45° 31' 53" East a distance of 58.45 feet to a Point of Tangency;  
THENCE South 52° 47' 41" East a distance of 176.69 feet to a Point of Curvature;  
THENCE along the arc of a curve concave to the Northeast a distance of 107.69 feet, said curve has a Radius of 183.32 feet, a Delta of 33° 39' 29", and is subtended by a Chord bearing South 69° 37' 20" East a distance of 106.15 feet to a Point of Tangency;  
THENCE South 86° 27' 04" East a distance of 88.57 feet to a Point of Curvature;  
THENCE along the arc of a curve concave to the Northwest a distance of 131.99 feet, said curve has a Radius of 937.08 feet, a Delta of 08° 04' 13", and is subtended by a Chord bearing North 89° 30' 49" East a distance of 131.88 feet to a Point of Return Curvature;  
THENCE along the arc of a curve concave to the Southwest a distance of 359.49 feet, said curve has a Radius of 498.28 feet, a Delta of 41° 20' 12", and is subtended by a Chord bearing South 73° 51' 12" East a distance of 351.74 feet to a Point of Tangency;  
THENCE South 53° 11' 05" East a distance of 63.29 feet to the Westerly Right of Way line of Weld County Road 13;  
THENCE North 00° 02' 29" West along said Westerly Right of Way line a distance of 2333.22 feet;  
THENCE North 00° 02' 15" West continuing along said Westerly Right of Way line a distance of 1867.83 feet;  
THENCE South 00° 36' 41" East a distance of 3002.53 feet to the East line of the Southeast Quarter of said Section 13 and to the **POINT OF BEGINNING.**

**TOTAL AREA** for the Owner is 212.76 acres, more or less ( $\pm$ ).

**AND**

A parcel of land being a portion of the West Half of Section Nineteen (19) and the Northwest Quarter of Section Thirty (30), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) and a portion of Section Twenty-four (24) and the Northeast Quarter of Section Twenty-five (25), Township Four North (T.4N.), Range Sixty-eight West (R.68W.), Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado:

**COMMENCING** at the Northeast Corner of said Section 13 and assuming the East line of the Northeast Quarter of Section 13 as bearing South  $00^{\circ}02'15''$  East a distance of 2647.90 feet with all other bearings contained herein relative thereto:

THENCE South  $00^{\circ}02'15''$  East along the East line of the Northeast Quarter of said Section 13 a distance of 2647.90 feet to the East Quarter Corner of Section 13;

THENCE South  $00^{\circ}02'29''$  East along the East line of the Southeast Quarter of said Section 13 a distance of 2647.99 feet to the Southeast Corner of said Section 13:

THENCE South  $00^{\circ}06'39''$  West along the East line of the Northeast Quarter of the Northeast Quarter of Section 24 a distance of 1324.59 feet to the Southeast Corner of the Northeast Quarter of the Northeast Quarter of said Section 24 and to the **POINT OF BEGINNING**.

THENCE North  $89^{\circ} 43' 17''$  East a distance of 30.00 feet to the Easterly Right of Way line of Weld County Road 13;

The following Three (3) courses are along the Easterly Right of Way line of said Weld County Road 13.

THENCE South  $00^{\circ} 06' 39''$  West a distance of 1324.80 feet;

THENCE South  $00^{\circ} 06' 37''$  West a distance of 2649.04 feet;

THENCE South  $00^{\circ} 06' 37''$  West a distance of 29.74 feet to the Easterly prolongation of the Southerly Right of Way line of Weld County Road 42;

THENCE South  $89^{\circ} 36' 32''$  West along said Easterly prolongation of the Southerly Right of Way line of Weld County Road 42 a distance of 29.74 feet;

THENCE South  $89^{\circ} 36' 32''$  West continuing along the Southerly Right of Way line of said Weld County Road 42 a distance of 2650.03 feet;

THENCE North  $00^{\circ} 23' 48''$  West a distance of 30.00 feet to the South Quarter Corner of said Section 24;

THENCE North  $00^{\circ} 06' 15''$  East along the Easterly line of Northmoor Acres Second Filing recorded March 20, 1972 as Reception No. 1585866 of the Records of Weld County a distance of 3964.93 feet to the Southeast Corner of Tract D-1 of said Northmoor Acres Second Filing;

THENCE North  $00^{\circ} 06' 15''$  East continuing along the Easterly line of said Northmoor Acres Second Filing a distance of 13.89 feet to the Center-North Sixteenth Corner of said Section 24;

THENCE North  $89^{\circ} 43' 17''$  East along the South Line of the North Half of the Northeast Quarter of said Section 24 a distance of 2650.42 feet to the **POINT OF BEGINNING**.

**TOTAL AREA** for the Owner is 246.49 acres, more or less ( $\pm$ ).