

**INTERGOVERNMENTAL AGREEMENT CONCERNING WATER SERVICES
BETWEEN TOWN OF JOHNSTOWN AND LITTLE THOMPSON WATER DISTRICT**

THIS INTERGOVERNMENTAL AGREEMENT CONCERNING WATER SERVICES (“Agreement”) is made and entered into this ____ day of _____, 20__, by and between the TOWN OF JOHNSTOWN, a home rule municipal corporation of the State of Colorado (“Town”), and the LITTLE THOMPSON WATER DISTRICT, a Title 32 special district and political subdivision of the State of Colorado (“District”), collectively referred to as “the Parties.”

WITNESSETH:

WHEREAS, the Town owns and operates a potable water system, providing water service primarily to residents of the Town, and the District owns and operates a potable water system, providing water service to, among other areas, portions of Weld County that are adjacent, or in close proximity, to the Town; and

WHEREAS, the Colorado Department of Transportation (“CDOT”) is making improvements to Interstate 25 in Northern Colorado, which includes improvements to the interchange at Interstate 25 and State Highway 60; and

WHEREAS, for the regional interest and to control costs related to the Interstate 25 improvements, the District has requested that the Town assume water service for five properties that are currently served by the District, to wit:

- (i) real property with a street address of 4861 Highway 60 and legal description of PT SE4 2-4-68 LOT A AMD REC EXEMPT AMRE-3625 (.49R) (Parcel No. 106102400034);
- (ii) real property with a street address of 4855 Highway 60 and legal description of PT SE4 2 4 68 LOT B REC EXEMPT RE-5052 (Parcel No.106102400037);
- (iii) real property with legal description of PT SE\$ 2 4 68 LOT A REC EXEMPT RE-5052 (Parcel No.106102400036);
- (iv) real property with a street address of 22764 I-25 Frontage RD and legal description of 25735 NW4 11 4 68 EXC BEG 60’N & 141’E OF SW COR NW4 E809’ N125’ W809’ S125’ TO BEG (2.2A) EXC 2A GWS CO EXC UPRR RES (Parcel No. 106111000001); and
- (v) real property with a street address of 4822 W South 1st Street and legal description of PT NE4 11 4 68 SE 665 (Ridgeview Ranch Annex) (.45R) (Parcel No. 106111200024).

WHEREAS, the five properties shall be collectively referred to as “Properties” and singularly as “Property;” and

WHEREAS, upon the terms and conditions set forth in this Agreement, the District desires for the Town to provide the water service to the Properties and the Town agrees to provide the water service; and

WHEREAS, pursuant to the provisions of Article XIV, Section 18(2) of the Colorado Constitution and Sections 29-1-201 *et seq.*, C.R.S., government entities may cooperate and contract to provide any function, service or facility lawfully authorized to each of the cooperating or contracting entities; and

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

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

1. **Recitals**. The Recitals are incorporated into the Agreement as if fully set forth herein.

2. **Water Service**. Upon the installation of a water meter acceptable to and funded by the Town, as described below, the Town agrees to provide water service to the Properties. For the first twelve (12) monthly water bills, the Town shall charge the in-town water rate for water service to each Property. Subsequent thereto, the Town shall charge the in-town water rate for water service to any of the Properties that have annexed into the Town and the out-of-town water rate to any of the Properties that remain outside the boundaries of the Town. The Town recognizes and agrees that the real property referenced above with a street address of 4855 and 4861 Highway 60 is not within the boundaries of the Town and shall thus be charged the in-town water rates for the first twelve (12) months.

3. **Water Exchange**. As consideration for the Town's agreement to provide water service to the Properties and to provide a viable supply of water to the Town to satisfy such obligation, the District agrees to convey to the Town three (3) units of the Colorado Big Thompson project water. The District agrees to pay the transfer fees to the Northern Colorado Water Conservancy District, if any, following initiation of the transfer by the District, and take the requisite action to effectuate the foregoing transfer. The water exchange shall be complete prior to the Town's installation of water meters at any of the Properties.

4. **Effective Date**. This Agreement shall be effective as to each Property on the date that the Town installs the water meter at such Property.

5. **Additional Documents or Action**. The Parties agree to execute any additional documents and take any additional action reasonably necessary to carry out the terms of this Agreement, including but not limited to excluding the properties listed as Weld County Parcel Numbers 106111000001, 106102400036, 106102400037, 106102400034, and 106111200024 from Little Thompson Water District.

6. **Condition Precedent.** The Parties recognize and agree that, to effectuate the purpose of this Agreement, the Town is required to enter into an agreement with CDOT providing for the construction of a water line to the Properties. This Agreement shall be effective, if at all, when the Town and CDOT execute such an agreement, and the execution of such agreement is a condition precedent to the rights and obligations provided herein. The Town shall notify the District when it enters into an agreement with CDOT and shall provide a copy of the executed agreement to the District.

7. **Notices.** All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered or mailed postage prepaid, certified mail, return receipt requested as follows:

TO DISTRICT:
Little Thompson Water District
Attn: District Manager
835 E. Highway 56
Berthoud, CO 80513

TO THE TOWN:
Town of Johnstown
Attn: Town Clerk
450 S. Parish Ave.
PO Box 609
Johnstown, CO 80534

The addresses for notices may be changed by written notice given to the other Party in the manner provided above. Notice may also be sent via e-mail delivery and shall be effective upon confirmation of receipt of the email.

8. **Assignment.** This Agreement shall not be assigned without the prior consent of the other Party.

9. **Amendment or Modification.** No amendment or modification of this Agreement shall be of any force or effect unless in writing and signed by the Parties hereto.

10. **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.

11. **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.

12. **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 claim, proceeding or action shall be in Weld County, State of Colorado.

13. **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.

14. **No Presumption.** 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. 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.

IN WITNESS WHEREOF, the Parties have executed this Intergovernmental Agreement Concerning Water Services the day and year first above written.

ATTEST:

**TOWN OF JOHNSTOWN, COLORADO
a municipal corporation**

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

ATTEST:

**LITTLE THOMPSON WATER
DISTRICT**

By: _____
Amber Kauffman, Secretary

By: _____
William Szmyd, Board President