



Town of Frederick Board of Trustees Agenda

Frederick Town Hall
Board Chambers
401 Locust Street
Tuesday, June 25, 2024

7:00 PM

**Work Session 5:30 PM
Water Rate Study
Go Outdoors Frederick 2050**

**Agenda
Regular Meeting 7:00 PM**

Call to Order – Roll Call

Pledge of Allegiance

Approval of Agenda

Special Presentations

Public Comment

This portion of the agenda is provided to allow members of the audience to provide comments to the Board of Trustees. Please sign in and you will be called. If your comments or concerns require an action, that item(s) will need to be placed on a later Agenda. Please limit the time of your comments to three (3) minutes.

Staff Reports

- A. Administrative Report -
Bryan Ostler, Town Manager

Consent Agenda

Consent Agenda items are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of Consent Agenda Items unless a Board member so requests, in which case the item may be removed from the Consent Agenda and considered at the end of the Consent Agenda.

- B. Resolution 24-R-39 Easements and Maintenance Agreements -
Kevin Ash, Engineering Director

- C. Resolution 24-R-40 Meadowlark Business Park ROW Dedication -
Kevin Ash, Engineering Director
- D. Resolution 24-R-41 Consideration of the First Amendment to the Clearview Villages Memorandum of Agreement for Public Improvements -
Jason Berg, Engineer

Action Agenda

- E. Board, Commission, and Committee Appointments -
Emily Nitcher, Deputy Town Clerk
- F. Resolution 24-R-42 Go Outdoors Frederick 2050 Contract Approval -
Colby Johnson, Parks and Open Space Director
- G. Resolution 24-R-43 Colorado Water Plan Grant -
Sarah Watson, Engineer
- H. Resolution 24-R-37 WCR13 and WCR20 Intersection Operation Improvement Project - Contract for Design Services -
Jason Berg, Engineer

Mayor and Trustee Reports

Executive Session

- I. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators under C.R.S. Section 24-6-402(4)(e)(1) regarding Metro District Agreements.

Adjournment



Town of Frederick Admin Report 6.25.24

Upcoming Board of Trustees Work Sessions:

The following is the schedule for upcoming meetings, though topics are subject to be changed or rescheduled:

- June 25, 2024 – Regular Meeting
- July 2, 2024 – Work Session (Cancelled)
- July 9, 2024 – Regular Meeting
- July 16, 2024 – Work Session (Cancelled)



Effective, Efficient & Strategic Government Operations

- The PROST Commission met on May 8th and discussed several ongoing projects and programs. Tim Schwartz gave an update on opportunities to volunteer with golf programming such as Family Golf Day, Junior Golf, Learn to Golf and others, and Colby discussed similar opportunities to assist with outreach at Town events. The Department's CAPRA Accreditation process was discussed with the Commission and received support to proceed over the next 2-3 years. The Commission also celebrated Jamison Stanworth, our Youth Commission liaison who graduated in May.
- The PROST Commission met on June 12th and held their annual parks and open space tour. This annual tour is meant to visit park and open space sites in-person that are planned for improvements in the next 1-2 years. This year's locations included Bella Rosa's clubhouse and maintenance facility, sites in No-Name Creek, Mendoza Open Space, and Centennial Park.
- Sean Murphy, Technician I, obtained his Certified Operator Pesticide License. Juston Marr, Technician II, obtained his Playground Maintenance Certification. Ventura Dominguez, Uriel Herrera and Tony Talarico obtained their Basic Pesticide Safety certificates and forklift certifications. Sara Barnard obtained her Certified Inclusive Playground Designer certificate.
- Tim Schwartz and Kim Strong obtained a Certification in Financial Sustainability in Parks and Recreation by attending a three-day training put on by the Colorado Parks and Recreation Association.

Built on What Matters.



Community and Economic Vitality

- The Frederick Recreation Area Master Plan is out for another round of community engagement for the Preliminary Master Plan phase. Staff are working with the project partner on more detailed site plans for the Bella Rosa clubhouse, maintenance facility and practice facility area, the east entrance and lake access at FRA, and the new west active use area (north of the proposed baseball diamond). The project is on schedule for adoption by PROST and the Board in Q4 2024.
- The final Crist Park site plan is nearly complete. Staff have been working with PROST and the project partner on revisions after this winter’s community engagement. The project is ahead of schedule, and we expect adoption by PROST and the Board in Q3 2024.
- The Mendoza site plan’s first draft and project website will be released to the community prior to this meeting. Our first in-person outreach will be the Tour and Talk at Wyndham Hill. The purpose of this site plan is to inform system master planning efforts and to assist Town staff as development continues to grow west of I-25.
- The first beginner junior golf session was hosted on June 3-6. There were 38 total attendees, 23 juniors (5-9 years old) and 15 juniors (10 years & older). Juniors learned the fundamentals of golf, had some friendly competition & played a few holes on the golf course to finish the week.
- The first Women’s fun night was hosted on 6/12. There were 38 attendees, which was the highest participation for this event. Attendees played 9-holes and enjoyed appetizers & cocktails after they played.
- The following is a list of all active development applications currently under review by the Town’s Planning Department, Engineering Department, Legal Counsel, Frederick-Firestone Fire Protection District, and external review agencies.

<i>Project Name (Date of Application)</i>	<i>General Location</i>	<i>Brief Description</i>	<i>Project Type</i>
Bear Industrial Business Park, Replat 4, Lot 12A (1/2/24)	4109 Bruin Boulevard	Proposed warehouse/office building for construction contracting company with outdoor storage component.	Site Plan
Carriage Hills Filing 1, Replat A, Block 6, Lot 1 – 10 (3/6/23)	6500 – 6554 11 th Street	Building design review for single-family detached and attached housing.	Construction Document Review
Clearview Villages (10/31/23)	Southwest corner of Godding Hollow and Silver Birch	Water demand analysis for the subdivision.	Water Demand Analysis
CWCWD 30” Waterline Easement (9/29/22)	Between Tipple Parkway and Highway 52 from Colorado Boulevard to Wheatland Boulevard.	30” waterline easement proposed.	
Dreamers Ridge Phase 1, Replat A (7/3/23)	Southwest of Godding Hollow and Colorado 5.	Proposed new tracts B, C and a new Lot 1. Lot 1 proposed as a 70-acre residential estate lot.	Minor Subdivision

<i>Project Name (Date of Application)</i>	<i>General Location</i>	<i>Brief Description</i>	<i>Project Type</i>
Eagle Business Park Filing 4C, Lot 1 (1/16/24)	7200 Eagle Boulevard	Create a site plan document that reflects changes already made to the site such as the lot expansion.	Site Plan Amendment
Eagle Business Park Filing 5, Lot 3&4 (10/16/23)	4609 & 4701 Falcon Place	Proposed St Vrain Sanitation District administration maintenance facility.	Subdivision Amendment; Site Plan
Evezich Amendment 2, Lot 3A (10/23/23)	131 Aspen Drive	Proposed “Brigit’s Village” 40-unit affordable mixed-use residential building.	Site Plan
Frederick West Business Center, Filing 2., Block 2, Lot 6 (1/2/24)	7701 Miller Drive	Proposed building addition to the west side of an existing building.	Site Plan Amendment
Frederick West Business Center, Replat F, Block 9, Lot 6 (2/16/24)	7300 Miller Dr	Proposed division subdivision of existing lot into two lots.	Subdivision Amendment
Glacier Business Park, Amendment 1, Block 4, Lot 5 (2/5/24)	3771 Monarch St. Suite E	Proposed dog daycare and kenneling facility.	Conditional Use
Indian Peaks Filing 10, Block 5, Lot 2 (4/15/24)	8426 Kosmerl Place	Proposed parking addition.	Site Plan Amendment
Indian Peaks, Filing 12, Lot 1 (7/17/23)	8123 Indian Peaks Avenue	Proposed replacement of aboveground extended detention basin with an underground detention facility and the modification of right-of-way landscaping with a waterwise design.	Site Plan Amendment
Columbine Heights (8/9/23)	Currently “Johnson Farms/Sindle Hill Energy Minor”	Proposed single-family detached residential community.	Preliminary Development Plan; Preliminary Plat
Meadowlark Business Park, Block 1, Lot 1 (4/22/24)	5964 Iris Parkway	Proposed 10,000-sf expansion to the existing building.	Site Plan Amendment
Meadowlark Business Park, Replat A, Block 1, Lot 2 (8/21/23)	5978 Iris Parkway	Proposed 20,250-sf industrial building as phase 1. Phase 2 to include the addition of an outdoor storage area. Phase 3 to include removal of storage to be replaced with a 20,500-sf building and additional parking.	Site Plan
Miners Park Town Centre (3/6/23)	Northeast corner of Colorado Boulevard and Highway 52.	Planned development directly south of downtown Frederick.	Construction Document Review; Final Plat; Rezone
Silverstone Filing 7	Currently “Miner’s Village Filing 1”	Proposed development of 581 single-home residential lots.	Preliminary Plat, Preliminary Development Plan
Nelson Farms	Northeast corner of I-25 and Highway 52.	Proposed development of 236 acres as single-family	Preliminary Plat; Preliminary Development Plan;

<i>Project Name (Date of Application)</i>	<i>General Location</i>	<i>Brief Description</i>	<i>Project Type</i>
		detached, duplex, and townhome lots.	Subdivision Amendment
No Name Creek Estates, Filing 1, Replat C, Block 14, Lot 1-3 (11/27/23)	Eastern part of No Name Creek	Water demand analysis for the three lots listed.	Water Demand Analysis
Park n Ride Annexation (12/26/23)	Northwest corner of I-25 and Highway 52	Proposed QuikTrip	MOAPI Amendment; Site Plan; Variance
Prosperity (12/8/23)	Southeast of Tipple Parkway and Ridgeway Boulevard	Water demand analysis for the subdivision	Water Demand Analysis
Raspberry Hill Business Park Lot 13	8274 Raspberry Way	Proposed changes to materials and drainage from the original site plan.	Site Plan Amendment
Raspberry Hill Business Park Lot 15 (12/15/23)	8360 Raspberry Way	Proposed facility for an HVAC contractor to include a warehouse/shop, office space, and an outdoor storage component.	Site Plan
Shores on Plum Creek (6/20/22)	Northwest of Highway 52 and Colorado 3 ¼	Proposed master-planned community with retail/commercial opportunities and a wide range of housing types.	Minor Subdivision; Preliminary Plat; Preliminary Development Plan; Rezone
Silverstone Commons (9/29/23)	Currently "Silverstone Filing 1, Block 8, Lot 1". Northwest of Highway 52 and William Bailey Avenue	Proposed development of a commercial/retail project that is cohesive with the adjacent commercial/mixed-use property to the east.	Final Development Plan
Wheatlands (4/4/22)	Currently "Brunemeier Annexation"	Proposed high-quality residential neighborhood that will include single-family detached and attached housing.	Preliminary Development Plan; Preliminary Plat
Wildflower Filing 1, Amendment 1, Block 27, Lot 2 (1/2/24)	3833 Tipple Parkway	Proposed United Power battery energy storage system.	Site Plan
Wyndham Hill Filing 10 (11/16/20)	Currently "6855 Aggregate Boulevard"	Proposed single-family detached housing.	Final Development Plan; Final Plat



Dynamic, Inclusive & Connected Community

- Monthly Newsletter:
 - Electronic and mailer
- Weekly Flash, featuring four articles weekly
- Daily postings on social media platforms
- Communication and Campaign Planners
- FRED Culture

- Wellness walks: 1-on-1 interactions
- Monthly Communications team meeting
- ADA HB 21-21110 Compliance
 - CommonLook installation and training materials
 - HB 24-1454 research
 - Update Matrix:
 - Accessibility committee
 - Coordinators
 - Champions
- Town Event Preparation
 - Sponsor commitments for 2024
 - Chainsaw carver applications
 - Carver spots are full – accepting applications for waitlist
 - 2024 carvers have been announced on the Town website
 - Food vendor spots are nearly full
 - Market vendor application review
 - Frederick in Flight pilot recruitment
- Town App
 - Monthly Analytics Report
- Board Meetings:
 - Comms attendance at Board meetings to ensure Town communications align with Board’s vision and work in progress
 - Closed captioning on Board meeting recordings



Strategic, Reliable and Sustainable Infrastructure

- The Bella Rosa Clubhouse insulation repair project is complete. The Clubhouse has struggled with freezing pipes in the attic as the insulation was improperly installed. This project completely re-insulated the attic which will prevent freezing and significantly save on utility costs for HVAC.
- The irrigation central control system is nearly complete at Bella Rosa Golf Course. Staff are still working to work out a few kinks and to install the weather station. Additionally, this fall, staff will repair a few larger irrigation zones to improve turf quality on holes 2, 3 and 4 – this repair wouldn’t have been possible without the new central control.
- Our Trails Maintenance Program is just under halfway complete for 2024 and repairs have been made at Centennial Park’s north entrance ramps, small sections of Eagle Valley Park, the trail along Tipple in front of Frederick High School and some landscaping repairs along the Safe Routes to Schools Trail.
- Parks and Open Space maintenance staff have been fighting exceptionally dry conditions and hot temperatures late this spring. In addition to several improvement projects, irrigation repairs, weed control and day-to-day cleaning, vegetation maintenance and facility repairs have dominated their work schedules.
- Golf maintenance staff have been coordinating with the large stormwater improvement project in the area over the past several weeks. They’ve also been working with mother nature, fighting high temps and low moisture as they work to improve turf in some areas and maintain quality turf in others.

- Streets & Storm Water:
 - Storm sewer cleaning has been completed in the Savannah subdivision, and crews have begun cleaning and GIS mapping around Carriage Hills.
 - Gravel road maintenance has been completed on all Town maintained gravel roads, including County Road 5 and County Road 20.5.
 - The Public Works team recently participated in a touch-a-truck event with the third graders from Soaring Heights.
 - Crews assisted the Police Department with traffic control and road closures for the recent Frederick High School senior parade.
 - Public Works also assisted the Police Department with a canned cat food spill on Highway 52, which resulted in a lane closure while the cleanup was underway.
 - 30 residents participated in the monthly tree limb drop-off program.
- Water Division employees repaired a sinkhole at the intersection of Lodge Pole and Ponderosa.
- Fleet Services:
 - The new truck for Parks and Golf mechanics has arrived and Fleet Services took care of preparing it to get put in service.
 - Fleet is still working on some air conditioning system issues with the road grader. Several new parts have been ordered to assist with getting it back in good shape.
- Public Works training to enhance our teams' capabilities and safety standards:
 - Public Works crews conducted a monthly safety meeting, which included training regarding heat stress, heat safety, and spotter safety.



Safe and Secure

- The Police Department became the first law enforcement agency in the world to go live with Axon Draft One, a revolutionary new software that drafts high-quality police report narratives in seconds based on auto-transcribed body-worn camera audio. Draft One leverages generative artificial intelligence (AI) and includes several safeguards, requiring every report to be reviewed and approved by a human officer, ensuring accuracy of the information before reports are submitted. This is a valuable tool that will increase the efficiency of preparing reports for our police officers, allowing more time to be spent on community policing, crime prevention, and patrol. Reporting is a critical component of good police work and traditionally occupies a great deal of an officer's duties. Draft One works in conjunction with our new Axon RMS system and serves as an example of the department's forward thinking for the future.
- On May 29th the Police Department hosted the annual Weld County Torch Run, which is a cooperative fundraising event between law enforcement and Special Olympics Colorado. Concerns were raised in previous years about the safety aspect of the event due to increased traffic on the route from Frederick to Johnstown, so the event was held at Centennial Park for the second year in a row. 39 people participated from Frederick, Firestone, Dacono, and Mead, and they ran, walked, or biked a loop around the park. Over \$1,000 was raised for Special Olympics, and the participants got a good workout and a hearty breakfast prepared by our own Commander Glantz and his family. Even with the new format at Centennial Park, the PD was still able to send a small contingent

of runners to Johnstown to pass the torch for the trek to Greeley and the barbecue at the finish line. The Torch Run is a great event that supports an outstanding organization, and the PD is proud to continue as participants.



Fiscally Responsible Governance

- The Finance Department is currently working on the 2023 fiscal year audit and the related Annual Comprehensive Financial Report, which is due June 30th.



Built On What Matters

TOWN OF FREDERICK Board of Trustees Staff Report

Tracie Crites, Mayor

Kevin Brown, Mayor Pro
Tem
Dan March, Trustee
Mark Lamach, Trustee

Adam Mahan, Trustee
Windi Padia, Trustee
Chad teVelde, Trustee

Resolution 24-R-39 Easements and Maintenance Agreements

Agenda Date: 06/25/2024 BOT Meeting

Attachments:	1. 24-R-39 Resolution Administrative Approval of Easements	24-R-39 Resolution Administrative Approval of Easements.docx
---------------------	------------------------------------------------------------------	--------------------------------------------------------------------

Reviewed By:	ebetz@frederickco.gov Betz, Engineer Kevin Ash, Engineering Director Kurtis Adams, Finance Director Jason Meyers, Town Attorney Jason Leslie, Deputy Town Manager	Created/Initiated - 6/7/2024 Approved - 6/7/2024 Approved - 6/11/2024 Approved - 6/14/2024 Final Approval - 6/14/2024
---------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------

Action Type

- 1) Legislative: Actions that relate to subjects of a long term and general applicability; such as the passing of ordinances/resolutions/policies/etc.
- 2) Administrative: Actions of routine nature that implement policies/directions or effectuate the functioning of government; such as contract approvals/granting of licenses and permits/etc.

Strategic Plan Alignment:

Effective, Efficient and Strategic Government Operations – This request aligns with the Town’s desire to provide excellent customer service as it will reduce the turnaround time on projects within development review and create a process to proactively address maintenance and MS-4 items.

Summary Statement:

Staff is requesting administrative approval to accept utility easements for Town utility infrastructure on private property; administratively approve pond and drainage easements on private property; and administratively approve Operations and Maintenance Agreements, which will complement the Development Agreements by describing the Operations and Maintenance obligations of the owners and managers and provide a process for the Town to use the associated easements to perform Operations and Maintenance at the owners' cost if necessary. This is to allow the Town to access water infrastructure and private stormwater improvements for required maintenance as needed.

Detail of Issue/Request:

There are private properties in Town that do not have easements on ponds, drainage infrastructure, or water infrastructure. This is a concern because if there is an issue with the water infrastructure on the private property that needs to be maintained by staff, they will not be able to easily access that infrastructure. Additionally, when the Town is required to make sure that ponds and drainage infrastructure meets MS-4 requirements, without easements the Town may not be able to access that infrastructure. If a property owner is not properly maintaining the stormwater infrastructure that will be a major concern in regard to ensuring MS-4 compliance, which the Town may ultimately be responsible for. In order to facilitate that access, easements are required, and the addition of an Operations and Maintenance Agreement will describe the property owners' responsibilities and allow the Town to make improvements or repairs as necessary to meet MS-4 requirements at the owners' cost.

This Agreement is needed because development agreements and plat documents cannot assign maintenance responsibilities to an HOA or similar entity at the time of approval of the plat or agreement. Staff have begun requiring easements for this infrastructure on new projects moving forward. This has the dual purpose of locking in the location and functionality of that infrastructure as well as giving staff access and ability to maintain that infrastructure as needed. The easements and agreement work together to incentivize better maintenance from the private owners, avoid unnecessary obligations for the Town, and create the ability for the Town to do emergency repairs and or maintenance if it becomes necessary, including addressing MS-4 compliance violations. This will also keep site plan reviews an administrative process, which is conducive to a more efficient process in line with the intent of the current process.

By including these easements and agreements in the administrative process of site plan and private property improvement reviews, it will eliminate the need to prepare an item to go to the Board prior to recording the easement, which can unnecessarily delay the project approval and construction. The ability for staff to process these easements and agreements can decrease the overall construction project duration, which in turn can reduce the public impact of those construction projects. Addressing these items at a staff level would serve to streamline the construction process and keep the Town's resources more available for customer service and ensuring higher levels of quality in other areas. This would also reduce the number of expected consent items in a year by

approximately 20-50, freeing up the Board's time to focus on higher level issues.

The scope of this request is to allow staff to process and approve easements and maintenance agreements whose purpose is to allow for public infrastructure whose need is identified through the engineering process and whose obligations do not extend beyond normal maintenance of water systems, which would otherwise be the Town's responsibility but do allow for the Town to perform maintenance of stormwater systems in an emergency situation and in situations of neglect for which the Town may be responsible under MS-4. This would not allow staff to make agreements that obligate the Town to further responsibilities, as that is to remain strictly under the purview of the Board of Trustees. The provided attachment shows one way of accomplishing this moving forward but isn't intended to be the only form this Agreement will take as project specifics may require some differences.

Additionally, when coordinating items that pertain to regional issues (e.g., multiple jurisdictions are involved), these items will only allow staff to designate the location of agreed upon improvements if the need arises, but will not allow staff to agree to regional solutions without Board approval. The intent of this item is to address minor items during the site plan process specific to that individual site or minor items missed after the final plat process is completed. These items will not pertain to creating or agreeing to any regional drainage solutions at a staff level, as these topics are more appropriately presented to the Board for consideration. Such larger items should be addressed in other vehicles such as IGAs, preliminary plats, approved CIPs, or other items as to inform the Board of larger commitments or impacts pertaining to the Town.

Legal Comments:

These easements will allow Town staff to perform necessary work in said easements but will not obligate the Town to any work within them other than what would otherwise be required, as the need for public infrastructure will already be documented. The maintenance agreement should be similar in nature.

This item has been reviewed by Legal.

Alternatives/Options

The alternative solution is to proceed under the old methodology. Each easement could be brought before the Board for acceptance. While feasible, this will slow down specific projects. Given the intent to have site plans be an administrative process, this appears to be in contradiction to this goal. This also would potentially make MS-4 compliance in the future more difficult.

Financial Considerations

This would continue to help Frederick compete with an efficient and dependable development process.

Staff Recommendation

Staff recommends approval of this item to increase the efficacy and efficiency in the development process.

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 24-R-39**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO,
REGARDING ADMINISTRATIVE APPROVAL OF CERTAIN EASEMENTS**

WHEREAS, the Town has several Memorandum of Agreement for Public Improvements (“MOAPI”) with developers, and final plats effecting projects that have varying levels of completion throughout the community; and

WHEREAS, from time to time, through the development process, the Town is made aware of minor errors in plats, plans, or MOAPI documents that require the granting or acceptance of easements to effectuate the agreement, ensure proper maintenance, and/or provide for appropriate easements for locating public infrastructure; and

WHEREAS, these easements currently require action by the Board of Trustees, which creates delays in the development process.

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

Section 1. Approval for Administrative Approval for easements related to Public and Utility Infrastructure.

- a. Town staff is authorized to process and approve easement agreements whose purpose is to allow for public infrastructure, which need is identified through the engineering process, and whose obligations do not extend beyond normal maintenance of water systems, which would otherwise be the Town’s responsibility.
- b. Town staff is authorized to approve maintenance agreements concerning the maintenance of stormwater systems in an emergency situation and in situations of neglect for which the Town may be responsible under MS-4 so long as the agreement would not obligate the Town to further responsibilities.

Section 2. Limitation of Authority.

- a. The authority granted by this Resolution is limited to site specific improvements. Town staff is not authorized to administratively approve easements or maintenance agreements that are regional or multi-jurisdictional in nature.

Section 3. Effective Date. This resolution shall become effective immediately upon adoption.

Section 4. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 5. Certification. The Town Clerk shall certify the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 25th DAY OF JUNE, 2024.

ATTEST:

TOWN OF FREDERICK

By _____
Tricia David, Town Clerk

By _____
Tracie Crites, Mayor



Built On What Matters

TOWN OF FREDERICK Board of Trustees Staff Report

Tracie Crites, Mayor

Kevin Brown, Mayor Pro
Tem
Dan March, Trustee
Mark Lamach, Trustee

Adam Mahan, Trustee
Windi Padia, Trustee
Chad teVelde, Trustee

Resolution 24-R-40 Meadowlark Business Park ROW Dedication

Agenda Date: 06/25/2024 BOT Meeting

<u>Attachments:</u>	1. Majestic Deed of Dedication 5-1-24 CMF	Majestic Deed of Dedication 5-1-24 CMF.doc
	2. Majestic Easement to Frederick 5-1-24 CMF	Majestic Easement to Frederick 5-1-24 CMF.pdf
	3. 5978 Iris Parkway - Utility Easement	5978 Iris Parkway - Utility Easement.pdf
	4. 5978 Irs Parkway - ROW Easement	5978 Irs Parkway - ROW Easement.pdf
	5. Resolution 24-R-40 Majestic Dedication and Easement	Resolution 24-R-40 Majestic Dedication and Easement.docx

<u>Reviewed By:</u>	ebez@frederickco.gov Betz, Engineer	Created/Initiated - 6/4/2024
	Kevin Ash, Engineering Director	Approved - 6/4/2024
	Kurtis Adams, Finance Director	Approved - 6/4/2024
	Jason Meyers, Town Attorney	Approved - 6/14/2024
	Jason Leslie, Deputy Town Manager	Final Approval - 6/14/2024

Action Type

1) Legislative: Actions that relate to subjects of a long term and general applicability; such as the passing of ordinances/resolutions/policies/etc.

Strategic Plan Alignment:

Strategic, Reliable, and Sustainable Infrastructure – This request aligns with the Town’s infrastructure goals as it will help to achieve the goals stated in the Transportation Master Plan.

Summary Statement:

This request is to accept Right of Way along Majestic Street that was not dedicated with the original business park and a utility easement necessary for a water loop which provides fire protection for the building.

Detail of Issue/Request:

This request will address a property that currently extends to the centerline of Majestic Street. This Right of Way will be used for the maintenance of the ultimate road section which is a collector, - the road itself is already constructed. This item will reduce the tax burden on the property owner and help clarify the Town’s use of the area for a public road.

The utility easement will be necessary for work on the water loop which will exist to provide fire protection for the proposed structure.

Legal Comments:

This item has been reviewed by Legal.

Alternatives/Options

Another solution would be to wait until a prescriptive easement exists for the road.

Financial Considerations

This dedication should not result in any unanticipated maintenance as Majestic Street is already installed and operating.

Staff Recommendation

Staff recommends approval of this item.

DEED OF DEDICATION

Majestic LLC, a Colorado Limited Liability Company, whose address is 24155 CR 15-1/2, Johnstown, CO 80534 ("Majestic LLC"), for good and valuable consideration, receipt of which is hereby acknowledged, does hereby sell, grant, and convey unto the Town of Frederick, a Colorado statutory town, whose address is 401 Locust Street, Frederick, CO 80530 ("Town"), the following described parcel of land situate in the County of Weld, State of Colorado, to-wit:

SEE ATTACHED EXHIBIT "A"

with all its appurtenances and warrants the title to the same, free and clear of all liens and encumbrances, subject to reservations, agreements, and restrictions of record, and existing easements, if any.

The above-described property is to be used by the Town of Frederick for street and utility purposes, which purposes shall include, but not be limited to, streets, sidewalks, curbs, gutters, utility lines, structures, equipment, apparatus, and poles.

Acceptance of this conveyance by the Town shall not impose upon the Town any obligation for the opening, widening, installation, improvement, or maintenance of the above-described property for any purpose, which obligation shall arise, if at all, only by separate action of the Frederick Board of Trustees.

Signed this _____ day of _____, 2024.

Majestic LLC
Grantor:

By _____
Shawn Greathouse, Manager/Owner

STATE OF COLORADO)
)ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____.

My commission expires:

Witness my hand and official seal.

Notary Public

ACCEPTANCE

The Town of Frederick, a Colorado statutory town, whose legal address is 401 Locust St., Frederick, CO 80530, hereby accepts the above dedication of property as Public Rights-of-Way or a Public Highway.

Dated this _____ day of _____, 2024.

ATTEST:

TOWN OF FREDERICK,

BY: _____
Tricia David
Town Clerk

BY: _____
Tracie Crites
Mayor

EXHIBIT "A"
(Legal Description)

PERPETUAL NON-EXCLUSIVE EASEMENT AGREEMENT

THIS PERPETUAL NON-EXCLUSIVE EASEMENT AGREEMENT (“Agreement”) is made by and between Majestic LLC, a Colorado Limited Liability Company, whose address is 24155 CR 15-1/2, Johnstown, CO 80534 (“Majestic LLC”), and the Town of Frederick, a Colorado statutory town, whose address is 401 Locust Street, Frederick, CO 80530 (“Town”). Town and Majestic LLC may be individually referred to as a “Party” and collectively referred to herein as “Parties.”

AGREEMENT

1. **Grant of Easement to Town.** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Majestic LLC hereby grants, sells, and conveys to the Town, its successors, and assigns a Perpetual Non-Exclusive Easement (“Easement”) on, under, through, over, and across a portion of the property owned by Majestic LLC, as described and depicted in **Exhibit A** attached hereto and incorporated herein by this reference the (“Property”), the right to construct, reconstruct, inspect, lay, install, upgrade, increase line size or capacity, operate, repair, maintain, inspect, upgrade, replace, remove, and operate one or more lines for the transmission, distribution, and service of water, and all underground and service appurtenances thereto, including metering stations, vaults, enclosures, identification signs, communication lines, and other fixtures (“Improvements”), at any time and from time to time as may be useful to, or required by, the Town (subject to the requirements of this Agreement).

2. The Town’s use of the Easement Property shall be non-exclusive. Majestic LLC shall have the right to use the Easement Property for any purpose that does not interfere with the Town’s use of the Easement Property. Majestic LLC shall not erect any structures or improvements on the Easement Property without the Town’s prior written consent.

3. The Town shall ensure that all work within the Easement is completed in a prompt and workmanlike manner, and shall restore or repair to original condition or as close thereto as possible, except as necessarily modified to accommodate the Improvements, any damages that arise from the construction, reconstruction, inspection, maintenance, and repair of said Improvements.

4. **Permits, Approvals, Licenses, and Consents.** The Town is solely responsible for obtaining any permits, approvals, licenses, and consents, and meeting any other legal obligations or requirements including those imposed by any governmental authority prior to construction of Improvements within the Easement. Majestic LLC shall not object to or otherwise interfere with any application for any such permits, approvals, licenses, and consents.

5. **Warranty of Title.** Majestic LLC represents and warrants that Majestic LLC has the full right and lawful authority to make the grant contained in this Agreement. Majestic LLC shall defend the Town in the exercise of the Town’s rights under this Agreement against any defect in Majestic LLC’s title to the land involved, or Majestic LLC’s right to make the grant contained in this Agreement.

6. **No Multi-Year Fiscal Commitment.** Any financial obligation of the Town is contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The Town does not warrant that funds will be available to fund this Agreement beyond the fiscal year in which it is executed.

7. **Colorado Governmental Immunity Act.** No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, by Town of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, as applicable now or hereafter amended ("CGIA").

8. **Severability and Reformation.** If any term or condition of this Agreement shall be held to be invalid, illegal, or unenforceable, if allowed by law, in lieu of such invalid, illegal, or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid, or unenforceable provision so that the resulting reformed provision is legal, valid, and enforceable. If such reformation is not possible, this Agreement shall be construed and enforced without such provision, to the extent that this Agreement is then capable of execution within the original intent of the Parties.

9. **Entire Agreement.** 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. **Successors and Assigns.** 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.

11. **Headings.** Section and subsection titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference. Such titles and captions in no way define, limit, extend, or describe the scope of this Agreement nor the intent of any text following the title or caption.

12. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

13. **Recording.** The Parties agree that this Perpetual Easement shall be recorded, at the Town's sole cost, in the office of the Weld County Clerk and Recorder's Office.

IN WITNESS WHEREOF, the Parties have executed this Agreement, effective as of the date last below undersigned.

Grantor:

Shawn Greathouse, Manager/Owner of Majestic LLC

STATE OF COLORADO)
)ss.
COUNTY OF _____)

Subscribed and acknowledged before me this _____ day of _____, 2024, by
_____.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A
PROPERTY AND EASEMENT DESCRIPTIONS

EXHIBIT A

PARCEL DESCRIPTION

A parcel of land, being part of Lot 2, Block 1, Meadowlark Business Park, Replat A, as recorded March 28, 2000, as Reception No. 2757993 of the Records of the Weld County Clerk and Recorder, situate in the Northeast Quarter (NE1/4) of Section Twenty-five (25), Township Two North (T.2N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), Town of Frederick, County of Weld, State of Colorado and being more particularly described as follows:

BEGINNING at the Northeast corner of said Lot 2 and assuming the East line of Lot 2 as bearing South 00°11'27" West, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 618.78 feet, monumented by a #4 rebar at the Northeast corner and a nail with illegible brass tag at the Southeast corner of Lot 2 and with all other bearings contained herein relative thereto;

THENCE South 00°11'27" West, along said East line, a distance of 498.78 feet to the North line of a 50' Drainage Easement dedicated per said Reception No. 2757993;
THENCE North 89°42'26" West, along said North line, a distance of 304.00 feet to the West line of Lot 2;

Thence along the West and North lines of Lot 2 the following two courses:

THENCE North 00°11'27" East a distance of 498.24 feet;
THENCE South 89°48'33" East a distance of 20.00 feet;
THENCE South 00°11'27" West a distance of 222.37 feet;
THENCE South 89°48'33" East a distance of 23.74 feet;
THENCE South 00°11'27" West a distance of 20.00 feet;
THENCE North 89°48'33" West a distance of 23.74 feet;
THENCE South 00°11'27" West a distance of 213.58 feet;
THENCE South 89°48'33" East a distance of 264.00 feet;
THENCE North 00°11'27" East a distance of 204.67 feet;
THENCE North 89°48'33" West a distance of 23.74 feet;
THENCE North 00°11'27" East a distance of 20.00 feet;
THENCE South 89°48'33" East a distance of 23.74 feet;
THENCE North 00°11'27" East a distance of 231.29 feet to the North line of Lot 2;
THENCE South 89°48'33" East, along said North line, a distance of 20.00 feet to the POINT OF BEGINNING.

Said described parcel of land contains 29,959 Square Feet or 0.688 Acres, more or less (±).

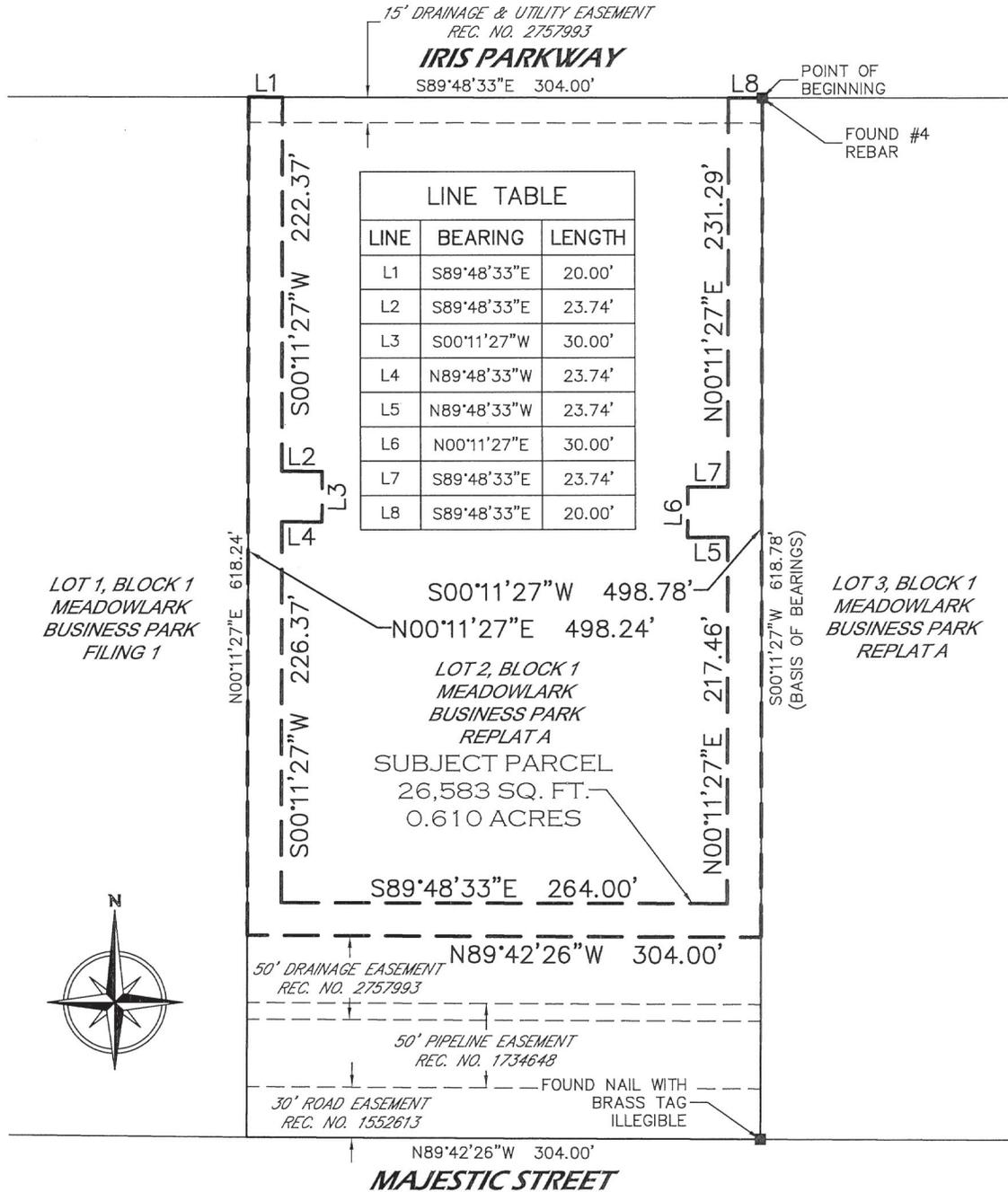
SURVEYORS STATEMENT

I, Steven Parks, a Colorado Licensed Professional Land Surveyor do hereby state that this Parcel Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.



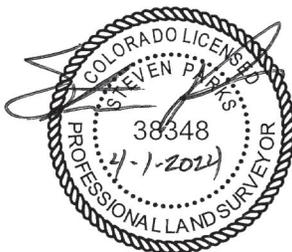
Steven Parks - on behalf of Majestic Surveying, LLC
Colorado Licensed Professional Land Surveyor #38348





Note: This drawing does not represent a monumented land survey. Its sole purpose is a graphic representation of the accompanying written description.

Notice: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon. (CRS 13-80-105)



Steven Parks, PLS 38348
On behalf of Majestic Surveying, LLC

PROJECT NO: 2023109 CLIENT: OLSEN
DATE: 3-6-2024 SCALE: 1"=80'

EXHIBIT A

PARCEL DESCRIPTION

A parcel of land, being part of Lot 2, Block 1, Meadowlark Business Park, Replat A, as recorded March 28, 2000 as Reception No. 2757993 of the Records of the Weld County Clerk and Recorder, situate in the Northeast Quarter (NE1/4) of Section Twenty-five (25), Township Two North (T.2N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), Town of Frederick, County of Weld, State of Colorado and being more particularly described as follows:

The South 30.00' of said Lot 2.
Being further described by metes and bounds as follows:

BEGINNING at the Southwest corner of said Lot 2 and assuming the West line of Lot 2 as bearing North 00°33'45" East, as platted, a distance of 618.24 feet and with all other bearings contained herein relative thereto;

THENCE North 00°33'45" East, along said West line a distance of 37.50 feet;
THENCE South 89°20'09" East a distance of 304.00 feet to the East line of Lot 2;
THENCE South 00°33'45" West, along said East line a distance of 37.50 feet to the South line of Lot 2;
THENCE North 89°20'09" West, along said South line a distance of 304.00 feet to the POINT OF BEGINNING.

Said described parcel of land contains 11,400 Square Feet or 0.262 Acres, more or less (±).

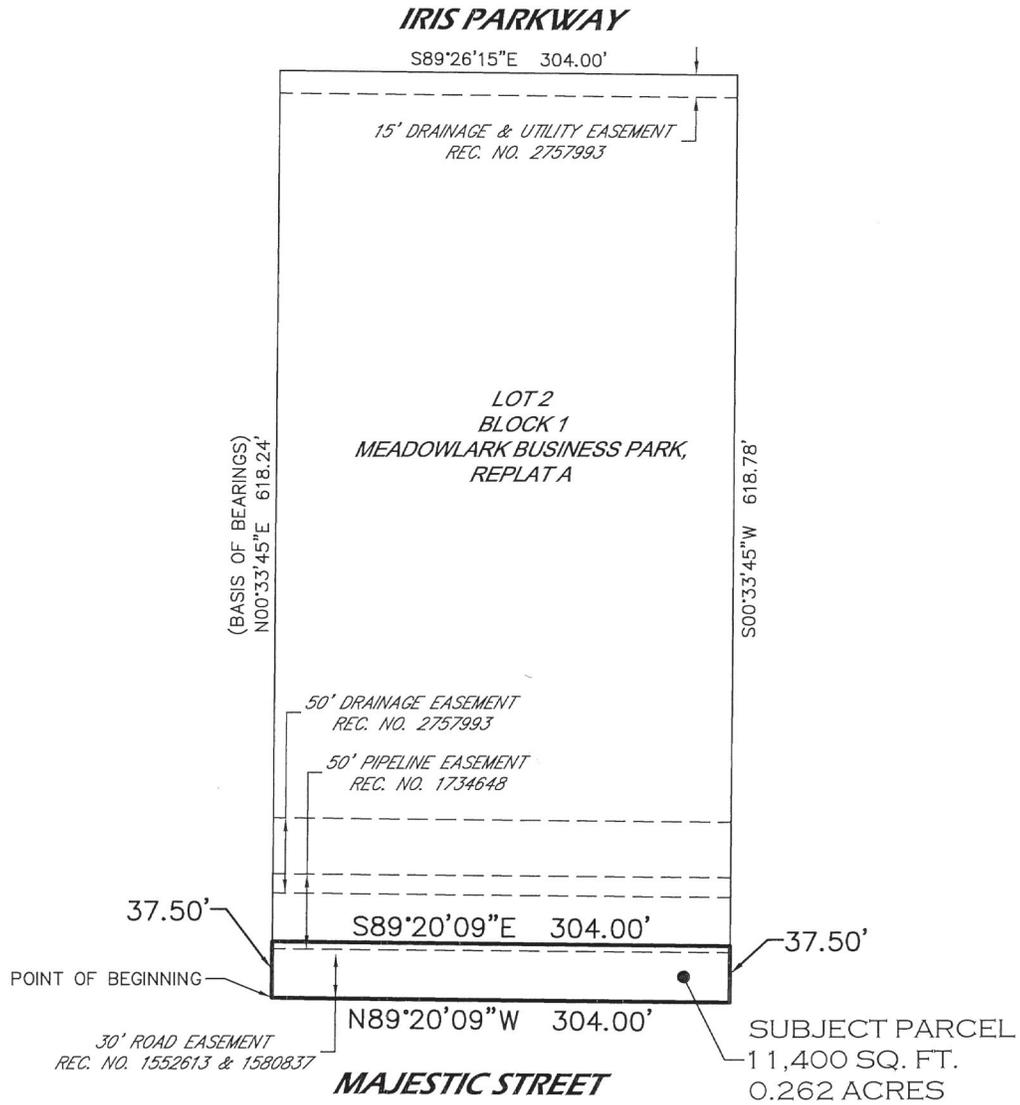
SURVEYORS STATEMENT

I, Steven Parks, a Colorado Licensed Professional Land Surveyor do hereby state that this Parcel Description was prepared under my personal supervision and checking, and that it is true and correct to the best of my knowledge and belief.



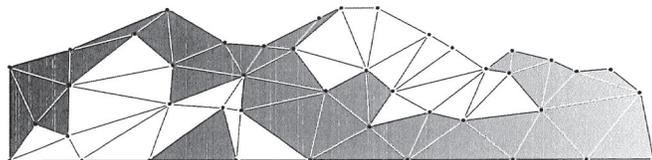
Steven Parks - on behalf of Majestic Surveying, LLC
Colorado Licensed Professional Land Surveyor #38348





Note: This drawing does not represent a monumented land survey. Its sole purpose is a graphic representation of the accompanying written description.

Notice: According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon. (CRS 13-80-105)



MAJESTIC SURVEYING

Steven Parks, PLS 38348
On behalf of Majestic Surveying, LLC

PROJECT NO: 2023109 CLIENT: OLSEN
DATE: 4-16-2024 SCALE: 1"=100'

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 24-R-40**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO, ACCEPTING
A GRANT OF PERMANENT EASEMENT AND RIGHT-OF-WAY
DEDICATION FROM MAJESTIC LLC FOR MEADOWLARK BUSINESS
PARK**

WHEREAS, Majestic LLC (“Grantor”) is the owner of certain real property that it wishes to grant to the Town of Frederick, and that the Town wishes to accept, for the purpose of a permanent utility easement for lines for transmission, distribution, and service of water, which is described as:

A parcel of land, being part of Lot 2, Block 1, Meadowlark Business Park, Replat A, as recorded March 28, 2000, as Reception No. 2757993 of the Records of the Weld County Clerk and Recorder, situate in the Northeast Quarter (NE1/4) of Section Twenty-five (25), Township Two North (T.2N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), Town of Frederick, County of Weld, State of Colorado and being more particularly described as follows:

BEGINNING at the Northeast corner of said Lot 2 and assuming the East line of Lot 2 as bearing South 00°11’27” West, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/2011, a distance of 618.78 feet, monumented by a #4 rebar at the Northeast corner and a nail with illegible brass tag at the Southeast corner of Lot 2 and with all other bearings contained herein relative thereto;

THENCE South 00°11’27” West, along said East line, a distance of 498.78 feet to the North line of a 50’ Drainage Easement dedicated per said Reception No. 2757993;

THENCE North 89°42’26” West, along said North line, a distance of 304.00 feet to the West line of Lot 2;

Thence along the West and North lines of Lot 2 the following two courses:

THENCE North 00°11’27” East a distance of 498.24 feet;

THENCE South 89°48’33” East a distance of 20.00 feet;

THENCE South 00°11’27” West a distance of 222.37 feet;

THENCE South 89°48’33” East a distance of 23.74 feet;

THENCE South 00°11’27” West a distance of 20.00 feet;

THENCE North 89°48’33” West a distance of 23.74 feet;

THENCE South 00°11’27” West a distance of 213.58 feet;

THENCE South 89°48’33” East a distance of 264.00 feet;

THENCE North 00°11’27” East a distance of 204.67 feet;

THENCE North 89°48’33” West a distance of 23.74 feet;

THENCE North 00°11’27” East a distance of 20.00 feet;

THENCE South 89°48’33” East a distance of 23.74 feet;

THENCE North 00°11’27” East a distance of 231.29 feet to the North line of Lot 2;

THENCE South 89°48’33” East, along said North line, a distance of 20.00 feet to the POINT OF BEGINNING.

WHEREAS, Majestic LLC is the owner of certain real property that it that it must dedicate to the Town as part of the development of Meadowlark Business Park, and

which the Town wishes to accept, which is described as:

A parcel of land, being part of Lot 2, Block 1, Meadowlark Business Park, Replat A, as recorded March 28, 2000 as Reception No. 2757993 of the Records of the Weld County Clerk and Recorder, situate in the Northeast Quarter (NE1/4) of Section Twenty-five (25), Township Two North (T.2N.), Range Sixty-eight West (R.68W.) of the Sixth Principal Meridian (6th P.M.), Town of Frederick, County of Weld, State of Colorado and being more particularly described as follows:

The South 30.00' of said Lot 2.

Being further described by metes and bounds as follows:

BEGINNING at the Southwest corner of said Lot 2 and assuming the West line of Lot 2 as bearing North 00°33'45" East, as platted, a distance of 618.24 feet and with all other bearings contained herein relative thereto;

THENCE North 00°33'45" East, along said West line a distance of 37.50 feet;

THENCE South 89°20'09" East a distance of 304.00 feet to the East line of Lot 2;

THENCE South 00°33'45" West, along said East line a distance of 37.50 feet to the South line of Lot 2;

THENCE North 89°20'09" West, along said South line a distance of 304.00 feet to the POINT OF BEGINNING.

Said described parcel of land contains 11,400 Square Feet or 0.262 Acres, more or less (±).

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

Section 1. Acceptance of a Perpetual Easement.

- a. The Board of Trustees approves the Easement, generally located as set forth above and more particularly described in Exhibit A.
- b. The Board of Trustees authorizes the execution of the Easement by the Mayor on behalf of the Town of Frederick.

Section 2. Acceptance of Right-of-Way Dedication.

- a. The Board of Trustees approves the Deed of Dedication dedicating right-of-way, generally located as set forth above and more particularly described in Exhibit B.
- b. The Board of Trustees authorizes the execution of the Deed of Dedication by the Mayor on behalf of the Town of Frederick.

Section 3. Effective Date. This resolution shall become effective immediately upon adoption.

Section 4. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 5. Certification. The Town Clerk shall certify the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND ADOPTED THIS 25TH DAY OF JUNE 2024.

ATTEST:

TOWN OF FREDERICK

By _____
Tricia David, Town Clerk

By _____
Tracie Crites, Mayor

EXHIBIT A

PERPETUAL NON-EXCLUSIVE EASEMENT AGREEMENT

THIS PERPETUAL NON-EXCLUSIVE EASEMENT AGREEMENT (“Agreement”) is made by and between Majestic LLC, a Colorado Limited Liability Company, whose address is 24155 CR 15-1/2, Johnstown, CO 80534 (“Majestic LLC”), and the Town of Frederick, a Colorado statutory town, whose address is 401 Locust Street, Frederick, CO 80530 (“Town”). Town and Majestic LLC may be individually referred to as a “Party” and collectively referred to herein as “Parties.”

AGREEMENT

1. **Grant of Easement to Town.** For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Majestic LLC hereby grants, sells, and conveys to the Town, its successors, and assigns a Perpetual Non-Exclusive Easement (“Easement”) on, under, through, over, and across a portion of the property owned by Majestic LLC, as described and depicted in **Exhibit A** attached hereto and incorporated herein by this reference the (“Property”), the right to construct, reconstruct, inspect, lay, install, upgrade, increase line size or capacity, operate, repair, maintain, inspect, upgrade, replace, remove, and operate one or more lines for the transmission, distribution, and service of water, and all underground and service appurtenances thereto, including metering stations, vaults, enclosures, identification signs, communication lines, and other fixtures (“Improvements”), at any time and from time to time as may be useful to, or required by, the Town (subject to the requirements of this Agreement).

2. The Town’s use of the Easement Property shall be non-exclusive. Majestic LLC shall have the right to use the Easement Property for any purpose that does not interfere with the Town’s use of the Easement Property. Majestic LLC shall not erect any structures or improvements on the Easement Property without the Town’s prior written consent.

3. The Town shall ensure that all work within the Easement is completed in a prompt and workmanlike manner, and shall restore or repair to original condition or as close thereto as possible, except as necessarily modified to accommodate the Improvements, any damages that arise from the construction, reconstruction, inspection, maintenance, and repair of said Improvements.

4. **Permits, Approvals, Licenses, and Consents.** The Town is solely responsible for obtaining any permits, approvals, licenses, and consents, and meeting any other legal obligations or requirements including those imposed by any governmental authority prior to construction of Improvements within the Easement. Majestic LLC shall not object to or otherwise interfere with any application for any such permits, approvals, licenses, and consents.

5. **Warranty of Title.** Majestic LLC represents and warrants that Majestic LLC has the full right and lawful authority to make the grant contained in this Agreement. Majestic LLC shall defend the Town

in the exercise of the Town's rights under this Agreement against any defect in Majestic LLC's title to the land involved, or Majestic LLC's right to make the grant contained in this Agreement.

6. **No Multi-Year Fiscal Commitment.** Any financial obligation of the Town is contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. The Town does not warrant that funds will be available to fund this Agreement beyond the fiscal year in which it is executed.

7. **Colorado Governmental Immunity Act.** No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, by Town of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*, as applicable now or hereafter amended ("CGIA").

8. **Severability and Reformation.** If any term or condition of this Agreement shall be held to be invalid, illegal, or unenforceable, if allowed by law, in lieu of such invalid, illegal, or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid, or unenforceable provision so that the resulting reformed provision is legal, valid, and enforceable. If such reformation is not possible, this Agreement shall be construed and enforced without such provision, to the extent that this Agreement is then capable of execution within the original intent of the Parties.

9. **Entire Agreement.** 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. **Successors and Assigns.** 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.

11. **Headings.** Section and subsection titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference. Such titles and captions in no way define, limit, extend, or describe the scope of this Agreement nor the intent of any text following the title or caption.

12. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts taken together shall be deemed to constitute one and the same instrument.

13. **Recording.** The Parties agree that this Perpetual Easement shall be recorded, at the Town's sole cost, in the office of the Weld County Clerk and Recorder's Office.

Grantor:

Shawn Greathouse, Manager/Owner of Majestic LLC

STATE OF COLORADO)
)ss.
COUNTY OF _____)

Subscribed and acknowledged before me this _____ day of _____, 2024, by
_____.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT B

DEED OF DEDICATION

Majestic LLC, a Colorado Limited Liability Company, whose address is 24155 CR 15-1/2, Johnstown, CO 80534 (“Majestic LLC”), for good and valuable consideration, receipt of which is hereby acknowledged, does hereby sell, grant, and convey unto the Town of Frederick, a Colorado statutory town, whose address is 401 Locust Street, Frederick, CO 80530 (“Town”), the following described parcel of land situate in the County of Weld, State of Colorado, to-wit:

SEE ATTACHED EXHIBIT “A”

with all its appurtenances and warrants the title to the same, free and clear of all liens and encumbrances, subject to reservations, agreements, and restrictions of record, and existing easements, if any.

The above-described property is to be used by the Town of Frederick for street and utility purposes, which purposes shall include, but not be limited to, streets, sidewalks, curbs, gutters, utility lines, structures, equipment, apparatus, and poles.

Acceptance of this conveyance by the Town shall not impose upon the Town any obligation for the opening, widening, installation, improvement, or maintenance of the above-described property for any purpose, which obligation shall arise, if at all, only by separate action of the Frederick Board of Trustees.

Signed this _____ day of _____, 2024.

Majestic LLC
Grantor:

By _____
Shawn Greathouse, Manager/Owner

STATE OF COLORADO)
)ss.
COUNTY OF WELD)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by _____.

My commission expires:

Witness my hand and official seal.

Notary Public

ACCEPTANCE

The Town of Frederick, a Colorado statutory town, whose legal address is 401 Locust St., Frederick, CO 80530, hereby accepts the above dedication of property as Public Rights-of-Way or a Public Highway.

Dated this _____ day of _____, 2024.

ATTEST:

TOWN OF FREDERICK,

BY: _____
Tricia David
Town Clerk

BY: _____
Tracie Crites
Mayor

EXHIBIT "A"
(Legal Description)



Built On What Matters

TOWN OF FREDERICK Board of Trustees Staff Report

Tracie Crites, Mayor

Kevin Brown, Mayor Pro
Tem
Dan March, Trustee
Mark Lamach, Trustee

Adam Mahan, Trustee
Windi Padia, Trustee
Chad teVelde, Trustee

Resolution 24-R-41 Consideration of the First Amendment to the Clearview Villages Memorandum of Agreement for Public Improvements

Agenda Date: 06/25/2024 BOT Meeting

<u>Attachments:</u>	1. Clearview-PHASING PLAN	Clearview-PHASING PLAN.pdf
	2. MOAPI Phs 1-4 OPC	MOAPI Phs 1-4 OPC.pdf
	3. Clearview MOAPI First Amendment 6-4-24	Clearview MOAPI First Amendment 6-4-24.docx
	4. Resolution 24-R-41 Clearview Villages 1st Amendment MOAPI	Resolution 24-R-41 Clearview Villages 1st Amendment MOAPI.rtf
	5. MOAPI - Recorded - Clearview_2022	MOAPI - Recorded - Clearview_2022.pdf

<u>Reviewed By:</u>	Jason Berg, Engineer	Created/Initiated - 6/4/2024
	Kevin Ash, Engineering Director	Approved - 6/7/2024
	Kurtis Adams, Finance Director	Approved - 6/11/2024
	Jason Meyers, Town Attorney	Approved - 6/14/2024
	Jason Leslie, Deputy Town Manager	Final Approval - 6/14/2024

Action Type

2) Administrative: Actions of routine nature that implement policies/directions or effectuate the functioning of government; such as contract approvals/granting of licenses and permits/etc.

Strategic Plan Alignment:

Effective, Efficient and Strategic Government Operations:

This request aligns with the Town's Strategic Plan by the Town and Developer strategically planning for the efficient installation of public improvements associated with a subdivision so that it may be effectively utilized by our citizens.

Summary Statement:

Following a development proposal to update the Clearview Villages subdivision in conjunction with an administratively approved Water Demand Analysis, additional collaboration with the applicant has resulted in updates to Exhibit A - Phasing Plan, Exhibit B - Engineer's Estimated of Probable Costs, and Exhibit F - Special Provisions to the MOAPI.

Detail of Issue/Request:

This first amendment to the MOAPI updates Exhibit A - Phasing Plan to accurately represent the improvements that will be installed with the development following efforts to utilize water more efficiently on site for the purposes of irrigation. Included are updates to Exhibit B - Engineers Estimated of Probable Costs, pursuant to Town policy that allows staff to request updates to such estimates, should they be older than 6-months to stay current with current construction market costs. Within these costs is the identified traffic signal at Silver Birch Boulevard and Godding Hollow Parkway and the developer's quarter share contribution, which from first approval in 2022 increased from \$100,000 to \$133,468.75. This cost contribution is identified in Exhibit F-1 - Special Provisions to the MOAPI Transportation Improvements.

Legal Comments:

The MOAPI modifications and resolution have been reviewed by the Towns Attorney's Office.

Alternatives/Options

The Board may approve or deny modifications made to Exhibit A - Phase Plan Map, Exhibit B - Engineers Estimate of Probable Costs and Exhibit F - Special Provisions to the MOAPI.

Financial Considerations

With construction cost increases since the original MOAPI approval in 2022, the Developer is responsible for a larger quarter share contribution amount for the installation of the future traffic signal. If the amendment is not approved, this cost would become the Town's and Frederick taxpayers.

Staff Recommendation

Staff recommends approval of the MOAPI First Amendment updates and Resolution 24-R-41.

C005

PROJECT NO.: 16216

DATE: 06/07/2021

TOWN OF FREDERICK, CO
CLEARVIEW VILLAGES, CO

PHASING PLAN

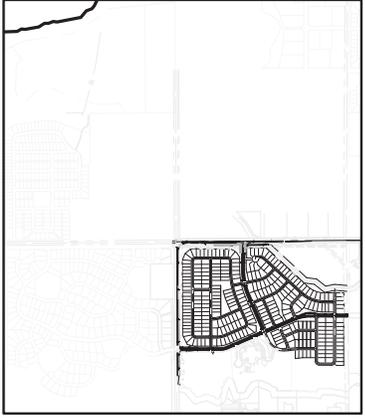


Know what's below.
Call 811 before you dig.
NOT TO SCALE IF SHEET
SIZE OTHER THAN A366
DRAWN BY: JQA
CHECKED BY: JLP

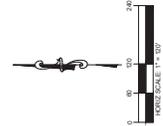


PHELPS ENGINEERING
3522 S. Emerson St. Englewood,
CO 80224 (303) 298-1644
www.phelpsengineering.net

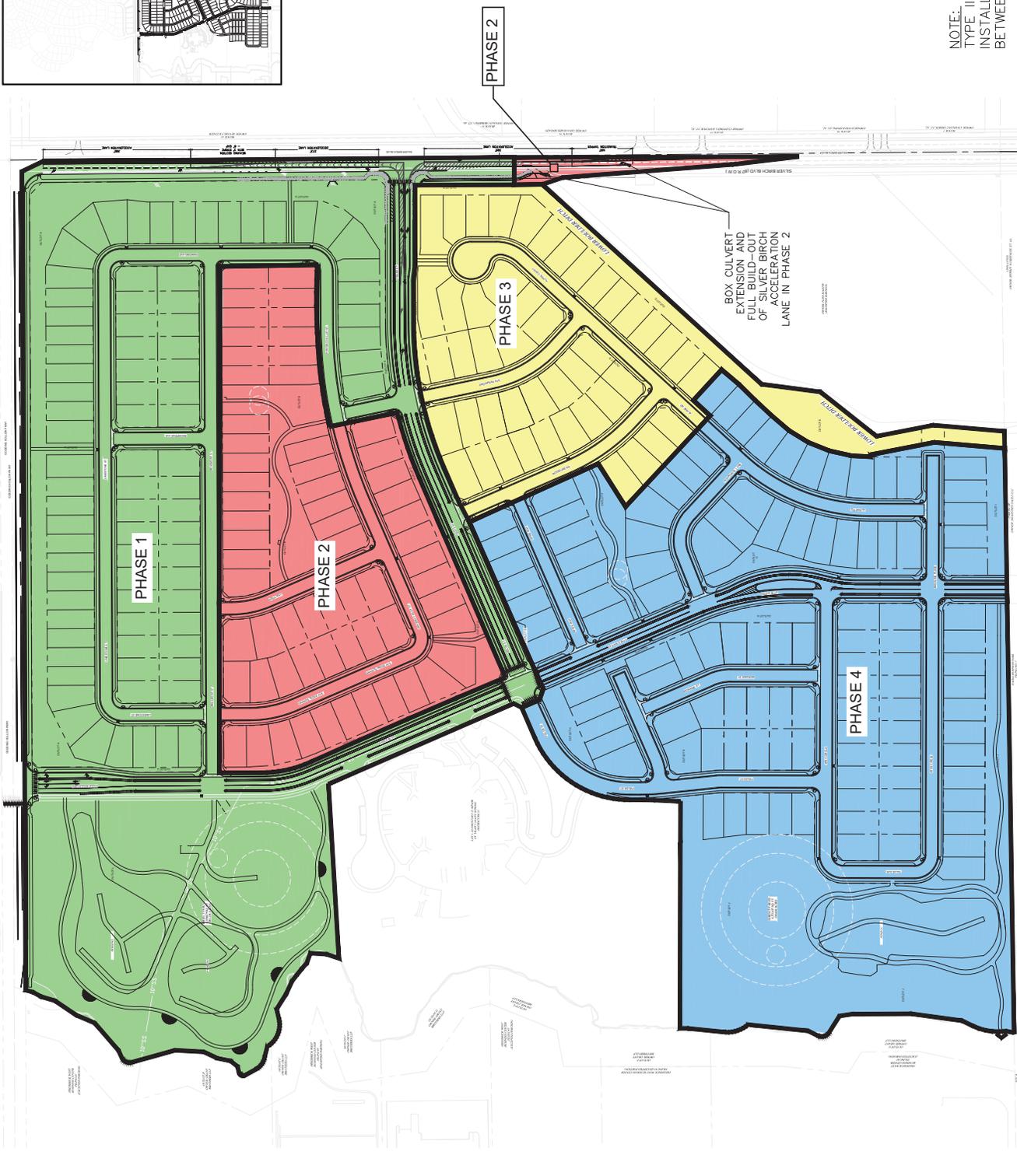
NO.	REVISIONS	DATE	BY
1	PHASE 1 OF FREDERICK COMMENTS	10/17/2021	JQA
2	PHASE 2 OF FREDERICK COMMENTS	12/17/2021	JQA
3	PHASE 3 OF FREDERICK COMMENTS	03/04/2022	JQA
4	PHASE 4 OF FREDERICK COMMENTS	06/07/2022	JQA
5	PHASE 1 MAIN SANITATION	06/07/2022	JQA



- PHASE 1
- PHASE 2
- PHASE 3
- PHASE 4



NOTE:
TYPE III BARRICADES TO BE
INSTALLED AT DEAD-ENDS
BETWEEN PHASES



PHASE 2

PHASE 3

PHASE 1

PHASE 2

PHASE 4

BOY CULVERT
EXTENSION AND
FULL BUILD-OUT
OF SILVER BIRCH
ACCELERATION
LANE IN PHASE 2

Exhibit B MOAPI - Costs
Clearview Villages

Project: Clearview Villages
 Prepared By: Phelps Engineering
 Description: Preliminary Cost Estimate
 Date: 4/29/2024

PHASE 1: Approx. 36.3% of Total Development

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost Per Item</u>	<u>Comments</u>
Earthwork					
Mobilization	1	EA	\$14,000.00	\$14,000.00	
Clearing	28,794	CY	\$6.50	\$187,161.00	
Cut to Fill On-Site	62,151	CY	\$8.50	\$528,284.52	
Import to Fill	0	CY	\$8.45	\$0.00	
Temporary Erosion & Sediment Control	1.00	LS	\$120,000.00	\$120,000.00	
Seeding & Mulching	12.8	AC	\$750.00	\$9,600.00	
Earthwork Subtotal:				\$859,045.52	
Roadway & Site Improvements					
Internal Roadway System				\$1,930,663.00	
Mobilization	1	EA	\$18,000.00	\$18,000.00	
Paving	17941	SY	\$38.00	\$681,758.00	
8" ABC	17941	SY	\$8.00	\$143,528.00	
Chemically Stabilize Subgrade (12" BOC to BOC)	20934	SY	\$9.50	\$198,873.00	
Curb Gutter	13828	LF	\$28.00	\$387,184.00	
Cross Pans	3500	SF	\$8.28	\$28,980.00	
Sidewalks	6145	SY	\$32.00	\$196,640.00	
Handicap Ramps	46	EA	\$2,800.00	\$128,800.00	
Striping	14090	LF	\$2.50	\$35,225.00	
Signage	25	EA	\$435.00	\$10,875.00	
Public Street Lighting	24	EA	\$4,200.00	\$100,800.00	
Offsite Roadway System (Goddard Hollow, Silver Birch)				\$691,269.50	
Paving	10000	SY	\$34.00	\$340,000.00	
8" ABC	10000	SY	\$6.50	\$65,000.00	
Subgrade Prep	10000	SY	\$4.00	\$40,000.00	
Curb Gutter	3200	LF	\$22.00	\$70,400.00	
Concrete Crosspan	2500	SF	\$8.28	\$20,700.00	
Sidewalks	2869	SY	\$32.00	\$91,808.00	
Handicap Ramps	5	EA	\$1,395.00	\$6,975.00	
Striping	3521	LF	\$6.50	\$22,886.50	
Signage	5	EA	\$350.00	\$1,750.00	
Guardrail	63	LF	\$250.00	\$15,750.00	
Monument Sign	2	EA	\$8,000.00	\$16,000.00	
Roadway & Site Improvements Subtotal				\$2,621,932.50	
Storm Drainage					
18" to 36" STM	5534	LF	\$110.00	\$608,740.00	
Flared End Section	15	EA	\$1,200.00	\$18,000.00	
Riprap	1272	CY	\$110.00	\$139,920.00	
Storm Manhole (5' Dia.)	21	EA	\$5,500.00	\$115,500.00	
Special Manhole Junctions	4	EA	\$8,800.00	\$35,200.00	
Storm Inlet	16	EA	\$4,800.00	\$76,800.00	
Detention Pond (grading, spillway, channel, forebay)	2	EA	\$85,000.00	\$170,000.00	
Pond Outlet Structure	2	EA	\$24,000.00	\$48,000.00	
Box Culvert	638	LF	\$570.00	\$363,660.00	
Storm Drainage Subtotal				\$1,575,820.00	
Potable Water					
Connect to Existing	4	EA	\$3,000.00	\$12,000.00	
8" PVC	7299	LF	\$72.00	\$525,528.00	
Fire Hydrant Assy.	9	EA	\$6,800.00	\$61,200.00	
Services & Connections	83	EA	\$1,200.00	\$99,600.00	
Bends & Fittings	13	EA	\$900.00	\$11,700.00	
Gate Valves	25	EA	\$2,100.00	\$52,500.00	
Temporary Plug & Blowoff	5	EA	\$800.00	\$4,000.00	
Potable Water Subtotal				\$766,528.00	
Sanitary Sewer					
8" Sanitary Sewer PVC	2690	LF	\$76.00	\$204,440.00	
Manhole (4' DIA)	21	EA	\$4,800.00	\$100,800.00	
Trench Plugs	28	EA	\$550.00	\$15,400.00	
Services & Connections	83	EA	\$1,200.00	\$99,600.00	
Connect to Existing	1	EA	\$3,000.00	\$3,000.00	
Sanitary Sewer Subtotal				\$423,240.00	
Total:				\$6,246,566.02	
Other Commitments (Not in Phase 1 Total)					
Traffic Signal (Goddard Hollow & Silver Birch)	1	LS	\$533,875.00	\$133,468.75	25% responsibility of total cost

Exhibit B MOAPI - Costs
Clearview Villages

Project: Clearview Villages
 Prepared By: Phelps Engineering
 Description: Preliminary Cost Estimate
 Date: 4/29/2024

PHASE 2: Approx. 13.8% of Total Development

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost Per Item</u>	<u>Comments</u>
Earthwork					
Clearing	6100	CY	\$3.50	\$21,350.00	
Cut to Fill On-Site	22410	CY	\$6.50	\$145,665.00	
Import to Fill	0	CY	\$8.45	\$0.00	
Temporary Erosion & Sediment Control	1.00	LS	\$90,000.00	\$90,000.00	
Seeding & Mulching	8.7	AC	\$750.00	\$6,525.00	
Earthwork Subtotal:				\$263,540.00	
Roadway & Site Improvements					
Mobilization	1	LS	\$18,000.00	\$18,000.00	
Paving Asphalt (assume 4" depth over 8" ABC)	6629	SY	\$38.00	\$251,902.00	
8" ABC	6629	SY	\$8.00	\$53,032.00	
Chemically Stabilize Subgrade (12" BOC to BOC)	7734	SY	\$9.50	\$73,473.00	
Curb Gutter	3456	LF	\$28.00	\$96,768.00	
Sidewalks	1920	SY	\$32.00	\$61,440.00	
Handicap Ramps	14	EA	\$2,400.00	\$33,600.00	
Signage	1	EA	\$435.00	\$435.00	
Public Street Lighting	7	EA	\$4,200.00	\$29,400.00	
Offsite Roadway System (Silver Birch)					
Paving	2714	SY	\$38.00	\$103,132.00	
8" ABC	2714	SY	\$8.00	\$21,712.00	
Subgrade Prep	3121	SY	\$9.50	\$29,649.50	
Curb Gutter	324	LF	\$28.00	\$9,072.00	
Concrete Crossspan	500	SF	\$8.28	\$4,140.00	
Sidewalks	288	SY	\$32.00	\$9,216.00	
Handicap Ramps	2	EA	\$2,800.00	\$5,600.00	
Striping	324	LF	\$2.50	\$810.00	
Signage	2	EA	\$435.00	\$870.00	
Roadway Improvements Subtotal				\$802,251.50	
Lower Boulder Ditch Culvert Extension					
Mobilization	1	LS	\$22,100.00	\$22,100.00	
Survey	1	LS	\$9,500.00	\$9,500.00	
Utility Protection/relocation	1	LS	\$8,000.00	\$8,000.00	
Stormwater protection	1	LS	\$5,000.00	\$5,000.00	
Traffic Control	1	LS	\$6,500.00	\$6,500.00	
Demolition	1	LS	\$15,000.00	\$15,000.00	
Handrails, steel	60	LF	\$235.00	\$14,100.00	
Wingwalls, footings	20	CY	\$2,100.00	\$42,000.00	
Culvert (6'x4')	40	CY	\$2,100.00	\$84,000.00	
Culvert Extension Subtotal				\$206,200.00	
Potable Water					
Connect to Existing	0	EA	\$3,000.00	\$0.00	
8" PVC	1753.7	LF	\$72.00	\$126,266.40	
Fire Hydrant Assy.	3	EA	\$6,800.00	\$20,400.00	
Bends & Fittings	11	EA	\$900.00	\$9,900.00	
Services and Connections	63	EA	\$1,200.00	\$75,600.00	
Gate Valves	7	EA	\$2,100.00	\$14,700.00	
Temporary Plug & Blowoff	0	EA	\$800.00	\$0.00	
Potable Water Subtotal				\$246,866.40	
Sanitary Sewer					
8" Sanitary Sewer PVC	1673.35	LF	\$76.00	\$127,174.60	
Manhole (4' DIA)	9	EA	\$4,800.00	\$43,200.00	
Trench Plugs	11	EA	\$550.00	\$6,050.00	
Services and Connections	63	EA	\$1,200.00	\$75,600.00	
Connect to Existing	2	EA	\$3,000.00	\$6,000.00	
Sanitary Sewer Subtotal				\$258,024.60	
Total:				\$1,776,882.50	

Exhibit B MOAPI - Costs
Clearview Villages

Project: Clearview Villages
 Prepared By: Phelps Engineering
 Description: Preliminary Cost Estimate
 Date: 4/29/2024

PHASE 3: Approx. 12.4% of Total Development

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost Per Item</u>	<u>Comments</u>
Earthwork					
Clearing	16300	CY	\$6.50	\$105,950.00	
Cut to Fill On-Site	62748	CY	\$8.50	\$533,358.00	
Import to Fill	0	CY	\$8.45	\$0.00	
Temporary Erosion & Sediment Control	1.00	LS	\$90,000.00	\$90,000.00	
Seeding & Mulching	23	AC	\$750.00	\$17,475.00	
Earthwork Subtotal:				\$746,783.00	
Roadway & Site Improvements					
Mobilization	1	LS	\$18,000.00	\$18,000.00	
Paving Asphalt (assume 4" depth over 8" ABC)	6638	SY	\$38.00	\$252,244.00	
8" ABC	6638	SY	\$8.00	\$53,104.00	
Chemically Stabilize Subgrade (12" BOC to BOC)	7744	SY	\$9.50	\$73,568.00	
Curb Gutter	3982	LF	\$28.00	\$111,496.00	
Sidewalks	1778	SY	\$32.00	\$56,896.00	
Handicap Ramps	16	EA	\$2,800.00	\$44,800.00	
Signage	5	EA	\$435.00	\$2,175.00	
Public Street Lighting	12	EA	\$4,200.00	\$50,400.00	
Roadway & Site Improvements				\$662,683.00	
Storm Drainage					
18" to 36" STM	3293	LF	\$110.00	\$362,230.00	
Storm Manhole (5' Dia.)	13	EA	\$5,500.00	\$71,500.00	
Storm Inlet	11	EA	\$4,800.00	\$52,800.00	
Storm Drainage Subtotal:				\$486,530.00	
Potable Water					
Connect to Existing	0	EA	\$3,800.00	\$0.00	
8" PVC	3672	LF	\$72.00	\$264,391.20	
Fire Hydrant Assy.	7	EA	\$6,800.00	\$49,940.56	
Bends & Fittings	11	EA	\$900.00	\$9,900.00	
Services and Connections	46	EA	\$1,200.00	\$55,200.00	
Gate Valves	15	EA	\$2,100.00	\$31,500.00	
Temporary Plug & Blowoff	3	EA	\$800.00	\$2,400.00	
Total:					
Potable Water Subtotal				\$413,331.76	
Sanitary Sewer					
8" Sanitary Sewer PVC	3572	LF	\$76.00	\$271,472.00	
Manhole (4' DIA)	16	EA	\$4,800.00	\$76,800.00	
Services and Connections	46	EA	\$1,200.00	\$55,200.00	
Trench Plugs	31	EA	\$550.00	\$17,050.00	
Sanitary Sewer Subtotal				\$420,522.00	
Total:				\$2,067,166.76	

Exhibit B MOAPI - Costs
Clearview Villages

Project: Clearview Villages
 Prepared By: Phelps Engineering
 Description: Preliminary Cost Estimate
 Date: 4/29/2024

PHASE 4: Approx. 37.5% of Total Development

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost Per Item</u>	<u>Comments</u>
Earthwork					
Clearing	17820	CY	\$3.50	\$62,370.00	
Cut to Fill On-Site	84037.5	CY	\$6.50	\$546,243.75	
Import to Fill	0	CY	\$8.45	\$0.00	
Temporary Erosion & Sediment Control	1	LS	\$120,000.00	\$120,000.00	
Seeding & Mulching	16.38	AC	\$750.00	\$12,285.00	
Earthwork Subtotal:				\$740,898.75	
Roadway & Site Improvements					
Mobilization	1	LS	\$18,000.00	\$18,000.00	
Paving Asphalt (assume 4" depth over 8" ABC)	17633	SY	\$38.00	\$670,054.00	
8" ABC	17633	SY	\$8.00	\$141,064.00	
Chemically Stabilize Subgrade (12" BOC to BOC)	20312	SY	\$9.50	\$192,960.83	
Curb Gutter	9642	LF	\$28.00	\$269,976.00	
Concrete Crossspan	2000	SF	\$8.28	\$16,560.00	
Sidewalks	5357	SY	\$32.00	\$171,413.33	
Handicap Ramps	36	EA	\$2,800.00	\$100,800.00	
Striping	0	LF	\$2.50	\$0.00	
Signage	17	EA	\$435.00	\$7,395.00	
Public Street Lighting	20	EA	\$4,200.00	\$84,000.00	
Roadway & Site Improvements Subtotal				\$1,672,223.17	
Storm Drainage					
18" to 36" STM	4052.5	LF	\$110.00	\$445,775.00	
Flared End Section	4	EA	\$1,200.00	\$4,800.00	
Riprap	679	CY	\$110.00	\$74,677.78	
Storm Manhole (5' Dia.)	24	EA	\$5,500.00	\$132,000.00	
Storm Inlet	21	EA	\$4,800.00	\$100,800.00	
Detention Pond (grading, spill, channel, forebay)	1	EA	\$85,000.00	\$85,000.00	
Pond Outlet Structure	1	EA	\$24,000.00	\$24,000.00	
Storm Drainage Subtotal:				\$867,052.78	
Potable Water					
Connect to Existing	0	EA	\$3,000.00	\$0.00	
10" PVC	4563.5	LF	\$72.00	\$328,572.00	
Fire Hydrant Assy.	20	EA	\$6,800.00	\$136,000.00	
Bends & Fittings	30	EA	\$900.00	\$27,000.00	
Services and Connections	110	EA	\$1,200.00	\$132,000.00	
Gate Valves	24	EA	\$2,100.00	\$50,400.00	
Temporary Plug & Blowoff	2	EA	\$800.00	\$1,600.00	
Potable Water Subtotal				\$675,572.00	
Sanitary Sewer					
8" Sanitary Sewer PVC	5055	LF	\$76.00	\$384,180.00	
Manhole (4' DIA)	35	EA	\$4,800.00	\$168,000.00	
Services and Connections	110	EA	\$1,200.00	\$132,000.00	
Trench Plugs	38	EA	\$550.00	\$20,900.00	
Connect to Existing	0	EA	\$3,000.00	\$0.00	
Sanitary Sewer Subtotal				\$705,080.00	
Total :				\$4,660,826.69	

**FIRST AMENDMENT TO THE
CLEARVIEW VILLAGES
MEMORANDUM OF AGREEMENT FOR PUBLIC IMPROVEMENTS**

THIS FIRST AMENDMENT to the Clearview Villages Memorandum of Agreement for Public Improvements (“First Amendment”) is made and entered into this _____ day of _____, 2024 by and between the Town of Frederick, a Colorado statutory town, whose address is P.O. Box 435, Frederick, Colorado (“Town”), and BCL Colorado LP, a Colorado limited partnership, whose address is 9075 Gaylord Drive, Houston, Texas 77024 (“Developer”).

WHEREAS, the parties entered into a Memorandum of Agreement for Public Improvements (“MOAPI”) on _____, recorded at the Weld County Clerk and Recorder’s Office at Reception No. _____; and

WHEREAS, the water dedication requirements found in the Town’s Municipal Code have been revised (Code § 13-2-205, effective through Ordinance 1387, August 2023); and

WHEREAS, the parties bound by and responsible for implementation of the terms of the MOAPI wish to utilize the new Code provisions for water dedication in place of those set out in the MOAPI; and

WHEREAS, the Developer wishes to allow for utilization of the new water dedication requirements; and

WHEREAS, the Town supports the ability to choose to dedicate water either under previous Town Code and/or existing MOAPI requirements, or the new provisions set out in Town Code § 13-2-205.

NOW THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant, and agree as follows:

1. Section 1 of Exhibit F of the MOAPI shall be amended to read:

The DEVELOPER shall be responsible for the construction of roadway improvements to include curb and gutter, asphalt, traffic control and school zone signs, roadway striping, sidewalk and landscaping as shown in the Development Phase Map contained within “Exhibit G” and in the Phase Plan of the Construction Drawings and landscape plan accepted by the Town.

The DEVELOPER shall submit to the TOWN as a requirement for Conditional Acceptance of Phase 1, contribution toward the installation of a future traffic signal at Godding Hollow Parkway (WCR-18) and Silver Birch Boulevard (WCR-11) in the amount of One-Hundred Thirty-Three Thousand, Four-Hundred Eight-Six Dollars and Seventy-Five Cents (\$133,486.75), which amount constitutes twenty-five percent (25%) of the current anticipated cost for the design and installation of the traffic signal. Notwithstanding the foregoing, if Conditional Acceptance of Phase 1 is not sought and this contribution is not made on or before two (2) years from the date of this MOAPI, then, as a requirement for Conditional Acceptance of Phase 1, the DEVELOPER

shall be required to contribute twenty-five percent (25%) of the then-current cost estimate for the design and installation of said traffic signal.

2. Section 4.1 of the MOAPI shall be amended to read:

(a) The Developer is proceeding under § 13-2-205 of the Town Municipal Code, as codified by Ordinance 1387 in August 2023. Developer shall transfer to the Town units of Colorado Big Thompson water for each residential lot included in the phase, prior to issuance of the first building permit, as set out on the original MOAPI.

(b) The TOWN may require the dedication of irrigation water rights that are to be used in the irrigation of park and open space. The DEVELOPER shall by Special Warranty Deed acceptable to the TOWN convey to the TOWN all non-tributary and not not-tributary groundwater as defined by C.R.S. § 37-90-103, whether adjudicated, unadjudicated, permitted or unpermitted, underlying the property.

(c) The TOWN and the DEVELOPER agree that the water rights dedications are directly related to and generated by development intended to occur within the SUBDIVISION and that no taking thereby will occur requiring any compensation.

(d) Staff has completed a Water Demand Analysis per § 13-2-205 of the Municipal Code at the request of the Developer. The water dedication requirement for the project is 130 units of Colorado Big Thompson water per the analysis contained within Exhibit H. If the actual water use of the development exceeds the Water Demand Analysis additional water shall be provided to the Town as defined in § 13-2-235 of the Municipal Code.

3. The Town currently holds 129 shares of Colorado-Big Thompson water units in its bank for the exclusive use of the Developer of Clearview Villages (“Available Water Units”). Should additional units be required for the development pursuant to Town Municipal Code, the Developer must still dedicate those units to the Town.

4. The Town agrees that, upon notice to the Town, the Developer may use a portion of the Available Water Units for the purpose of providing temporary irrigation water to areas approved for native plantings within the approved landscape plan (“Temporary Use”). It is anticipated that each Phase of development will require one year of Temporary Use to establish healthy native plantings. At the time that the native plantings have been established, in the reasonable judgment of Town staff, the Developer will notify the Town that the Temporary Use has ceased, at which time the credits will be transferred back to the water bank for the exclusive use of the Developer.

5. Prior to exercising this right, the Developer shall share with the Town the total Temporary Use that will be used per phase in a format generally consistent with Exhibit I, attached hereto. At no time will the Temporary Use interfere or restrict the timing of domestic water needed for residential development within a phase. However, during the time that the Available Water Units are being utilized as a Temporary Use, the use of those Units may not be changed until the native plantings have been established.

6. Except as specifically amended hereby, Town and Developer agree that the MOAPI continues uninterrupted, shall remain in full force and effect, and shall be binding upon the parties hereto. In the event of any conflict between the MOAPI and this First Amendment, the terms of this First Amendment shall prevail.

7. This First Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original and all such counterparts taken together shall be deemed to constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this [First] Amendment as of the date first set forth above.

TOWN OF FREDERICK

DEVELOPER

By _____
Tracie Crites, Mayor

By _____
_____, Authorized Representative

ATTEST:

By _____
_____, Town Clerk

STATE OF COLORADO)

)ss

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ as _____ and _____ as Town Clerk of the Town of Frederick.

My commission expires:

Witness my hand and official seal.

Notary Public

STATE OF COLORADO)

)ss

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by _____ (signatory's name) as _____ (position/title).

My commission expires:

Witness my hand and official seal.

Notary Public

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 24-R-41**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO,
APPROVING AN UPDATED MEMORANDUM OF AGREEMENT FOR
PUBLIC IMPROVEMENTS FOR CLEARVIEW VILLAGES**

WHEREAS, the Town of Frederick entered into the Memorandum of Agreement for Public Improvements (“MOAPI”) for Clearview Villages effective May 30, 2022; and

WHEREAS, the Developer wishes to utilize the Town’s water demand process, codified in August 2023, Town Municipal Code § 13-2-205; and,

WHEREAS, the Developer wishes to update Exhibit A of the MOAPI, Phasing Plan, to accurately represent the improvements that will be installed with the development following efforts to utilize water more efficiently for irrigation; and,

WHEREAS, Exhibit B of the MOAPI, Engineers Estimate of Probable Costs, must be updated to reflect changes in costs; and,

WHEREAS, Exhibit F of the MOAPI, Special Provisions, must also be updated to reflect a change in the cost of the developer’s share contribution for traffic signaling; and,

WHEREAS, these amendments require an amendment to the MOAPI (“First Amendment”).

**BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF
FREDERICK, COLORADO, AS FOLLOWS:**

Section 1. The First Amendment to the Memorandum of Agreement for Public Improvements for Clearview Villages attached hereto as Exhibit A is approved. The mayor is hereby authorized to execute the agreement.

Section 2. Effective Date. This resolution shall become effective immediately upon adoption.

Section 3. Repealer. All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.

Section 4. Certification. The Town Clerk shall certify to the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

INTRODUCED, READ, PASSED, AND SIGNED 25th DAY OF JUNE 2024.

ATTEST:

TOWN OF FREDERICK

By _____

By _____

Tricia David, Town Clerk

Tracie Crites, Mayor

**CLEARVIEW VILLAGES SUBDIVISION
MEMORANDUM OF AGREEMENT FOR PUBLIC IMPROVEMENTS**

THIS AGREEMENT is made and entered this 30 day of MAY, 2022 by and between the TOWN OF FREDERICK, a Colorado municipal corporation, whose address is P.O. Box 435, Frederick, Colorado ("TOWN"), and BCL Colorado LP, a Colorado limited partnership, whose address is 9075 Gaylord Drive, Houston, Texas 77024 ("DEVELOPER") (together, the "parties").

WHEREAS, DEVELOPER has submitted a combined Preliminary/Final Plat for Clearview Villages ("SUBDIVISION" or "DEVELOPMENT"), attached as "Exhibit A" and incorporated herein by reference, which the Planning Commission and TOWN Board of Trustees have reviewed and approved; and

WHEREAS, the subdivision regulations of the TOWN requires that the DEVELOPER enter into a Subdivision Agreement hereafter called a Memorandum of Agreement for Public Improvements ("AGREEMENT" or "MOAPI") with the TOWN concerning public improvements related to the Development detailed and attached as the "Schedule of Improvements, Exhibit B", hereinafter called "Exhibit B" and incorporated herein by reference; and

WHEREAS, the parties have modified this standard AGREEMENT as indicated by the addition of certain special provisions, if any, in "Exhibit F"; and

WHEREAS, the TOWN and the DEVELOPER agree that such public improvements are directly related to and generated by development intended to occur within the SUBDIVISION and that no taking thereby will occur requiring any compensation.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant and agree as follows:

1 GENERAL CONDITIONS.

1.1 Definitions:

- (a) **Accept:** The Town accepts public improvements after they have been constructed and inspected. Conditional Acceptance and Final Acceptance are the times when the warranty period begins and when the warranty period ends. Conditional and Final Acceptance by the Town must be in writing to be valid, as described in Sections 1.8, 1.9, and 1.10.
- (b) **Approve:** The Town will review and approve construction plans and the general design of engineered structures to ensure that they are in compliance with the Town's Design Standards and Construction Specifications. However, the Town does not design these structures and



any failure due to faulty engineering is the liability of the design engineer who stamped the plans.

- (c) **Major Improvements:** Streets, including curb, gutter and sidewalk, and concrete structures that are built in place, such as detention pond outlet structures and box culverts.

1.2 Development Obligation. DEVELOPER shall be responsible for performance of the covenants set forth herein. DEVELOPER agrees to construct, build, install and develop all improvements required by this AGREEMENT, including but not limited to all water system improvements, sanitary sewer collection lines, sanitary sewer lift stations, storm sewer lines and catch basins, storm drainage swales, storm drainage detention ponds and other improvements, streets, curbs, gutter, sidewalks, landscaping, pedestrian and non-motorized paths and trails, street median/boulevard and subdivision entryway landscaping, street lighting, park improvements, irrigation systems, gas services, electric services, telephone services, cable television services and any other improvements constructed in relation to the development of the SUBDIVISION in complete conformity with the TOWN's construction standards and specifications and with the construction plans and drawings that have been reviewed and Approved by the TOWN.

1.3 Engineering and Surveying Services. The DEVELOPER agrees to furnish, at its expense, all necessary engineering and surveying services relating to the design and construction of the Development and the public improvements identified in "Exhibit B", attached and incorporated herein by this reference. The engineering services shall be performed by or under the supervision of a Registered Professional Engineer licensed by the State of Colorado in accordance with the applicable Colorado law; and except as otherwise provided in this AGREEMENT, shall conform to the standards and specifications for public improvements as established and approved by the TOWN as of the date of submittal to the TOWN.

The surveying services shall be performed by or under the supervision of a Registered Land Surveyor, licensed by the State of Colorado in accordance with the applicable Colorado law and shall include, but not be limited to, the monumentation of the subdivision as provided by law.

1.4 Construction Standards. The DEVELOPER shall construct all improvements required by this AGREEMENT, according to plans and specifications reviewed and accepted in writing by the TOWN or by the utility providing the service, and with the approved plat, and in full conformity with the TOWN's construction specifications applicable at the time of construction plan acceptance. Such acceptance shall continue in effect for one (1) year from the date of acceptance. If the DEVELOPER commences or performs any construction after such one (1) year period, the DEVELOPER shall resubmit the project construction plans to the

TOWN for reexamination. The TOWN may require the DEVELOPER to comply with the TOWN standards and specifications that are in effect at the time of resubmittal.

1.5 Development Coordination. Unless specifically provided in this AGREEMENT to the contrary, all submittals to the TOWN shall be made to the TOWN Clerk with a copy to the TOWN Engineer, as may be designated by the TOWN. The TOWN Engineer, or the Engineer's designee shall render those acceptances required of the TOWN in connection with this AGREEMENT, except those requiring formal action by the Board of Trustees in the form of a resolution or ordinance, and shall have general responsibility for coordinating development with DEVELOPER.

1.6 Plan Submission and Acceptance.

- (a) The DEVELOPER shall furnish the TOWN complete plans for public improvements for the Development, and obtain written acceptance of such plans by the TOWN before the commencement of any construction work thereon. DEVELOPER shall submit all sanitary sewer plans to and shall acquire the written acceptance by the St. Vrain Sanitation District, the Left Hand Water District, and the Central Weld County Water District as required before the commencement of any construction work on such improvements. Acceptance shall be indicated by the signature of the appropriate district representative on each drawing in the plans set containing sanitary sewer and water system improvements.
- (b) The TOWN shall issue its written acceptance or disapproval of public improvement plans as expeditiously as reasonably possible. Said acceptance or disapproval shall be based upon the standards and specifications for public improvements as established by the TOWN, and the TOWN shall notify DEVELOPER of all deficiencies that must be corrected before plan acceptance. All deficiencies shall be corrected and DEVELOPER shall resubmit the plans for review and acceptance by the TOWN before the construction of any improvements.
- (c) The DEVELOPER shall submit all plans for public improvements as paper documents and by acceptable electronic transfer, AutoCAD™ drawing files (release 14, or newer). All written documents shall be submitted as paper documents and by acceptable electronic transfer, as word processing files, Microsoft Word, latest version, or compatible.
- (d) Amendments to the approved plans shall be submitted to the TOWN for review and approval in the same manner as for the original plans. Approval of amendments shall be in writing.

(e) The DEVELOPER shall cause to be furnished to the Town Engineer a construction schedule for the proposed public improvements and obtain his written approval for such schedule at least five (5) days prior to the commencement of construction work. The construction schedule shall be updated each month until conditional acceptance of the construction is given. The construction schedule shall be provided to the Town Engineer electronically, in Microsoft Project Manager, or a similar program.

1.7 Incorporation by Reference. All plans, special provisions, and specifications for the public improvements furnished and let pursuant to this AGREEMENT as approved by the TOWN shall be and hereby are made a part of this AGREEMENT by reference as fully as if set out herein in full.

1.8 Insurance. The DEVELOPER shall require, and upon written request by the TOWN, furnish proof to the TOWN that all employees and contractors engaged in the construction of improvements are covered by adequate Workers' Compensation Insurance and Public Liability Insurance through contract requirements and other normal means.

1.9 OSHA Compliance. The DEVELOPER shall require, and upon written request by the TOWN furnish proof to the TOWN, all contractors engaged in the construction of PUBLIC IMPROVEMENTS to faithfully comply with all provisions of the Federal Occupational Safety and Health Act (OSHA).

1.10 Development Impact Fees. The TOWN has established certain uniform development impact fees that directly address the effect of development intended to occur within the PROPERTY upon the TOWN' infrastructure, administration and delivery of governmental services. The DEVELOPER agrees to the payment of these uniform development impact fees as established by the TOWN. The TOWN and the DEVELOPER further agree that the TOWN may amend the development impact fees from time to time as needed to address changing affects upon the TOWN's infrastructure, administration and deliver of governmental services as a result of development occurring within the TOWN. The development impact fees are to be paid at the then current rate upon subdivision of the property and/or the issuance of building permits whichever is applicable for that particular development impact fee.

1.11 Financing and Improvement Guarantees.

(a) Except as otherwise specifically agreed herein, the DEVELOPER agrees to install and pay for all improvements described in "Exhibit B" or otherwise required by this MOAPI as shown on the accepted plat, landscape plans, utility plans, construction drawings, and other accepted documents on file with the TOWN including, but not be limited to, all water system improvements, sanitary sewer collection lines, sanitary

sewer lift stations, storm sewer lines and catch basins, storm drainage swales, storm drainage detention ponds and other improvements, streets, signing and striping, curb, gutter, sidewalk, landscaping, pedestrian and non-motorized paths and trails, street median, boulevard and subdivision entryway landscaping, street lighting, park improvements, irrigation systems, gas and electric distribution systems, and any other improvements constructed in relation to the development of the SUBDIVISION (collectively, the "SECURED IMPROVEMENTS").

- (b) The DEVELOPER shall submit to the TOWN an Improvement Guarantee assuring construction of the SECURED IMPROVEMENTS. The term of the guarantee shall be for a time sufficient to cover the completion of construction of the public improvements and the warranty period through final acceptance; in no case shall the term of the guarantee be for fewer than two years. The guarantee may be in cash, certified check, or a letter of credit in form and substance as shown on "Exhibit C" attached hereto and incorporated herein by reference. The guarantee shall be subject to approval by the Town Attorney. The guarantee, if a letter of credit, shall not expire during the winter season (November 1 - April 30).
- (c) The total amount of the guarantee shall be calculated as one hundred percent (100%) of the total estimated cost, including labor and materials, of all public improvements to be constructed as described on "Exhibit B", except those public utilities to be owned by an entity other than the TOWN and for which a separate surety is provided. For the avoidance of doubt, while the amount of the Improvement Guarantee shall be calculated as described in this subsection (c), the Improvement Guarantee shall nonetheless assure construction of all SECURED IMPROVEMENTS and the TOWN shall not release the Improvement Guarantee until the TOWN has granted final acceptance of the SECURED IMPROVEMENTS. Partial releases of an Improvement Guarantee may be considered when development is phased and a phase has received conditional acceptance. Irrespective of partial releases, at all times during the warranty period on SECURED IMPROVEMENTS, the TOWN shall retain at least ten percent (10%) of the total improvement costs as an Improvement Guarantee under this section. The costs established in "Exhibit B" shall be reviewed and approved by the Town Engineer; however, partial release of the Improvement Guarantee, as set forth herein, shall not require amendment to the costs set forth in "Exhibit B".
- (d) If the DEVELOPER has not submitted or fails to maintain the Improvement Guarantee, then the DEVELOPER is in default of this AGREEMENT and is subject to the provisions of Section 14.1 of this AGREEMENT, and the suspension of development activities by the



- TOWN including, but not limited to, the issuance of building permits and certificates of occupancy.
- (e) The estimated cost of completion of the public improvements to be constructed as described on “Exhibit B” may increase in the future. Accordingly, the TOWN reserves the right to review and adjust the cost estimates at any time in the future, or to require the DEVELOPER to provide an updated estimate of costs, before or after DEVELOPER provides the Improvement Guarantee. The TOWN will make adjusted cost estimates according to changes in the Construction Cost Index as published by the *Engineering News Record*. If the TOWN adjusts cost estimates for the Improvements, the TOWN shall give written notice to the DEVELOPER. The DEVELOPER shall, within thirty days after receipt of said written notice, give the TOWN a new or amended Improvement Guarantee in the amount of the adjusted cost estimates. If the DEVELOPER refuses or fails to so give the TOWN a new or amended Improvement Guarantee, the TOWN may draw on the Improvement Guarantee and either hold such funds as security for performance of this AGREEMENT, or spend such funds to finish the SECURED IMPROVEMENTS or correct deficiencies in the SECURED IMPROVEMENTS, or it may withhold building permits and certificates of occupancy within the Development, as the TOWN deems appropriate.
 - (f) If an Improvement Guarantee is to expire within thirty (30) calendar days and the DEVELOPER has not yet provided a satisfactory replacement, the TOWN may draw on the Improvement Guarantee and either hold such funds as security for performance of this AGREEMENT, or spend such funds to construct or finish the SECURED IMPROVEMENTS, or correct deficiencies in the SECURED IMPROVEMENTS, as the TOWN deems appropriate.
 - (g) If the Improvement Guarantee expires or the entity issuing the Improvement Guarantee becomes non-qualifying, then the TOWN shall furnish written notice to the DEVELOPER of the condition, and within thirty (30) days of receipt of such notice the DEVELOPER shall give the TOWN a substituted qualifying Improvement Guarantee, or augment the deficient security as necessary to bring the security into compliance with the requirements of this section. If the DEVELOPER refuses or fails to give the TOWN a substitute qualifying Improvement Guarantee, or augment the deficient security, the TOWN may draw on the Improvement Guarantee and either hold such funds as security for performance of this AGREEMENT, or spend such funds to construct or finish the SECURED IMPROVEMENTS, or correct deficiencies in the SECURED IMPROVEMENTS, and it may withhold building permits and certificates of occupancy within the Development, as the TOWN deems appropriate.

- (h) If the DEVELOPER fails or refuses to construct the SECURED IMPROVEMENTS, or fails or refuses to finish the construction of the SECURED IMPROVEMENTS, the TOWN may draw on the Improvement Guarantee and either hold such funds as security for performance of this AGREEMENT, or spend such funds to construct or finish the SECURED IMPROVEMENTS, or correct deficiencies in the SECURED IMPROVEMENTS, as the TOWN deems appropriate

2 CONSTRUCTION OF IMPROVEMENTS.

2.1 Improvements to be Constructed. In accordance with the policies and ordinances of the TOWN, the DEVELOPER shall construct all improvements specified in "Exhibit B" and will comply with all additional provisions specified in "Exhibit F". If there is a discrepancy between the quantity or size of improvements shown on any approved plans or drawings and the quantity or size listed in "Exhibit B", then the TOWN shall determine which quantity or size applies in accordance with TOWN standards, specifications, regulations and policies; provided, however, that any increased cost to DEVELOPER attributable to the larger quantity or size may be eligible for reimbursement by adjacent benefitted property as specified in this MOAPI.

2.2 On-site and Off-site Rights-of-way, Easements, Licenses and Permits. For full development of the PROPERTY to occur, the DEVELOPER may need to acquire certain off-site and on-site rights-of-way, easements, licenses and permits for the construction of off-site and on-site improvements, as identified in "Exhibit B" and the approved development plans and convey the same to the TOWN. All acquisition costs of off-site and on-site rights-of-way, easements, licenses and permits necessary to serve the PROPERTY shall be the DEVELOPER's sole responsibility, subject to reimbursement as detailed in this MOAPI.

- (a) All such conveyances shall be free and clear of liens, taxes and encumbrances and shall be by plat dedication or by general or special Warranty Deed in form and substance acceptable to the TOWN Attorney. The TOWN at the DEVELOPER's expense shall record all title documents. The DEVELOPER shall also furnish, at its own expense, an ALTA title policy for all interest(s) so conveyed, subject to approval by the TOWN Attorney.

- (b) If the DEVELOPER cannot acquire an off-site or on-site easement or rights-of-way necessary to develop the PROPERTY, the DEVELOPER may request the TOWN's assistance in getting the easements or rights-of-way. Such assistance by the TOWN shall be in compliance with Colorado law authorizing the TOWN's use of eminent domain. The DEVELOPER shall advance to the TOWN all acquisition costs, including any court costs and attorneys' fees, the TOWN may incur in providing assistance.

- (c) The TOWN and the DEVELOPER agree that the acquisition of off-site and on-site rights-of-way, easements, licenses and permit necessary to serve the transportation needs of the PROPERTY are directly related to and generated by development intended to occur within the PROPERTY and that no taking thereby will occur requiring any compensation.

2.3 Construction.

- (a) The DEVELOPER shall furnish and install, at its own expense, the improvements listed on “Exhibit B”, in conformance with the subdivision plat and final development plan, and with the construction plans, specifications and drawings approved by the TOWN. The Developer will cause his contractors to furnish the Town Engineer with a project schedule of proposed operations at least five (5) days prior to their commencement of construction work. Construction of public improvements shall be completed within a reasonable time, not to exceed two calendar years from the date of commencement.
- (b) If the DEVELOPER does not meet the above obligations, then DEVELOPER shall be in default of the AGREEMENT, and the TOWN may exercise its rights under Section 14.1 of this AGREEMENT including the suspension of development activities by the TOWN including, but not limited to, withholding the issuance of building permits and certificates of occupancy.

2.4 Utility Coordination and Installation. In addition to the improvements described on “Exhibit B”, that are the DEVELOPER’s responsibility to construct, install and develop, the DEVELOPER shall also be responsible for coordination of and payment for installation of on-site and off-site electric, street lights, natural gas, telephone, cable television and other utilities required to serve the Development. All utilities within the Development shall be placed underground to the extent required by the *Frederick Municipal Code*.

2.5 Utility Relocation. The DEVELOPER shall pay the full cost of relocating existing utilities that the development of the SUBDIVISION may require. The DEVELOPER shall relocate all existing overhead utilities within the SUBDIVISION or in road rights-of-way adjacent to the SUBDIVISION, including but not limited to electric or telecommunications lines and cables, underground. Facilities designed for the transmission or distribution of electric energy at voltages greater than 15,000 volts shall be exempt from this requirement.

2.6 Trash, Debris, Mud, Wind and Water Erosion.

- (a) **Erosion and Sediment Control Plan.** The DEVELOPER shall provide a wind and stormwater erosion and sediment control plan for review and acceptance by the TOWN. The plan shall address the existing and potential erosion and sediment problems to be created by the proposed development. Conservation measures used to mitigate these concerns shall be in accordance with standards and specifications in effect at the time of construction and may include by way of illustration, restrictions on the acreage of land stripped of vegetation, temporary seeding with grass cover, the use of geo-textile and erosion control mats, sprinkling of exposed ground, berms and sedimentation fences, chiseling exposed ground, etc. If applicable, The DEVELOPER shall consult the Soil Conservation District regarding erosion and sediment control.
- (b) The DEVELOPER agrees that during construction of the development and improvements described herein, The DEVELOPER shall take any and all steps necessary to control trash, debris and wind or water erosion in the development. If the TOWN determines that said trash, debris or wind or water erosion causes damage or injury or creates a nuisance, The DEVELOPER agrees to abate said nuisance and/or to correct any damage or injury within five (5) working days after notification by the TOWN. If the DEVELOPER does not abate said nuisance or if an emergency exists, to be determined by the TOWN in its sole discretion, the TOWN may abate the nuisance and/or correct any damage or injury without notice to the DEVELOPER, at the DEVELOPER's expense.
- (c) The DEVELOPER agrees to take any and all steps necessary to prevent the transfer of mud or debris from the construction site onto public rights-of-way and to immediately remove such mud and debris from public rights-of-way after notification by the TOWN. If the DEVELOPER does not abate such mud or debris, or if an emergency exists, the TOWN may abate the same at the DEVELOPER's expense.

2.7 State Stormwater Discharge Permit Required. The DEVELOPER shall obtain, if required by state or local statutes or policies, a CDPS "General Permit for Stormwater Discharges Associated with Construction Activity" required during construction.

2.8 Operation of Construction Equipment.

- (a) The DEVELOPER shall prohibit the operation of construction equipment outside an enclosed structure between the hours of 8:00 p.m. and the hour of 7:00 a.m. on weekdays, or the hour of 8:00 a.m. on legal holidays and

weekends. The Town Engineer may, upon written application, alter the hours of operation for good cause.

- (b) The operation of construction equipment for grading or constructing either surface improvements or underground utilities, either public or private, shall be prohibited between the hours of 8:00 p.m. and 7:00 a.m. on weekdays and 4:00 p.m. and 8:00 a.m. on legal holidays and weekends. Upon written request, the Town Engineer may alter the hours of operations.

2.9 Testing and Inspection.

- (a) The DEVELOPER shall employ, at its own expense, a licensed and registered testing company, authorized to do business in the State of Colorado, to do all testing of materials or construction that the TOWN may reasonably require, including but not limited to compaction testing for embankment fills, structural backfills, pipe bedding, trench backfills, subgrade, road base course and asphalt, and concrete strength testing, and shall furnish copies of test results to the TOWN on a timely basis for TOWN review and acceptance before commencement or continuation of construction to which the testing is applicable. The DEVELOPER shall repair or remove all materials and work not conforming to such regulations, plans and specifications and replace the same at DEVELOPER's expense to conform to such regulations, plans and specifications.
- (b) At all times during construction of the public improvements the TOWN and/or representatives of the affected Special Districts shall have access to inspect the materials and workmanship of said construction, determine the progress of the work, and determine compliance of the work with the accepted plans and the TOWN's and Districts' construction regulations. The TOWN Engineer or District's Engineer shall be present to inspect the pressure leakage testing of potable water lines conducted by the DEVELOPER. The TOWN may collect and deliver a water sample to Weld County Health Department for bacteriological tests of the potable water lines after the DEVELOPER has disinfected said lines according to the TOWN's or District's construction regulations, or the Town may require that the DEVELOPER shall employ, at the DEVELOPER's expense, a testing laboratory acceptable to the TOWN or District to conduct said bacteriological tests.
- (c) All work shown on the accepted public improvement plans shall be subject to inspection by the TOWN Engineer. Inspection by the TOWN Engineer shall not relieve the DEVELOPER from compliance with the accepted plans and specifications or the TOWN's construction regulations.

Inspection services requiring the presence of the TOWN Engineer are provided Monday through Friday, except legal holidays, from 9:00 a.m. to 4:00 p.m. During the hours listed above, inspections shall be scheduled a minimum of seventy-two (72) hours in advance with the TOWN Engineer. Requests for inspection services beyond the hours listed above, shall be submitted a minimum of seventy-two (72) hours in advance to the TOWN Engineer for approval. All requests for after-hours inspection services shall be made in writing to the TOWN Engineer. If TOWN approves the request, the DEVELOPER shall reimburse the TOWN for all direct costs of the after-hours inspection services. If TOWN denies the request, the work shall not continue after the time requested until an inspection has been done during the hours listed above. The DEVELOPER shall comply with all notification and inspection requirements of the St. Vrain Sanitation District regarding sanitary sewer improvements.

- (d) The Developer shall pay the Town for all costs incurred by the Town in the performance of the above said services within ten (10) days of the Town submitting an invoice for said services. Failure by the Developer to pay within the specified time shall be cause for the Town to deny future building permits and/or order cessation of all activities on the DEVELOPMENT.

2.10 Conditional Acceptance of Constructed Public Improvements.

- (a) No later than fourteen (14) days after public improvements are completed for each phase or for the entirety of the Development, the DEVELOPER shall request inspection by the TOWN. If the DEVELOPER does not request this inspection within fourteen (14) days of completion of improvements, the TOWN may conduct the inspection without the approval of the DEVELOPER.
- (b) If improvements completed by the DEVELOPER are in substantial compliance with the approved public improvement plans, the TOWN shall grant "conditional acceptance," which shall be subject to "final acceptance" as set forth herein. Through its Engineering Department, the TOWN shall issue to the DEVELOPER a letter acknowledging said conditional acceptance.
- (c) If improvements completed by the DEVELOPER are not in substantial compliance with the approved public improvement plans, the TOWN shall provide written notice to the DEVELOPER of the repairs, replacements, construction or other work required to receive "conditional acceptance." The DEVELOPER shall complete all needed repairs, replacements, construction or other work within thirty (30) days of said notice, weather permitting. After the DEVELOPER completes the repairs, replacements,

construction, or other work required, the DEVELOPER shall request of the TOWN a reinspection of such work to decide if the TOWN can grant "conditional acceptance." The TOWN reserves the right to schedule reinspections, depending upon scope of deficiencies. The TOWN shall provide written notice to the DEVELOPER as to whether or not the work is acceptable before the TOWN acts to complete any such work at the DEVELOPER's expense as provided in (d) below.

- (d) If the DEVELOPER has not completed the improvements on or before the completion dates set forth in "Exhibit B" herein, or if the DEVELOPER does not complete the repairs, replacements, construction or other work required within thirty (30) of said notice, the TOWN may exercise its rights to secure performance as provided in Section 14.1 of this AGREEMENT.
- (e) The DEVELOPER shall provide a certified statement of construction costs no later than forty-five (45) days after improvements are completed.
- (f) The DEVELOPER shall provide the Town Engineer certified Record Plan Transparencies on Black Image Diazo Reverse Mylars (as-built) plans and other required drawings upon completion of the construction of public improvements, and other documents as required by the TOWN no later than forty-five (45) days after improvements are completed. These documents shall show "as-built" locations and design details of such improvements. In addition, "as-built" plans and other required drawings for public improvements shall be submitted by acceptable electronic transfer, AutoCAD™ drawing files (release 14, or later). Failure to provide the required as-built drawings may result in the suspension of development activities by the TOWN including, but not limited to, the issuance of building permits and certificates of occupancy.
- (g) The TOWN shall issue no building permit for the construction of any structure until all the water lines, fire hydrants, sanitary sewer lines (if required), storm sewer facilities (including but not limited to storm sewers, catch basins and stormwater detention ponds) and streets (including but not limited to the curb, gutter and sidewalk, the street with top mat completed, and striping and signing installed) serving such structure have been completed and granted conditional acceptance.
- (h) The above requirements also apply to sewer and water improvements to be inspected and accepted by the appropriate Special District. The DEVELOPER shall obtain conditional acceptance of the improvements in writing and provide a copy of the same to the TOWN.



2.11 Maintenance and Warranty of Improvements. For a two (2) year period, which is the greater of either two (2) years or two (2) winter seasons, from the date of conditional acceptance of any improvements related to the Development, the DEVELOPER shall warrant said improvements and, at its own expense, take all actions necessary to maintain said improvements and make all needed repairs or replacements that, in the reasonable opinion of the TOWN, shall become necessary. If within thirty (30) days after the DEVELOPER's receipt of written notice from the TOWN requesting replacement or repairs to the public improvements, the DEVELOPER has not completed such repairs, the TOWN may exercise its rights to secure performance as provided in Section 14.1 of this AGREEMENT.

2.12 Final Acceptance.

- (a) At least thirty (30) days before two (2) years have elapsed from the issuance of conditional acceptance, or as soon thereafter as weather permits, the DEVELOPER shall request a "final acceptance" inspection. The TOWN shall inspect the improvements and shall notify the DEVELOPER in writing of all deficiencies and necessary repairs, if any.
- (b) If there are no deficiencies, and after clear title to on-site and off-site right-of-ways and easements have been transferred to the Town by plat dedication or general or special Warranty Deed, and after all licenses and permits necessary for the development of the SUBDIVISION and obtained by the DEVELOPER have been transferred to the TOWN, the TOWN shall accept streets, right-of-ways and other public ways, easements, open spaces, parks and other lands dedicated on the plat and accept public improvements constructed by the DEVELOPER for ownership and maintenance by the TOWN and through the Engineering Department shall issue to the DEVELOPER a letter acknowledging said final acceptance.
- (c) If there are deficiencies of the public improvements, the TOWN shall provide a written notice identifying the deficiencies and the DEVELOPER shall correct all deficiencies at the DEVELOPER's expense. Deficiencies of improvements that are considered in the sole opinion of the Town Engineer to be Major Improvements as defined in Section 1.1(c) shall be subjected to an additional two-year warranty period and shall not be granted final acceptance following the DEVELOPER's correction of the deficiencies. In the event that the warranty period is extended by an additional two years, the letter of credit or other improvement guarantee provided by the DEVELOPER shall be reevaluated for sufficiency by the TOWN, and the guarantee must be extended such that it does not expire during any additional warranty period. Corrections to improvements that are not Major Improvements shall be eligible for final acceptance at the

end of the initial two-year warranty period and shall not be subject to an additional warranty period.

- (d) If the DEVELOPER does not correct all deficiencies and make repairs identified in the "final acceptance" inspection to the TOWN's satisfaction within thirty (30) days after receipt of said notice, weather permitting, the TOWN may exercise its rights to secure performance as is provided in Section 14.1 of this AGREEMENT.
- (e) If any mechanic's liens have been filed with respect to the public improvements, the TOWN may retain all or part of the Improvement Guarantee up to the amount of such liens until said liens have been released by the claimant or discharged by judicial action.
- (f) If the DEVELOPER fails to submit the improvements for the "final acceptance" inspection and obtain the Town's acceptance of the public improvements within two (2) years of the date of the issuance of conditional acceptance, or if any improvements are found not to conform to this AGREEMENT or to applicable TOWN standards and specifications, then the warranty period shall extend on a month to month basis and the DEVELOPER shall be in default of the AGREEMENT and the TOWN may exercise its rights under Section 14.1 of this AGREEMENT.
- (g) The above requirements shall also apply to the sewer and water improvements to be inspected and accepted by the appropriate Special District. The DEVELOPER shall obtain the final acceptance of the improvements in writing and provide a copy of the same to the TOWN.

- 3 PUBLIC USE LAND DEDICATION.** Before the issuance of any building permits, the DEVELOPER shall convey to the TOWN those certain lands as described or depicted on the subdivision plat as dedicated to public uses. Said conveyance shall be by General or Special Warranty Deed in form and substance satisfactory to the Town Attorney. The DEVELOPER shall, at the DEVELOPER's expense, furnish a commitment for title insurance on the property at the time of conveyance. The property shall be free and clear of liens, taxes and encumbrances, except for ad valorem real property taxes for the calendar year of conveyance and thereafter, but subject to all easements, right-of-way, reservations, restrictions, or other title burdens of record, or those easements and rights-of-way that would be readily apparent from a physical inspection. The TOWN shall record all title documents at the DEVELOPER's expense.

4 WATER RIGHTS.

4.1 Water Rights.

- (a) If the DEVELOPER is proceeding under Alternative 1.E of Section 13-55.3(1) of the Frederick Municipal Code, and if such units were not transferred to the TOWN at the time of annexation, the DEVELOPER will transfer to the TOWN 1.0 units of Colorado Big Thompson (CBT) water for each residential lot, or for each Single-Family Equivalency (SFE) to be constructed within each applicable phase of the SUBDIVISION as shown in the Development Phase Map incorporated in “Exhibit A” prior to the TOWN issuing the first building permit within the applicable phase. If the DEVELOPER is proceeding under Alternative 2.E of Section 13-55.3(1), the DEVELOPER shall secure and supply a raw water source satisfactory to the TOWN and thereafter construct and complete the raw water system described in “Exhibit B” and shown in the “RAW WATER PHASE” of the Phasing Plan in “Exhibit A” (the “RAW WATER SYSTEM”); the DEVELOPER shall provide an Improvement Guarantee to secure the construction of the RAW WATER SYSTEM at the time of DEVELOPER’S election, if at all, to proceed under Alternative 2.E. The TOWN and DEVELOPER agree that sufficient CBT water has been dedicated to the TOWN for Phase 1 and Phase 2 (129 CBT units) as shown on the Development Phase Map, and upon the Town issuing Initial Acceptance for Phase 1 and/or Phase 2, the Town will not refuse to issue building permits for said Phases or future Phases of the SUBDIVISION based on any requirement for water dedication in Phases 1 and/or Phase 2 (as applicable). No building permits shall be issued within Phase 3 and Phase 4 unless and until, in DEVELOPER’S sole discretion: (i) DEVELOPER elects to and has transferred sufficient CBT water to the TOWN in accordance with Alternative 1.E of Section 13-55.3(1) of the Frederick Municipal Code, in which case DEVELOPER will not be required to construct or complete the RAW WATER SYSTEM (except that if DEVELOPER previously commenced construction of the RAW WATER SYSTEM, DEVELOPER shall cap and make safe any portion of the system no longer in use); or (ii) DEVELOPER has secured and supplied to the TOWN a raw water source for the RAW WATER SYSTEM and has completed, and the TOWN has conditionally accepted in accordance with Section 2.10 of this AGREEMENT, the RAW WATER SYSTEM.

- (b) The TOWN may require the dedication of irrigation water rights that are to be used in the irrigation of park and open space. The DEVELOPER shall by Special Warranty Deed acceptable to the TOWN convey to the TOWN all non-tributary and not not-tributary groundwater as defined by

C.R.S. § 37-90-103, whether adjudicated, unadjudicated, permitted or unpermitted, underlying the property.

- (c) The TOWN and the DEVELOPER agree that the water rights dedications are directly related to and generated by development intended to occur within the SUBDIVISION and that no taking thereby will occur requiring any compensation.

5 WATER IMPROVEMENTS.

5.1 Water Service Availability. The TOWN provides potable water service by an intergovernmental agreement with the Central Weld County Water District. The TOWN does not guarantee the availability of potable water service to the DEVELOPER for any phase of the development from the CWCWD system. Provided that water service availability is confirmed by a TOWN water system analysis at the time the DEVELOPER requests water taps, the TOWN will provide water service to the DEVELOPER.

5.2 Extension of Water Services.

- (a) The DEVELOPER shall install at his sole cost and expense, all the water mains, trunk lines, pumping and storage facilities and appurtenances necessary to provide service from the TOWN's system to the SUBDIVISION pursuant to the TOWN accepted plans, specifications, and as described in "Exhibit B". These extensions may include the oversizing of lines and pumping and storage facilities for future development of adjacent property.
- (b) The DEVELOPER shall install at his sole cost and expense, all the water lines, fire hydrants and appurtenances within the SUBDIVISION. Water lines lying within the dedicated right-of-way and utility easements shall be dedicated to the TOWN after construction.
- (c) Any reimbursements to the DEVELOPER for oversizing of water lines and other water facilities will be as specified by the TOWN.

5.3 Water Connection and Plant Investment Fees.

- (a) Water connection and plant investment fees shall be the existing TOWN water connection and plant investment fees at the time that the DEVELOPER receives a building permit for a structure. Water connection and plant investment fees shall be paid when a building permit for a structure is released by the TOWN. CBT water shares are acceptable in lieu of cash payment for the CBT water share portion of the water tap fee for each water tap.

- (b) If the SUBDIVISION is not already in the Northern Colorado Water Conservancy District, the DEVELOPER agrees to petition for inclusion in said District and to the payment of any fees and taxes levied by the District as a condition of said inclusion.
- (c) If the subdivision is not already in the Municipal Subdistrict of the Northern Colorado Water Conservatory District, the DEVELOPER agrees to petition for inclusion in said Subdistrict and to the payment of any fees and taxes levied by the Subdistrict as a condition of said inclusion.

6 SANITARY SEWER SERVICES

6.1 Provision of Sanitary Sewer Service.

- (a) The TOWN provides sewer service by an intergovernmental agreement with the St. Vrain Sanitation District. The DEVELOPER shall comply at the time of development with the District's requirements.
- (b) If the SUBDIVISION is not already in the St. Vrain Sanitation District the DEVELOPER agrees to petition for inclusion in said District and to the payment of any fees and taxes levied by the District as a condition of said inclusion.
- (c) The TOWN shall require proof of purchase of a sewer tap for a building site before the TOWN will issue a building permit for the site.

6.2 Extension of Sanitary Sewer Services.

- (a) The DEVELOPER shall install at his sole cost and expense, all the sewer mains, trunk lines, pumping facilities and appurtenances necessary to provide service from the District's system to the SUBDIVISION pursuant to District accepted plans, specifications, and as described in "Exhibit B". These extensions may include the oversizing of lines and pumping facilities for future development of adjacent property.
- (b) The DEVELOPER shall install at his sole cost and expense, all the sewer lines and appurtenances within the SUBDIVISION. Sewer lines lying within the dedicated right-of-way and non-exclusive utility easements shall be dedicated to District after construction.
- (c) Any reimbursements to the DEVELOPER for oversizing of sewer lines and other sewer facilities will be as specified by the District.

6.3 Sanitary Sewer Service Availability. The TOWN does not warrant the availability of sanitary sewer service to the DEVELOPER for any phase of development. A determination of sanitary sewer service availability by the District shall be made by the District.

6.4 Sanitary Sewer Tap and Plant Investment Fees.

- (a) Sanitary sewer tap and plant investment fees shall be the existing District sanitary sewer tap and plant investment fees at the time that the DEVELOPER requests sewer taps.
- (b) The TOWN shall require proof of payment of the sewer tap and plant investment fees for a building site before the TOWN will issue a building permit for the site.

7 ELECTRIC SERVICES.

7.1 Provision of Electric Service. The parties agree that the SUBDIVISION will receive electric service from the applicable utility. The DEVELOPER shall comply at the time of development with the utility's requirements for the extension of main feeder lines, internal subdivision distribution systems, service connections and the payment of any system capital investment fees required by the utility to the utility at the time that the DEVELOPER requests electric service. All electric facilities serving the SUBDIVISION and constructed by the DEVELOPER shall be dedicated to the utility prior to final acceptance.

8 DRAINAGE IMPROVEMENTS

8.1 Provision of Storm Water Drainage. It is agreed by the parties that the SUBDIVISION will participate in the storm water drainage system provided by the TOWN. The DEVELOPER shall comply at the time of development with the Town's requirements.

- (a) The DEVELOPER shall construct drainage improvements for the development in accordance with the master drainage plan for the PROPERTY prepared by the DEVELOPER and reviewed and accepted by the TOWN and the responsible drainage district, if any. These improvements may consist of on-site and off-site improvements, including but not limited to, storm water lines, drainage swales, pumping, detention facilities and storm water treatment facilities. The improvements may include the oversizing of facilities to accommodate future development of adjacent property or to accommodate pass-through of historical flows from adjacent property.



- (b) The DEVELOPER shall install at his sole cost and expense, all the storm water lines, drainage swales, pumping, detention and storm water treatment facilities within the SUBDIVISION. The DEVELOPER shall install at his sole cost and expense, such sedimentation and erosion control measures as are required.
- (c) The DEVELOPER shall install at his sole cost and expense, such groundwater and foundation drainage system as may be required for development of the SUBDIVISION. Operation Maintenance of any such ground water and foundation drainage system shall remain the responsibility of the DEVELOPER until specifically transferred to individual lot owner or an HOA.
- (d) Any reimbursements to the DEVELOPER for oversizing of storm sewer lines and other storm water facilities, or the construction of off-site facilities will be as specified in this MOAPI.

8.2 Master Drainage Plan.

- (a) The DEVELOPER, at his sole expense shall prepare a master drainage plan for the SUBDIVISION. The master drainage plan shall show the location and extent of all drainage system improvements, including but not limited to collection, detention and treatment facilities for on-site storm water and the pass-through of off-site historical storm water flows based on the 100-year storm flows. If the master drainage plan results in changes to drainage affecting other property or facility owners, the TOWN may require the DEVELOPER to obtain written consent from each property or facility owner for the changes before the TOWN will accept the plan.
- (b) Storm water discharges and runoff shall be designed to discharge into the TOWN accepted drainage ways and facilities, and shall, to the maximum extent possible, avoid conveying storm water discharges in irrigation ditches. In the event that storm water discharges into an irrigation ditch, the DEVELOPER shall by separate agreement obtain the written consent of the owner(s) of the irrigation facility to accept said storm water. A copy of the agreement shall be provided to the TOWN before the TOWN will accept the master drainage plan.
- (c) The master drainage plan shall define the DEVELOPER's responsibility for on-site surface drainage improvements. The master drainage plan shall include construction of facilities to convey, collect and detain storm water and to remove pollutants from it.
- (d) The master drainage plan shall define the DEVELOPER's responsibility for groundwater and foundation drainage improvements, if any.

Groundwater and foundation drainage improvements shall not discharge into public storm water facilities or improvements without prior written acceptance by the TOWN. The DEVELOPER shall be responsible for obtaining all state and federal permits that may be required for the discharge of this groundwater to the state waters. Any groundwater drainage system facilities to be located within Town rights-of-way shall require the Town's approval of a License Agreement. The DEVELOPER shall be responsible for ongoing maintenance of all improvements necessary to transport groundwater to a natural drainageway or storm sewer system approved by the TOWN.

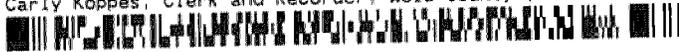
- (e) The master drainage plan shall define the DEVELOPER's responsibility for off-site improvements including the oversizing of facilities.
- (f) The TOWN may require the DEVELOPER to update the master drainage plan for the SUBDIVISION for the review of each final plat of a phased project to determine the design, timing, and responsibility for the improvements.

8.3 Drainage Improvement Construction.

- (a) The DEVELOPER shall construct drainage improvements for the PROPERTY in accordance with the Town's Master Drainage Plan and plans and construction specifications accepted by the TOWN and as described in "Exhibit B".
- (b) The DEVELOPER shall so design and construct all storm drainage facilities as to control all stormwater runoff greater than that historically generated from the SUBDIVISION. The DEVELOPER shall not alter historic flows in a way that would adversely affect upstream or downstream properties.
- (c) The DEVELOPER shall construct all improvements in an appropriate sequence to meet the demands that development of the SUBDIVISION generates. The DEVELOPER shall meet all TOWN standards and specifications in effect at the time of construction.

8.4 Overlot Grading of the SUBDIVISION. DEVELOPER shall initiate no overlot grading until the TOWN issues written acceptance of utility plans. The DEVELOPER shall provide temporary erosion control during overlot grading until the drainage improvements are completed.

8.5 Drainage Improvement Completion Before Issuance of Building Permits. Drainage improvements shall be completed and granted conditional acceptance by the TOWN before the issuance of building permits. Completion of the



improvements shall include the certification by a licensed professional engineer that the DEVELOPER has constructed the drainage facilities that serve the development in conformity with the plans reviewed by the TOWN. Any deviation from the accepted plans shall be the responsibility of the DEVELOPER to correct. Said certification shall be submitted to the TOWN at least two (2) weeks before the date of issuance for any subsequent building permit.

- 8.6 Modification of Accepted Drainage Improvements.** Drainage improvements for each lot shall be constructed by the DEVELOPER in accordance with plans Approved by the TOWN. Said plans shall conform to the TOWN's then existing regulations. The DEVELOPER shall furnish copies of accepted plans to subsequent purchasers of lots and record a disclosure with all lots sold that it shall be the responsibility of the fee title holder to maintain the stormwater drainage improvements as constructed. Any changes from the Approved plans with respect to grade elevation, storm drainage facility design, or landscaping that will change, modify, impede or otherwise block the flow of stormwater on or across any private property, that occur as a result of the construction of houses and/or other development of lots, whether by the DEVELOPER or other parties, shall require the acceptance of the TOWN. The TOWN may withhold the issuance of building permits and certificates of occupancy until the TOWN has reviewed and determined that such changes are acceptable for the safe and efficient delivery of storm drainage water.
- 8.7 Storm Water Capital Expansion Fees.** The DEVELOPER shall pay any storm water capital expansion fees to the TOWN.
- 8.8 Areas of Special Flood Hazard.** Construction within a FEMA designated "area of special flood hazard" is prohibited except as may be allowed in accordance with Article 8 of the Frederick Land Use Code. If any portion of the SUBDIVISION lies within an area of special flood hazard, including unmapped areas of special flood hazard, as defined by the Federal Emergency Management Agency (FEMA), the DEVELOPER is responsible for all the necessary design and the submittal of an application to FEMA for proposed changes to the designation to enable development of the SUBDIVISION within said areas. The TOWN must review and accept any submittal to FEMA before it is submitted to FEMA. FEMA shall approve any change in the area of special flood hazard designation before they will permit the DEVELOPER to undertake development activities within the area affected by the proposed change.

9 TRANSPORTATION FACILITIES

- 9.1 Traffic Impact Study.** The DEVELOPER shall provide the TOWN a traffic impact study prepared by a transportation professional with adequate experience in transportation engineering and planning, in accordance with the criteria specified by the TOWN at the time of submittal of a final plat, unless the TOWN

waives the requirement. The traffic impact study shall give special consideration to the use of traffic calming techniques and alternative modes of transportation in the design of the transportation facilities.

9.2 Off-site and On-site Rights-of-way, Easements, Licenses and Permits.

- (a) For full development of the SUBDIVISION to occur, the DEVELOPER may need to acquire certain off-site and on-site rights-of-way, easements, licenses and permits for the construction of off-site and on-site improvements, as identified in the accepted traffic study or future updates to the study. All acquisition costs of off-site and on-site rights-of-way, easements, licenses and permits necessary to serve the SUBDIVISION shall be the DEVELOPER's sole responsibility, subject to reimbursement as detailed in this MOAPI.
- (b) If the DEVELOPER cannot acquire an off-site or on-site easement or rights-of-way necessary to develop the SUBDIVISION, the DEVELOPER may request the TOWN's assistance in getting the easements or rights-of-way. Such assistance by the TOWN shall be in compliance with Colorado law authorizing the TOWN's use of eminent domain. The DEVELOPER shall advance to the TOWN all acquisition costs, including any court costs and attorneys' fees, the TOWN may incur in providing assistance.

9.3 On-site and Off-site Transportation Improvements. For full development of the SUBDIVISION to occur, certain on-site and off-site transportation improvements, as identified in the accepted traffic study, may be necessary. The DEVELOPER shall construct the improvements in a sequence acceptable to the TOWN to meet the demands that development of each phase of the SUBDIVISION will generate. The DEVELOPER shall follow all applicable provisions and standards of the Frederick Municipal Code. The DEVELOPER agrees to construct or contribute to the construction of all on-site and off-site transportation improvements to accommodate transportation needs that each phase of the SUBDIVISION development will generate.

9.4 On-site and Off-site Arterial Street Improvements and Arterial Intersection Improvements. The DEVELOPER's construction of on-site and off-site arterial street improvements and arterial intersection improvements in excess of the cost of a collector street and collector street intersection, excluding on-site rights-of-way and site-specific improvements, will be subject to reimbursement by the TOWN or adjacent benefitted property as specified in this MOAPI.

9.5 On-site Transportation Improvements. The DEVELOPER is solely responsible for construction of all transportation improvements to accommodate development of the SUBDIVISION that do not directly benefit other properties. The TOWN will not provide for reimbursement to the DEVELOPER for these expenses.

- 9.6 Street Improvements.** For the purposes of this AGREEMENT, “street improvements” shall be defined to include, but not limited to, all improvements within the right-of-way such as bridges, sub-base preparation, road base, asphalt, concrete, seal coat, curb and gutter, medians, entryways, traffic calming features, underground utilities, sidewalks, bicycle and pedestrian paths, traffic signs, street lighting, street name signs, landscaping, irrigation systems and drainage improvements. Street improvements other than curbs, gutters, sidewalks and signs, shall not be installed until all utility lines to be placed within the right-of-way have been completely installed, including individual lot service lines leading in from the main to the property line. All street improvements shall be constructed and installed pursuant to TOWN accepted plans, specifications, and as detailed in “Exhibit B”.
- 9.7 Street Signs, Traffic Signs and Striping.** The DEVELOPER will install the striping, street name signs, stop signs, speed limit signs and other regulatory signs on all internal streets and on those off-site streets as determined appropriate by the TOWN. The DEVELOPER shall install signs and striping in accordance with the Model Traffic Code, as from time to time amended, and other applicable legal requirements.
- 9.8 Street Lights.** The DEVELOPER will install all required street lighting and underground electrical supply.
- 9.9 School Bus Shelters.** The DEVELOPER will install at his sole cost and expense appropriately designed pedestrian shelters at school bus stops within the development. The location of the shelters shall be decided in cooperation with the School District. School bus shelters shall be owned and maintained by the Homeowners Association.
- 9.10 Mail Boxes.** The DEVELOPER shall coordinate with the U.S. Postal Service and bear the cost of installing cluster mailboxes for the subdivision.

10 PARKS AND OPENSOURCE

10.1 Park and Open Space Improvements.

- (a) **Park Master Plan.** Park and open space improvements for the development shall be designed by a professional park planner employed by the DEVELOPER, or by the TOWN at the DEVELOPER’s sole cost, and constructed in accordance with the resulting master plan accepted by the TOWN (and the Carbon Valley Recreation District, if the park and/or open space is to be dedicated to the District) and as detailed in “Exhibit B”. These improvements may include but not be limited to, the development of passive use open spaces and active use parks and open space and playgrounds.

- (b) The DEVELOPER shall construct, develop and install at his sole cost and expense, all landscaping, irrigation systems, ballfields, courts, skate parks, playgrounds, picnic shelters, restrooms, nature observation stations, trails and walkways within the SUBDIVISION in accordance with the master park plan.
- (c) Any reimbursements to the DEVELOPER for the construction of facilities to be shared by other developments will be as specified in this MOAPI.

11 FIRE PROTECTION FACILITIES. The DEVELOPER shall be solely responsible for installing all fire hydrants and other fire protection facilities in the SUBDIVISION and on its perimeter as may be required by the Frederick-Firestone Fire Protection District.

12 LANDSCAPING.

12.1 Public and Private Landscape Improvements.

- (a) **Public Landscaping Improvements.** The DEVELOPER shall employ a qualified landscape planner or architect to design landscape improvements for public lands and rights-of-way within the development. The DEVELOPER shall construct landscape improvements as required in the landscape and irrigation plans reviewed and accepted by the TOWN and as detailed in "Exhibit B".
- (b) **Private Landscaping Improvements.** For private landscape improvements, excluding single family detached residential lots, the DEVELOPER shall furnish a final landscape plan to the TOWN for review and acceptance before installation of landscape improvements.

13 DEVELOPMENT REQUIREMENTS AND EXACTIONS NOT A TAKINGS.
The TOWN and the DEVELOPER agreed that in all instances the requirements and exactions contained in this agreement are directly related to and generated by the development intended to occur within the SUBDIVISION and that no takings thereby will occur requiring any compensation.

14 MISCELLANEOUS TERMS

14.1 Breach of AGREEMENT, Default. In the event that the DEVELOPER should fail to timely comply with any of the terms, conditions, covenants and undertakings of this AGREEMENT, the TOWN in its sole discretion may declare the DEVELOPER in default and after giving thirty (30) days written notice may call the security provided in Section 1.12 and exercise all other remedies available to the TOWN. The TOWN may withhold any additional building permits, certificates of occupancy, or provision of new utilities, fixtures or services until the completion of the improvements. Any cost incurred by the TOWN including,

but not limited to, administrative costs and reasonable attorneys' fees, in pursuit of any remedies due to the breach by the DEVELOPER shall be paid by the DEVELOPER. The TOWN may deduct these costs from the Improvement Guarantee. Failure to timely complete construction of improvements that is solely due to inclement weather, acts of God, material shortages, labor strikes, and other matters not within the DEVELOPER'S control shall not be considered a breach of the AGREEMENT.

14.2 Reimbursement to TOWN. The TOWN may complete construction, repairs, replacements, or other work for the DEVELOPER pursuant to Sections 1.8, 1.9, 1.10, or 14.1 of this AGREEMENT with funds other than the Improvement Guarantee, in which event the DEVELOPER shall reimburse the TOWN within thirty (30) days after receipt of written demand and supporting documentation from the TOWN. If the DEVELOPER fails to so reimburse TOWN, then the DEVELOPER shall be in default of the AGREEMENT and the TOWN may exercise its rights under Section 14.1 of this AGREEMENT.

14.3 Access to Public Street Required for Building Permit. The TOWN shall issue no building permits for any structure located more than five hundred feet from a single point of access.

14.4 Indemnification and Release of Liability.

(a) **General Liability.** The DEVELOPER agrees to indemnify and hold harmless the TOWN, its officers, employees, agents, and servants, and to pay any judgments rendered against said persons because of any suit, action, or claim caused by, arising from, or due to acts or omissions by the DEVELOPER, its officers, employees, agents, consultants, contractors, and subcontractors, and to pay to the TOWN and said persons their reasonable expenses, including, but not limited to, reasonable attorneys' fees and reasonable expert witness fees, incurred in defending any such suit, action or claim; provided, however, that the DEVELOPER's obligation herein shall not apply to the extent said suit, action or claim results from any acts or omissions of officers, employees, agents or servants of the TOWN or conformance with requirements imposed by the TOWN. Said obligation of the DEVELOPER shall be limited to suits, actions or claims based upon conduct before "final acceptance" by the TOWN of the construction work. The DEVELOPER acknowledges that the TOWN's review and approval of plans for development of the property is done in furtherance of the general public's health, safety and welfare and that no immunity is waived and that no specific relationship with, or duty of care to, the DEVELOPER or third party is assumed by such review or approval.

(b) **Drainage Liability.** The DEVELOPER shall indemnify and hold harmless the TOWN for any liability the latter may have or account of any change in the nature, direction, quantity, or quality of historical drainage flow resulting from the development of this PROPERTY or from the construction of streets or storm sewers therein. In addition, the DEVELOPER promises to reimburse the TOWN for any costs including, but not limited to, reasonable attorneys' fees, which the TOWN incurs in acquiring or condemning any rights-of-way or easements that the DEVELOPER requires the TOWN to acquire or condemn, or which the TOWN is held to have acquired or condemned for drainage, because of the development of this PROPERTY.

14.5 Governmental Immunities Act. The TOWN is relying on, and does not waive or intend to waive by any provision of this AGREEMENT, the monetary limitations or any rights, immunities and protection provided by the Colorado Governmental Immunities Act (C.R.S. 24-10-101 et seq.) as from time to time amended, or otherwise available to the TOWN, its officers, agents, employees, attorneys, engineers, planners, indemnifiers and insurers.

14.6 Recording of AGREEMENT. This AGREEMENT shall be recorded with the Weld County Clerk and Recorder and shall be a covenant running with the land herein described in order to put prospective purchasers or other interested parties on notice as to the terms and provisions hereof. The DEVELOPER shall include on the final plat a "plat note" noting the existence of the AGREEMENT and its attached Exhibits by reference to its reception number as recorded by the Weld County Clerk and Recorder. All recording fees shall be paid by the DEVELOPER. The TOWN shall retain the recorded AGREEMENT.

14.7 Binding Effect of AGREEMENT. This AGREEMENT shall run with the land included within the SUBDIVISION and shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto.

14.8 Assignment, Delegation and Notice. The DEVELOPER shall provide to the TOWN for approval, written notice of any proposed transfer of title to any portion of the Development and of the AGREEMENT obligations to any successor, as well as arrangements, if any, for delegation of the improvement obligations hereunder. The DEVELOPER and successor shall, until written TOWN approval of the proposed transfer of title and delegation of obligations, be jointly and severally liable for the obligations of the DEVELOPER under this AGREEMENT. Upon Town approval of the transfer or assignment of any portion of the Development or AGREEMENT, DEVELOPER shall be released from the performance of any and all duties, obligations, liabilities and responsibilities under this AGREEMENT. Notwithstanding the foregoing, the DEVELOPER may sell individual developed lots, without the TOWN's prior approval.

For purposes of this Section 14.8, “developed lots” shall mean lots for which all on-site and off-site public improvements required by this AGREEMENT have been completed and issued conditional acceptance in accordance with the requirements of Section 2.10 of this AGREEMENT. The sale or transfer of individual developed lots by the DEVELOPER shall not release the DEVELOPER from maintenance and warranty obligations associated with the improvements or any other improvement obligations set forth in this AGREEMENT.

14.9 Modification and Waiver. No modification of the terms of this AGREEMENT shall be valid unless in writing and executed with the same formality as this AGREEMENT, and no waiver of the breach of the provisions of any section of this AGREEMENT shall be construed as a waiver of any subsequent breach of the same section or any other sections that are contained herein.

14.10 Addresses for Notice. Any notice or communication required or permitted hereunder shall be given in writing and shall be personally delivered, or sent by United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

TOWN:

Town of Frederick
c/o Town Manager
P.O. Box 435
Frederick, Colorado 80530

DEVELOPER:

BCL Colorado LP
Attn: Louis Conrad
9075 Gaylord Drive,
Houston, Texas 77024

With copy to:

Town of Frederick
c/o Town Clerk
P.O. Box 435
Frederick, Colorado 80530

Or to such other address or the attention of such other person(s) as hereafter designated in writing by the applicable parties in conformity with this procedure. Notices shall be effective upon mailing or personal delivery in compliance with this paragraph.

14.11 Force Majeure. Whenever an agreed upon deadline requires the DEVELOPER to complete construction, maintenance, repair, or replacement of improvements, said deadline shall be extended for a reasonable time if the performance cannot be completed in a timely manner due to Acts of God, or other circumstances constituting force majeure, or circumstances beyond the reasonable control of the DEVELOPER.

- 14.12 Approvals or Acceptance.** Whenever approval or acceptance of a matter is required or requested of the TOWN pursuant to any provisions of this AGREEMENT, the TOWN shall act reasonably in responding to such matter.
- 14.13 Previous Agreements.** All previous written and recorded agreements between the parties, their successors, and assigns, including, but not limited to, any Annexation Agreement, shall remain in full force and effect and shall control this Development. If any prior agreements conflict with this AGREEMENT, then this AGREEMENT controls.
- 14.14 Title and Authority.** The DEVELOPER warrants to the TOWN that it is the record owner for the property within the Development or is acting in accordance with the currently valid and unrevoked power of attorney of the record owner hereto attached. The undersigned further warrant to have full power and authority to enter this AGREEMENT.
- 14.15 Severability.** This AGREEMENT is to be governed and construed according to the laws of the State of Colorado. In the event that upon request of the DEVELOPER or any agent thereof, any provision of the AGREEMENT is held to violate municipal, state, or federal laws and thereby rendered unenforceable, the TOWN, in its sole discretion, may determine whether the remaining provisions will or will not remain in force.
- 14.16 Original Counterparts.** This Agreement may be executed in counterparts, each of which will be an original, but all of which together shall constitute one and the same instrument.
- 14.17 Choice of Law and Venue.** This AGREEMENT is to be governed and construed according to the laws of the State of Colorado. The parties hereto agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the State courts located in the County of Weld, State of Colorado. The aforementioned choice of venue is intended by the parties to be mandatory and not permissive in nature, thereby precluding the possibility of litigation between the parties with respect to or arising out of this Agreement in any jurisdiction other than that specified in this paragraph. Each party hereby waives any right it may have to assert the doctrine of forum non conveniens or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this paragraph, and stipulates that the State courts located in the County of Weld, State of Colorado shall have in personam jurisdiction and venue over each of them for the purpose of litigating any dispute, controversy, or proceeding arising out of or related to this

IN WITNESS WHEREOF, the parties have executed this AGREEMENT as of the date first set forth above.

TOWN OF FREDERICK

By Tracie Crites
Tracie Crites, Mayor

ATTEST:

By Meghan C. Martinez
Meghan C. Martinez, Town Clerk

STATE OF COLORADO)
COUNTY OF Weld) ss.

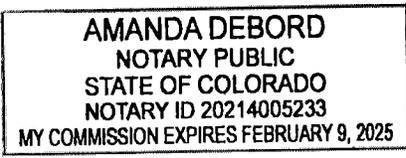
The foregoing instrument was acknowledged before me this 30 day of June, 2022,
by Tracie Crites as Mayor and Meghan Martinez as Town Clerk of the Town of Frederick.

My commission expires: 2-9-2025

Witness my hand and official seal.

Amanda DeBord
Notary Public

[SEAL]



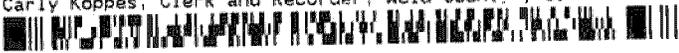


EXHIBIT A

MAP, LEGAL DESCRIPTION AND DEVELOPMENT PHASE MAP

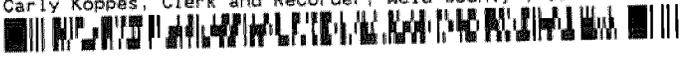


EXHIBIT B

PUBLIC IMPROVEMENTS TO BE CONSTRUCTED

Exhibit B MOAPI - Costs
Clearview Villages

Project Clearview Villages
 Prepared By Phelps Engineering
 Description Preliminary Cost Estimate
 Date 5/9/2022

PHASE 1: Approx. 30.08% of Total Development

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost Per Item</u>	<u>Comments</u>
Earthwork					
Clearing	17300	CY	\$3.50	\$60,550.00	
Cut to Fill On-Site	67230	CY	\$6.50	\$436,995.00	
Import to Fill	0	CY	\$8.45	\$0.00	
Temporary Erosion & Sediment Control	0.30	L.S.	\$90,000.00	\$27,000.00	
Seeding & Mulching	13.7	AC	\$750.00	\$10,275.00	
Earthwork Subtotal:				\$534,820.00	
Roadway & Site Improvements					
Internal Roadway System					
Paving	20296	SY	\$34.00	\$690,067.78	
8" ABC	20296	SY	\$2.50	\$50,740.28	
Chemically Stabilize Subgrade (12' BOC to BOC)	22980	SY	\$4.00	\$91,920.00	
Curb Gutter	9561	LF	\$22.00	\$212,542.00	
Cross Pans	1920	SF	\$9.28	\$15,897.60	
Sidewalks	5367	SY	\$30.00	\$161,016.67	
Handicap Ramps	40	EA	\$1,395.00	\$55,800.00	
Striping	3104	LF	\$2.00	\$6,208.00	
Signage	25	EA	\$350.00	\$8,750.00	
Public Street Lighting	24	EA	\$3,300.00	\$79,200.00	
Offsite Roadway System (Goddling Hollow, Silver Birch)				\$817,487.00	
Paving	10000	SY	\$34.00	\$340,000.00	
8" ABC	10000	SY	1.50	\$25,000.00	
Subgrade Prep	10000	SY	\$4.00	\$40,000.00	
Curb Gutter	3200	LF	\$1.00	\$70,400.00	
Concrete Crossspan	5	EA	\$1,700.00	\$8,500.00	
Sidewalks	2869	SY	\$30.00	\$86,070.00	
Handicap Ramps	5	EA	\$1,395.00	\$6,975.00	
Striping	3521	LF	\$2.00	\$7,042.00	
Signage	5	EA	\$350.00	\$1,750.00	
Guardrail	63	LF	\$250.00	\$15,750.00	
Monument Sign	2	EA	\$8,000.00	\$16,000.00	
Roadway & Site Improvements Subtotal:				\$1,989,629.32	
Storm Drainage					
18" to 36" STM	3215	LF	\$110.00	\$353,650.00	
Flared End Section	7	EA	\$850.00	\$5,950.00	
Riprap	0	CY	\$85.00	\$0.00	
Storm Manhole (5' Dia)	21	EA	\$3,500.00	\$73,500.00	
Special Manhole Junctions	4	EA	\$5,000.00	\$24,000.00	
Storm Inlet	16	EA	\$4,100.00	\$65,600.00	
Detention Pond (grading, spillway, channel forebay)	2	EA	\$85,000.00	\$170,000.00	
Pond Outlet Structure	2	EA	\$20,000.00	\$40,000.00	
Box Culvert	638	LF	\$375.00	\$239,250.00	
Storm Drainage Subtotal:				\$971,950.00	
Potable Water					
Connect to Existing	4	EA	\$2,600.00	\$10,400.00	
8" PVC	2881	LF	\$60.00	\$172,860.00	
Fire Hydrant Assy.	9	EA	\$6,800.00	\$61,200.00	
Bends & Fittings	12	EA	\$750.00	\$9,000.00	
Gate Valves	20	EA	\$1,300.00	\$26,000.00	
Temporary Plug & Blowoff	5	EA	\$800.00	\$4,000.00	
Potable Water Subtotal				\$283,460.00	
Sanitary Sewer					
8" Sanitary Sewer PVC	2660	LF	\$48.00	\$129,120.00	
Manhole (4' DIA)	21	EA	\$3,200.00	\$67,200.00	
Trench Plugs	28	EA	\$550.00	\$15,400.00	
Connect to Existing	1	EA	\$2,000.00	\$2,000.00	
Sanitary Sewer Subtotal				\$213,720.00	
Total:				\$3,993,579.32	
Other Commitments (Not in Phase 1 Total)					
Traffic Signal (Goddling Hollow & Silver Birch)	1	LS	\$100,000.00	\$100,000.00	25% responsibility of total cost



Exhibit B MOAPI - Costs
Clearview Villages

Project: Clearview Villages
 Prepared By: Phelps Engineering
 Description: Preliminary Cost Estimate
 Date: 5/9/2022

PHASE 2: Approx. 28.33% of Total Development

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost Per Item</u>	<u>Comments</u>
Earthwork					
Clearing	16300	CY	\$3.50	\$57,050.00	
Cut to Fill On-Site	62748	CY	\$6.50	\$407,862.00	
Import to Fill	0	CY	\$8.45	\$0.00	
Temporary Erosion & Sediment Control	0.28	LS	\$90,000.00	\$25,200.00	
Seeding & Mulching	23	AC	\$750.00	\$17,475.00	
Earthwork Subtotal:				\$507,587.00	
Roadway & Site Improvements					
Paving Asphalt (assume 4" depth over 8" ABC)	10757	SY	\$34.00	\$365,726.67	
8" ABC	10757	SY	\$2.50	\$26,891.67	
Chemically Stabilize Subgrade (12" BOC to BOC)	12549	SY	\$4.00	\$50,197.78	
Curb Gutter	6454	LF	\$22.00	\$141,988.00	
Concrete Crossspan	5	LA	\$1,700.00	\$8,500.00	
Sidewalks	3586	SY	\$30.00	\$107,566.67	
Handicap Ramps	28	EA	\$1,395.00	\$39,060.00	
Striping	0	LS	\$25,000.00	\$0.00	
Signage	7	EA	\$350.00	\$2,450.00	
Public Street Lighting	12	LA	\$3,300.00	\$39,600.00	
Offsite Roadway System (Silver Birch)					
Paving	2714	SY	\$34.00	\$92,276.00	
8" ABC	2714	SY	\$2.50	\$6,785.00	
Subgrade Prep	2714	SY	\$4.00	\$10,856.00	
Curb Gutter	324	LF	\$22.00	\$7,128.00	
Concrete Crossspan	1	LA	\$1,700.00	\$1,700.00	
Sidewalks	288	SY	\$30.00	\$8,640.00	
Handicap Ramps	2	EA	\$1,395.00	\$2,790.00	
Striping	324	LF	\$2.00	\$648.00	
Signage	2	EA	\$350.00	\$700.00	
Roadway & Site Improvements Subtotal:				\$913,503.78	
Storm Drainage					
18" to 36" STM	3293	LF	\$110.00	\$362,230.00	
Flared End Section	6	EA	\$850.00	\$6,800.00	
Riprap	1272	CY	\$85.00	\$108,138.89	
Storm Manhole (5' Dia.)	13	EA	\$3,500.00	\$45,500.00	
Storm Inlet	11	EA	\$4,100.00	\$45,100.00	
Detention Pond (grading, spill, channel, forebay)	0	EA	\$85,000.00	\$0.00	
Pond Outlet Structure	0	EA	\$20,000.00	\$0.00	
Culvert Extension & Wingwall	72	CY	\$650.00	\$46,800.00	Lower Boulder Ditch Culvert
Storm Drainage Subtotal:				\$614,568.89	
Potable Water					
Connect to Existing	0	EA	\$2,600.00	\$0.00	
10" PVC	3672	LF	\$60.00	\$220,326.00	
Fire Hydrant Assy.	7	EA	\$6,800.00	\$49,940.56	
Bends & Fittings	11	EA	\$750.00	\$8,250.00	
Gate Valves	15	EA	\$1,300.00	\$19,500.00	
Temporary Plug & Blowoff	3	EA	\$800.00	\$2,400.00	
Potable Water Subtotal				\$300,416.56	
Sanitary Sewer					
8" Sanitary Sewer PVC	3572	LF	\$48.00	\$171,456.00	
Manhole (4' DIA)	16	EA	\$3,200.00	\$51,200.00	
Trench Plugs	31	EA	\$550.00	\$17,050.00	
Sanitary Sewer Subtotal				\$239,706.00	
Total:				\$2,575,782.23	

Exhibit B MOAPI - Costs
Clearview Villages

Project: Clearview Villages
 Prepared By: Phelps Engineering
 Description: Preliminary Cost Estimate
 Date: 5/9/2022

PHASE 3: Approx. 10.61% of Total Development

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost Per Item</u>	<u>Comments</u>
Earthwork					
Clearing	6100	CY	\$3.50	\$21,350.00	
Cut to Fill On-Site	22410	CY	\$6.50	\$145,665.00	
Import to Fill	0	CY	\$8.45	\$0.00	
Temporary Erosion & Sediment Control	0.11	LS	\$90,000.00	\$9,540.00	
Seeding & Mulching	8.7	AC	\$750.00	\$6,525.00	
Earthwork Subtotal:				\$183,080.00	
Roadway & Site Improvements					
Paving Asphalt (assume 4" depth over 8" ABC)	5760	SY	\$34.00	\$195,840.00	
8" ABC	5760	SY	\$2.50	\$14,400.00	
Chemically Stabilize Subgrade (12" BOC to BOC)	6720	SY	\$4.00	\$26,880.00	
Curb Gutter	3456	LF	\$22.00	\$76,032.00	
Concrete Crossspan	0	EA	\$1,700.00	\$0.00	
Sidewalks	1920	SY	\$30.00	\$57,600.00	
Handicap Ramps	14	EA	\$1,395.00	\$19,530.00	
Striping	0	LF	\$2.00	\$0.00	
Signage	1	EA	\$350.00	\$350.00	
Public Street Lighting	7	EA	\$3,300.00	\$23,100.00	
Street & Parking Subtotal:				\$413,732.00	
Storm Drainage					
18" to 36" STM	1321.6	LF	\$110.00	\$145,376.00	
Flared End Section	0	EA	\$850.00	\$0.00	
Riprap	0	CY	\$85.00	\$0.00	
Storm Manhole (5' Dia.)	12	EA	\$3,500.00	\$42,000.00	
Storm Inlet	9	EA	\$4,100.00	\$36,900.00	
Detention Pond (grading, spill, channel, forebay)	0	EA	\$85,000.00	\$0.00	
Pond Outlet Structure	0	EA	\$20,000.00	\$0.00	
Storm Drainage Subtotal:				\$224,276.00	
Potable Water					
Connect to Existing	0	EA	\$2,600.00	\$0.00	
10" PVC	1753.7	LF	\$60.00	\$105,222.00	
Fire Hydrant Assy.	3	EA	\$6,800.00	\$20,400.00	
Bends & Fittings	11	EA	\$750.00	\$8,250.00	
Gate Valves	7	EA	\$1,300.00	\$9,100.00	
Temporary Plug & Blowoff	0	EA	\$800.00	\$0.00	
Potable Water Subtotal:				\$142,972.00	
Sanitary Sewer					
8" Sanitary Sewer PVC	1673.35	LF	\$48.00	\$80,320.80	
Manhole (4" DIA)	9	EA	\$3,200.00	\$28,800.00	
Trench Plugs	11	EA	\$550.00	\$6,050.00	
Connect to Existing	0	EA	\$2,000.00	\$0.00	
Sanitary Sewer Subtotal:				\$115,170.80	
Total:				\$1,079,230.80	

**Exhibit B MOAPI - Costs
 Clearview Villages**

Project: Clearview Villages
 Prepared By: Phelps Engineering
 Description: Preliminary Cost Estimate
 Date: 5/9/2022

PHASE 4: Approx. 30.98% of Total Development

<u>Item</u>	<u>Quantity</u>	<u>Unit</u>	<u>Unit Cost</u>	<u>Cost Per Item</u>	<u>Comments</u>
Earthwork					
Clearing	17820	CY	\$3.50	\$62,370.00	
Cut to Fill On-Site	67230	CY	\$6.50	\$436,995.00	
Import to Fill	0	CY	\$8.45	\$0.00	
Temporary Erosion & Sediment Control	0.31	LS	\$90,000.00	\$27,900.00	
Seeding & Mulching	16.38	AC	\$750.00	\$12,285.00	
Earthwork Subtotal:				\$539,550.00	
Roadway & Site Improvements					
Paving Asphalt (assume 4" depth over 8" ABC)	17633	SY	\$34.00	\$599,522.00	
8" ABC	17633	SY	\$2.50	\$44,082.50	
Chemically Stabilize Subgrade (12" BOC to BOC)	20312	SY	\$4.00	\$81,246.67	
Curb Gutter	9642	LF	\$72.00	\$212,124.00	
Concrete Crosspan	2	EA	\$1,700.00	\$3,400.00	
Sidewalks	5357	SY	\$30.00	\$160,700.00	
Handicap Ramps	36	EA	\$1,395.00	\$50,220.00	
Striping	0	LF	\$2.00	\$0.00	
Signage	17	EA	\$350.00	\$5,950.00	
Public Street Lighting	20	EA	\$3,300.00	\$66,000.00	
Roadway & Site Improvements Subtotal:				\$1,223,245.17	
Storm Drainage					
18" to 36" STM	4052.5	LF	\$110.00	\$445,775.00	
Flared End Section	4	EA	\$850.00	\$3,400.00	
Riprap	679	CY	\$85.00	\$57,705.56	
Storm Manhole (5' Dia.)	24	EA	\$3,500.00	\$84,000.00	
Storm Inlet	21	EA	\$4,100.00	\$86,100.00	
Detention Pond (grading, spill, channel, forebay)	1	EA	\$85,000.00	\$85,000.00	
Pond Outlet Structure	1	EA	\$20,000.00	\$20,000.00	
Storm Drainage Subtotal:				\$781,980.56	
Potable Water					
Connect to Existing	0	EA	\$2,600.00	\$0.00	
10" PVC	4563.5	LF	\$60.00	\$273,810.00	
Fire Hydrant Assy.	20	EA	\$6,800.00	\$136,000.00	
Bends & Fittings	30	EA	\$750.00	\$22,500.00	
Gate Valves	24	EA	\$1,300.00	\$31,200.00	
Temporary Plug & Blowoff	2	EA	\$800.00	\$1,600.00	
Potable Water Subtotal				\$465,110.00	
Sanitary Sewer					
8" Sanitary Sewer PVC	5055	LF	\$48.00	\$242,640.00	
Manhole (4' DIA)	35	EA	\$3,200.00	\$112,000.00	
Trench Plugs	38	EA	\$550.00	\$20,900.00	
Connect to Existing	0	EA	\$2,000.00	\$0.00	
Sanitary Sewer Subtotal				\$375,540.00	
Total:				\$3,385,425.72	



Exhibit B MOAPI - Costs
 Clearview Villages

Project:	Clearview Villages
Prepared By:	Phelps Engineering
Description:	Preliminary Cost Estimate
Date:	5/9/2022

RAW WATER PHASE

Raw Water				
Connect to Existing	1	EA	\$2,600.00	\$2,600.00
8" PVC	8017	LF	\$60.00	\$360,996.00
Fire Hydrant Assy.	4	EA	\$6,800.00	\$27,200.00
Bends & Fittings	15	EA	\$750.00	\$11,250.00
Gate Valves	2	EA	\$1,300.00	\$2,600.00
Air Release Valve	3	EA	\$4,500.00	\$13,500.00
Temporary Plug & Blowoff	2	EA	\$800.00	\$1,600.00
				<hr/>
			Potable Water Subtotal	\$419,746.00
			 Total:	 \$419,746.00

CLEARVIEW VILLAGES - PHASE 1

Opinion of Probable Costs
 Phase 1: Landscape and Open Space
 By: LAI Design Group

Job #: 181024
 Today's Date: 11/16/2021

1.0 R.O.W - LANDSCAPE / IRRIGATION	QTY	U.O.M	UNIT PRICE	EXTENSION	NOTES
Sod	83,400	SF	\$0.50	\$41,700.00	
Trees - Deciduous (2.5" cal)	292	EA	\$800.00	\$233,600.00	(material & install)
Soil Amendment (Prem 3 Compost)	334	CY	\$37.95	\$12,675.30	
Turf Spray Head Irrigation System	83,400	SF	\$2.00	\$166,800.00	
Subtotal				\$454,775.30	
2.0 OUTLOT D - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Cobble (2"-6")	48	TONS	\$225.00	\$10,800.00	4" Depth 2,362 sf
Subtotal				\$10,800.00	
3.0 OUTLOT E - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	45,935	SF	\$0.30	\$13,780.50	(material & install)
Cobble (2"-6")	94	TONS	\$225.00	\$21,150.00	4" Depth 4,655 sf
Steel Edger	2,441	LF	\$4.00	\$9,764.00	
Trees - Evergreen (6' min. H)	4	EA	\$800.00	\$3,200.00	(material & install)
Soil Amendment (Prem 3 Compost)	184	CY	\$37.95	\$6,982.80	
Drip Irrigation System	30,975	SF	\$1.50	\$46,462.50	
Temp. Native Area Irrigation System	45,935	SF	\$1.50	\$68,902.50	
Subtotal				\$170,242.30	
4.0 OUTLOT J - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	290,697	SF	\$0.30	\$87,209.10	(material & install)
Detention Seed Mix	73,618	SF	\$0.30	\$22,085.40	(material & install)
Cobble (2"-6")	64	TONS	\$225.00	\$14,400.00	4" Depth 3,127 sf
River Rock (1.5")	31	TONS	\$52.95	\$1,641.45	2" Depth 30,815 sf
Wood Mulch (Double Shredded Cedar)	2	CY	\$62.00	\$124.00	4" Depth 160 sf
Steel Edger	3,367	LF	\$4.00	\$13,468.00	
Landscape Boulders	3	EA	\$200.00	\$600.00	150/TON 3x3x3
Trees - Deciduous (2.5" cal)	61	EA	\$800.00	\$48,800.00	(material & install)
Trees - Ornamental (2" cal)	10	EA	\$650.00	\$6,500.00	(material & install)
Trees - Evergreen (6' min. H)	81	EA	\$800.00	\$64,800.00	(material & install)
Shrubs (5 gal)	679	EA	\$50.00	\$33,950.00	(material & install)
Ornamental Grasses & Perennials (5 gal)	255	EA	\$15.00	\$3,825.00	(material & install)
Soil Amendment (Prem 3 Compost)	1,287	CY	\$37.95	\$48,841.65	
Drip Irrigation System	30,975	SF	\$1.50	\$46,462.50	
Temp. Native Area Irrigation System	290,697	SF	\$1.50	\$436,045.50	
Subtotal				\$828,752.60	
COMPLETE PROJECT					
Subtotals				\$1,464,570.20	
Site (Contingency)	1	JOB	10%	\$146,457.02	
TOTAL				\$1,611,027.22	

CLEARVIEW VILLAGES - PHASE 2

Opinion of Probable Costs
 Phase 2: Landscape and Open Space
 By: LAI Design Group

Job #: 181024
 Today's Date: 11/16/2021

1.0 R.O.W - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Sod	47,358	SF	\$0.50	\$23,679.00	
Trees - Deciduous (2.5" cal)	167	EA	\$800.00	\$133,600.00	(materials & install)
Soil Amendment (Prem 3 Compost)	190	CY	\$37.95	\$7,210.50	
Turf Spray Head Irrigation System	47,358	SF	\$2.00	\$94,716.00	
Subtotal				\$259,205.50	

2.0 OUTLOT A - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	120,426	SF	\$0.30	\$36,127.80	(materials & install)
Cobble (2"-6")	163	TONS	\$225.00	\$36,675.00	4" Depth 8,067 sf
River Rock (1.5")	20	TONS	\$52.95	\$1,059.00	2" Depth 19,120 sf
Wood Mulch (Double Shredded Cedar)	28	CY	\$62.00	\$1,736.00	4" Depth 2,213 sf
Steel Edger	7,869	LF	\$4.00	\$11,476.00	
Landscape Boulders	10	EA	\$200.00	\$2,000.00	150/TON 3x3x3
Trees - Deciduous (2.5" cal)	17	EA	\$800.00	\$13,600.00	(materials & install)
Trees - Ornamental (2" cal)	20	EA	\$650.00	\$13,000.00	(materials & install)
Trees - Evergreen (6' min. H)	42	EA	\$800.00	\$33,600.00	(materials & install)
Shrubs (5 gal.)	303	EA	\$50.00	\$15,150.00	(materials & install)
Ornamental Grasses & Perennials (5 gal.)	623	EA	\$15.00	\$9,345.00	(materials & install)
Soil Amendment (Prem 3 Compost)	567	CY	\$37.95	\$21,517.65	
Drip Irrigation System	21,243	SF	\$1.50	\$31,864.50	
Temp. Native Area Irrigation System	120,426	SF	\$1.50	\$180,639.00	
Subtotal				\$407,789.95	

3.0 OUTLOT L- LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	282,651	SF	\$0.30	\$84,795.30	(materials & install)
Sod	13,900	SF	\$0.50	\$6,950.00	
Detention Seed Mix	90,368	SF	\$0.30	\$27,110.40	
River Rock (1.5")	93	TONS	\$52.95	\$4,924.35	2" Depth 9,232 sf
Wood Mulch (Double Shredded Cedar)	3	CY	\$62.00	\$186.00	4" Depth 218 sf
Steel Edger	1,414	LF	\$4.00	\$5,656.00	
Landscape Boulders	15	EA	\$200.00	\$3,000.00	150/TON 3x3x3
Trees - Deciduous (2.5" cal)	86	EA	\$800.00	\$68,800.00	(materials & install)
Trees - Ornamental (2" cal)	23	EA	\$650.00	\$14,950.00	(materials & install)
Trees - Evergreen (6' min. H)	69	EA	\$800.00	\$55,200.00	(materials & install)
Shrubs (5 gal.)	546	EA	\$50.00	\$27,300.00	(materials & install)
Ornamental Grasses & Perennials (5 gal.)	777	EA	\$15.00	\$11,655.00	(materials & install)
Soil Amendment (Prem 3 Compost)	1,224	CY	\$37.95	\$46,450.80	
Turf Spray Head Irrigation System	13,900	SF	\$2.00	\$27,800.00	
Drip Irrigation System	9,450	SF	\$1.50	\$14,175.00	
Temp. Native Area Irrigation System	282,651	SF	\$1.50	\$423,976.50	
Subtotal				\$815,429.35	

COMPLETE PROJECT					
Subtotals					\$1,482,424.80
Site (Contingency)	1	JOB	10%	\$148,242.48	
TOTAL					\$1,630,667.28

CLEARVIEW VILLAGES - PHASE 3

Opinion of Probable Costs
 Phase 3: Landscape and Open Space
 By: LAI Design Group

Job #: 181024
 Today's Date: 11/16/2021

1.0 R.O.W - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Sod	21,386	SF	\$0.50	\$10,693.00	
Trees - Deciduous (2.5" cal)	73	EA	\$800.00	\$58,400.00	(materials & install)
Soil Amendment (Prem 3 Compost)	86	CY	\$37.95	\$3,263.70	
Turf Spray Head Irrigation System	21,386	SF	\$2.00	\$42,772.00	
Subtotal				\$115,128.70	

2.0 OUTLOT C - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	23,797	SF	\$0.30	\$7,139.10	
Cobble (2"-6")	68	TONS	\$225.00	\$15,300.00	4" Depth 3,363 sf
River Rock (1.5")	13	TONS	\$52.95	\$688.35	2" Depth 1,307 sf
Wood Mulch (Double Shredded Cedar)	1	CY	\$62.00	\$62.00	4" Depth 63 sf
Steel Edger	1,598	LF	\$4.00	\$6,392.00	
Trees - Ornamental (2" cal)	7	EA	\$650.00	\$4,550.00	(materials & install)
Trees - Evergreen (6' min. H)	3	EA	\$800.00	\$2,400.00	(materials & install)
Shrubs (5 gal.)	37	EA	\$50.00	\$1,850.00	(materials & install)
Ornamental Grasses & Perennials (5 gal.)	54	EA	\$15.00	\$810.00	(materials & install)
Soil Amendment (Prem 3 Compost)	101	CY	\$37.95	\$3,832.95	
Drip Irrigation System	1,370	SF	\$1.50	\$2,055.00	
Temp. Native Area Irrigation System	23,797	SF	\$1.50	\$35,695.50	
Subtotal				\$80,774.90	

3.0 OUTLOT B- LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	45,908	SF	\$0.30	\$13,772.40	
Cobble (2"-6")	50	TONS	\$225.00	\$11,250.00	4" Depth 2,483 sf
River Rock (1.5")	10	TONS	\$52.95	\$529.50	2" Depth 928 sf
Wood Mulch (Double Shredded Cedar)	2	CY	\$62.00	\$124.00	4" Depth 135 sf
Steel Edger	1,613	LF	\$4.00	\$6,452.00	
Trees - Deciduous (2.5" cal)	17	EA	\$800.00	\$13,600.00	(materials & install)
Trees - Ornamental (2" cal)	14	EA	\$650.00	\$9,100.00	(materials & install)
Trees - Evergreen (6' min. H)	27	EA	\$800.00	\$21,600.00	(materials & install)
Shrubs (5 gal.)	34	EA	\$50.00	\$1,700.00	(materials & install)
Ornamental Grasses & Perennials (5 gal.)	64	EA	\$15.00	\$960.00	(materials & install)
Soil Amendment (Prem 3 Compost)	188	CY	\$37.95	\$7,134.60	
Drip Irrigation System	1,063	SF	\$1.50	\$1,594.50	
Temp. Native Area Irrigation System	45,908	SF	\$1.50	\$68,862.00	
Subtotal				\$156,679.00	

COMPLETE PROJECT			
Subtotals			\$352,582.60
Site (Contingency)	1	JOB	10% \$35,258.26
TOTAL			\$387,840.86

CLEARVIEW VILLAGES - PHASE 4

Opinion of Probable Costs
 Phase 4 Landscape and Open Space
 By: LAI Design Group

Job #: 181024
 Today's Date: 11/16/2021

1.0 R.O.W - LANDSCAPE / IRRIGATION	QTY	U.O.M	UNIT PRICE	EXTENSION	NOTES
Sod	48 809	SF	\$0.50	\$24,404.50	
Trees - Deciduous (2.5" cal)	226	EA	\$800.00	\$180,800.00	(materials & install)
Soil Amendment (Prem 3 Compost)	196	CY	\$37.95	\$7,438.20	
Turf Spray Head Irrigation System	48 809	SF	\$2.00	\$97,618.00	
Subtotal				\$310,260.70	
2.0 OUTLOT F - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	18 445	SF	\$0.30	\$5,533.50	(materials & install)
Cobble (2"-6")	28	TONS	\$225.00	\$6,300.00	4" Depth 1,388 sf
River Rock (1.5")	10	TONS	\$52.95	\$529.50	2" Depth 947 sf
Wood Mulch (Double Shredded Cedar)	2	CY	\$62.00	\$124.00	4" Depth 152 sf
Steel Edger	845	LF	\$4.00	\$3,380.00	
Trees - Deciduous (2.5" cal)	10	EA	\$800.00	\$8,000.00	(materials & install)
Trees - Ornamental (2" cal)	3	EA	\$650.00	\$1,950.00	(materials & install)
Trees - Evergreen (6" min. H)	11	EA	\$800.00	\$8,800.00	(materials & install)
Shrubs (5 gal.)	56	EA	\$50.00	\$2,800.00	(materials & install)
Ornamental Grasses & Perennials (5 gal.)	51	EA	\$15.00	\$765.00	(materials & install)
Soil Amendment (Prem 3 Compost)	79	CY	\$37.95	\$2,998.05	
Drip Irrigation System	799	SF	\$1.50	\$1,198.50	
Temp. Native Area Irrigation System	18 445	SF	\$1.50	\$27,667.50	
Subtotal				\$70,046.05	
3.0 OUTLOT G - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	13 625	SF	\$0.30	\$4,087.50	(materials & install)
Cobble (2"-6")	18	TONS	\$225.00	\$4,050.00	4" Depth 897 sf
River Rock (1.5")	30	TONS	\$52.95	\$1,588.50	2" Depth 2,943 sf
Steel Edger	598	LF	\$4.00	\$2,392.00	
Trees - Ornamental (2" cal)	3	EA	\$650.00	\$1,950.00	(materials & install)
Trees - Evergreen (6" min. H)	4	EA	\$800.00	\$3,200.00	(materials & install)
Soil Amendment (Prem 3 Compost)	67	CY	\$37.95	\$2,542.65	
Drip Irrigation System	2 943	SF	\$1.50	\$4,414.50	
Temp. Native Area Irrigation System	13 625	SF	\$1.50	\$20,437.50	
Subtotal				\$44,662.65	
4.0 OUTLOT H - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	27 321	SF	\$0.30	\$8,196.30	(materials & install)
Cobble (2"-6")	30	TONS	\$225.00	\$6,750.00	4" Depth 1,472 sf
Steel Edger	982	LF	\$4.00	\$3,928.00	
Trees - Deciduous (2.5" cal)	6	EA	\$800.00	\$4,800.00	(materials & install)
Trees - Evergreen (6" min. H)	18	EA	\$800.00	\$14,400.00	(materials & install)
Soil Amendment (Prem 3 Compost)	110	CY	\$37.95	\$4,174.50	
Temp. Native Area Irrigation System	27 321	SF	\$1.50	\$40,981.50	
Subtotal				\$63,230.30	
5.0 OUTLOT I - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Native Seed Mix-Drill Seed Application	12,406	SF	\$0.30	\$3,721.80	(materials & install)
Cobble (2"-6")	10	TONS	\$225.00	\$2,250.00	4" Depth 471 sf
River Rock (1.5")	42	TONS	\$52.95	\$2,223.90	2" Depth 4,137 sf
Wood Mulch (Double Shredded Cedar)	2	CY	\$62.00	\$124.00	4" Depth 110 sf
Steel Edger	330	LF	\$4.00	\$1,320.00	
Trees - Ornamental (2" cal)	1	EA	\$650.00	\$650.00	
Shrubs (5 gal.)	65	EA	\$50.00	\$3,250.00	(materials & install)
Ornamental Grasses & Perennials (5 gal.)	100	EA	\$15.00	\$1,500.00	(materials & install)
Soil Amendment (Prem 3 Compost)	67	CY	\$37.95	\$2,542.65	
Drip Irrigation System	4,247	SF	\$1.50	\$6,370.50	
Temp. Native Area Irrigation System	12,406	SF	\$1.50	\$18,609.00	
Subtotal				\$42,561.85	
6.0 MEDIAN - LANDSCAPE / IRRIGATION	QTY	U.O.M.	UNIT PRICE	EXTENSION	NOTES
Cobble (2"-6")	14	TONS	\$225.00	\$3,150.00	4" Depth 618 sf
River Rock (1.5")	38	TONS	\$52.95	\$2,012.10	2" Depth 3,758 sf
Wood Mulch (Double Shredded Cedar)	2	CY	\$62.00	\$124.00	4" Depth 114 sf
Steel Edger	309	LF	\$4.00	\$1,236.00	
Shrubs (5 gal.)	49	EA	\$50.00	\$2,450.00	(materials & install)
Ornamental Grasses & Perennials (5 gal.)	122	EA	\$15.00	\$1,830.00	(materials & install)
Soil Amendment (Prem 3 Compost)	16	CY	\$37.95	\$607.20	
Drip Irrigation System	3 872	SF	\$1.50	\$5,808.00	
Subtotal				\$17,217.30	
COMPLETE PROJECT					
Subtotals				\$567,978.85	
Site (Contingency)		JOB	10%	\$56,797.89	
TOTAL				\$624,776.74	



EXHIBIT C

(Sample)
(BANK LETTERHEAD)

IRREVOCABLE LETTER OF CREDIT

Town of Frederick
P.O. Box 435
Frederick, CO 80530

No.
Date:
Expiration:

Gentlemen:

We hereby authorize you to draw on us for the account of (Insert the name and account number of the DEVELOPER) up to an aggregate amount of \$ (100% of estimated cost of improvements) available by your drafts at sight for one hundred percent (100%) face value accompanied by your signed statement that the above is drawn in payment of public improvements pursuant to:

(Insert the title of the Memorandum of Agreement for Public Improvements)

Each draft presented under this letter of credit must state that it is drawn under (Title of Bank and identification of the Letter of Credit) and the amount endorsed on this letter of credit.

We hereby agree the drawers, endorsers and bona fide holders of all drafts drawn under and in compliance with the terms of this credit that such drafts will be duly honored upon the presentation to the drawee.

Yours, very truly,

By: (signature of authorized bank officer)
Title: (title of signator)

Attest:

EXHIBIT D

**MEMORANDUM OF UNDERSTANDING
CONCERNING REIMBURSEMENT FOR OVERSIZING
PUBLIC IMPROVEMENTS**

THIS AGREEMENT is made and entered into this ____ day of _____, 2009, by and between the TOWN of Frederick, a Colorado municipal corporation, whose address is P.O. Box 435, Frederick, Colorado (“TOWN”), and [DEVELOPER], a Colorado [...], whose address [...] (“DEVELOPER”).

WHEREAS, DEVELOPER owns certain real property situated within the TOWN known as [PROPERTY] (“Subdivision” or “Development”); and

WHEREAS, pursuant to the Memorandum of Agreement for Public Improvements (“MOAPI”) dated _____ between the TOWN and DEVELOPER, DEVELOPER has been required to provide at his sole expense, certain public improvements in conjunction with the development of said property, and

WHEREAS, certain undeveloped realty which is in the TOWN or which may be annexed to the TOWN, and not owned by the DEVELOPER, is so situated that upon anticipated subsequent development, the subsequent developer will directly benefit from the aforesaid public improvements provided by the DEVELOPER; and

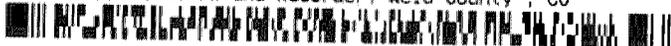
WHEREAS, the TOWN is willing to lend its good offices in endeavoring to assist the DEVELOPER in the recoupment of reasonable expenses attributable to the benefit of the public improvements obtained by such subsequent developer at the time of development.

NOW, THEREFORE, it is the understanding of the parties that they will do and perform as follows:

- 1. Reimbursement for Public Improvements.** The parties hereby agree that the DEVELOPER shall be entitled to recover a portion of his expenses under the MOAPI from subsequent development that uses capacity in facilities provided by the DEVELOPER. The recovery allowed shall be in direct proportion to the amount of capacity in the facilities used by the subsequent development. The DEVELOPER shall provide the TOWN with a signed statement of reimbursement charges from a qualified engineer, accompanied by supporting documentation, setting a dollar amount per measurable unit to be charged subsequent developers for their proportional share of the total capacity in the facilities. The reimbursement charge is subject to approval by the TOWN and is determined by the division of the total cost of the facility by the total number of measurable units of capacity (gallons, dwelling units, trips generated, acreage, square footage, etc.) in the facility. The engineer’s statement of reimbursement charges

shall be attached to this Agreement and incorporated therein. The DEVELOPER may recover for only that portion of the facilities that are used by a subsequent developer.

2. **Notice of Claim for Reimbursement by Subsequent Developer.** Upon written notification by DEVELOPER to the TOWN of a claim for reimbursement from a subsequent developer of property benefited by said public improvements, TOWN agrees to require reimbursement from the subsequent developer as a condition of final development approval, along with interest at the legal rate then provided. Notice of the claim for reimbursement must be received by the TOWN during the initiation of subsequent development, i.e. upon application for annexation or platting. The DEVELOPER's claim for reimbursement is forfeited if written notice is received by the TOWN after final action is taken on the subsequent development.
3. **Time Limit for Reimbursement Eligibility.** Reimbursement from subsequent developers shall be limited to those developments which receive annexation or final plat approval within twenty (20) years of the date of this Agreement. Reimbursement from subsequent developers for street improvements shall reduce by half after ten (10) years from the date of Conditional Acceptance by the Town.
4. **No Financial Commitment by TOWN.** Nothing in this Memorandum shall be construed as a commitment of financial liability to the DEVELOPER to otherwise require collection or payment of the amount claimed for reimbursement through participation of a subsequent developer, the TOWN is merely engaging to extend its good offices to facilitate an equitable resolution in achieving fair participation in public improvement costs.
5. **Attorney Fees.** In the event that any party finds it necessary to retain an attorney in connection with a default by another as to any of the provisions contained in this Agreement, the defaulting party shall pay the other's reasonable attorney's fees and costs incurred in enforcing the provisions of this Agreement.
6. **Binding Effect.** This Agreement shall bind and extend to the heirs, representatives, successors and assigns of the parties.
7. **Whole Agreement.** This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided herein there shall be no modifications of this Agreement except in writing, executed with the same formalities as this instrument. Subject to the conditions precedent herein this Agreement may be enforced in any court of competent jurisdiction.



TOWN OF FREDERICK	DEVELOPER
By: Mayor	By: Title:
ATTEST:	
By: Town Clerk	

STATE OF COLORADO)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
 by _____ as Mayor and _____ as Town Clerk of the Town of Frederick.

My commission expires:

Witness my hand and official seal.

Notary Public

STATE OF COLORADO)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
 by _____ as Mayor and _____ as Town Clerk of the Town of Frederick.

My commission expires:

Witness my hand and official seal.

Notary Public



EXHIBIT E

MEMORANDUM OF UNDERSTANDING
CONCERNING REIMBURSEMENT FOR OVERSIZING
PUBLIC IMPROVEMENTS BY OTHERS

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between
(enter name of developer of the public improvements), a Colorado *(enter the type of corporation)*
, whose address is *(enter the full address of developer of the public improvements)* (“Party of the First
Part”), and *(enter name of subsequent developer)*, a Colorado *(enter the type of corporation)*
, whose address is *(enter the full address of subsequent developer)* (“Party of the Second Part”).

WHEREAS, Party of the Second Part owns certain real property situated within the TOWN known as
(enter the name of the subdivision or PUD) (“Subdivision” or “Development”); and

WHEREAS, pursuant to the Memorandum of Agreement for Public Improvements (“MOAPI”) dated *(enter
the date the MOAPI)* between the Town of Frederick and Party of the First Part, the Party of the First Part
has been required to provide at his sole expense, certain public improvements in conjunction with the development
of his property, and

WHEREAS, the Party of the Second Part owns certain undeveloped realty which is so situated that upon
development it will directly benefit from the aforesaid public improvements provided by the Party of the First Part;
and

WHEREAS, the Town of Frederick has made it a condition of development approval that the Party of the
Second Part reimburse the Party of the First Part for a portion of those reasonable expenses incurred by the Party of
the First Part in the construction, installation and development of certain public improvements benefitting the
development of property owned by the Party of the First Part; and

WHEREAS, the reimbursement is to be in direct proportion to the amount of capacity in the public
improvements utilized by the development of the Party of the Second Part, including interest at the legal rate from
the date of final acceptance of the public facilities;

NOW, THEREFORE, it is the understanding of the parties that they will do and perform as follows:

1. **Reimbursement for Proportional Share of Public Improvements.** The parties hereby agree that the Party of the Second Part shall reimburse to the Party of the First Part for its proportional share of the public facilities constructed, installed and developed by the Party of the First Part. The reimbursement charge is determined by the division of the total cost of the facility by the total number of measurable units of capacity (gallons, dwelling units, trips generated, acreage, square footage, etc.) in the facility. The Party of the First Part may recover from the Party of the Second Part for only that portion of the facility that is used by the Party of the Second Part. The reimbursement charges are as follows:

a. **Water System Improvements.**

- i. *(Insert the specific location and size of line, pumping facility, or storage facility that was built and the Party of the Second Part's proportionate share to be reimbursed. Reimbursement is to be a dollar amount per measurable unit (gallon or dwelling unit). Add more line items as necessary.)*



b. Sewer System Improvements.

- i. *(Insert the specific location and size of line, pumping facility, or treatment facility that was built and the Party of the Second Part's proportionate share to be reimbursed. Reimbursement is to be a dollar amount per measurable unit (gallon or dwelling unit). more line items as necessary.)*

c. Drainage System Improvements.

- i. *(Insert the specific location and size of line, drainage swales, pumping, detention and storm water treatment facilities that was built and the Party of the Second Part's proportionate share to be reimbursed. Reimbursement is to be a dollar amount per measurable unit (acreage or dwelling unit). Add more line items as necessary.)*

d. Transportation System Improvements.

- i. *(Insert the specific location and size of the street, off-site rights-of-way, easements, licenses and permits or other transportation facility that was built and the Party of the Second Part's proportionate share to be reimbursed. Reimbursement is to be a dollar amount per measurable unit (trip generation or dwelling unit). Add more line items as necessary.)*

e. Park and Open Space Improvements.

- i. *(Insert the specific location and size of park or open space facility that was built and the Party of the Second Part's proportionate share to be reimbursed. Reimbursement is to be a dollar amount per measurable unit (acreage or dwelling unit). Add more line items as necessary.)*

2. **Payment Schedule.** *(Payment schedule and methods of payment are to be subject to negotiation and agreement between the parties. Insert the payment schedule and methods of payment here)*

3. **Attorney Fees.** In the event that any party finds it necessary to retain an attorney in connection with a default by another as to any of the provisions contained in this Agreement, the defaulting party shall pay the other's reasonable attorney's fees and costs incurred in enforcing the provisions of this Agreement.

4. **Binding Effect.** This Agreement shall bind and extend to the heirs, representatives, successors and assigns of the parties.

5. **Whole Agreement.** This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the parties hereto. Except as provided herein there shall be no modifications of this Agreement except in writing, executed with the same formalities as

EXHIBIT F

**SPECIAL PROVISIONS APPLYING TO MEMORANDUM
OF AGREEMENT FOR PUBLIC IMPROVEMENTS**

This Exhibit F is attached to and incorporated into that certain Memorandum of Agreement for Public Improvements for the Clearview Village Subdivision by and between the Town of Frederick, a Colorado municipal corporation (“TOWN”) and BCL Colorado LP, a Colorado limited partnership (the “DEVELOPER”). In the event of any conflict between any paragraph, sentence or clause of this Exhibit F and similar provisions elsewhere in the MOAPI, the paragraph, sentence or clause of this Exhibit F shall control.

1. Transportation Improvements.

The DEVELOPER shall be responsible for the construction of roadway improvements to include curb and gutter, asphalt, traffic control and school zone signs, roadway striping, sidewalk and landscaping as shown in the Development Phase Map contained within “Exhibit A” and in the Phase Plan of the Construction Drawings and landscape plan accepted by the Town.

The DEVELOPER shall submit to the TOWN as a requirement for Conditional Acceptance of Phase 1, contribution toward the installation of a future traffic signal at Godding Hollow Parkway (WCR-18) and Silver Birch Boulevard (WCR-11) in the amount of One Hundred Thousand Dollars (\$100,000), which amount constitutes twenty-five percent (25%) of the current anticipated cost for the design and installation of the traffic signal. Notwithstanding the foregoing, if Conditional Acceptance of Phase 1 is not sought and this contribution is not made on or before two (2) years from the date of this MOAPI, then, as a requirement for Conditional Acceptance of Phase 1, the DEVELOPER shall be required to contribute twenty-five percent (25%) of the then-current cost estimate for the design and installation of said traffic signal.

2. Model Homes.

Notwithstanding anything to the contrary in Section 2.10(g), the Town agrees to issue building permits prior to conditional acceptance for up to four (4) model homes constructed by Developer, where Developer has provided access to such model homes by all-weather roads, and where such model homes are served by water and sewer, and all other requirements of the building permit application have been satisfied including acceptance of items as required by any IGA. No certificates of occupancy will be issued until such homes are served by electrical utilities and the requirements of Section 2.10(g) have been satisfied. DEVELOPER warrants and agrees that no such home shall be transferred or sold to an individual home owner until all improvements have been completed and the public improvements granted conditional acceptance by the TOWN. The four (4) model homes are not subject to the completion of the raw water system.

3. School Bus Shelters.

Section 9.9 of the MOAPI shall not apply to the Clearview Villages Development.

4. Water Service

To the extent the water dedication and/or cash-in-lieu payment for any lot is evidenced by a receipt or similar written proof of dedication and/or payment presented to the TOWN, the TOWN shall not charge the BUILDER for such fees or costs.

5. Phasing of Improvement Guarantee

The required Improvement Guarantee may be separately posted for each phase of the DEVELOPMENT prior to the commence of any construction or site preparation work for a particular phase. The Town’s retention of at least 10% of the Improvement Guarantee during the warranty period shall also be on a phase-by-phase basis.

6. Outlots and Open Space

The Clearview Villages Preliminary / Final Plat and Preliminary Development Plan / Final Development Plan Clearview Villages state that a metropolitan district (the “DISTRICT”) will own several outlots within the DEVELOPMENT and that the DISTRICT will be responsible for installing, owning, and maintaining therein several types of open space, including neighborhood parks, pocket parks, public trails, landscaped tracts, water quality ponds, oil and gas setback areas, and floodplain areas. In the event the District has insufficient revenues or otherwise fails to satisfy these obligations, DEVELOPER shall be responsible for the same.

7. Non-Potable Water Improvements.

As a precondition to any future connection to the DEVELOPER’S raw water system by any third party, the third party shall enter into a cost sharing agreement with DEVELOPER substantially in the form attached to the MOAPI as “Exhibit E” which requires the third party to pay the following percentage of DEVELOPER’S cost of building said system:

Non-Potable Water Extension	Projected Demands (acre-feet)	Percent of Total Demand
Summit View - Town of Frederick	5.83	6.40%
Eagle Valley	19.05	21.00%
Raspberry Hill	19.25	21.20%
Clearview	46.49	51.30%
Total:	90.62	100.00%



Built On What Matters

TOWN OF FREDERICK Board of Trustees Staff Report

Tracie Crites, Mayor

Kevin Brown, Mayor Pro
Tem
Dan March, Trustee
Mark Lamach, Trustee

Adam Mahan, Trustee
Windi Padia, Trustee
Chad teVelde, Trustee

Board, Commission, and Committee Appointments

Agenda Date: 06/25/2024 BOT Meeting

Attachments:

Reviewed By: Emily Nitcher, Deputy Town Clerk Created/Initiated - 6/14/2024
Jason Leslie, Deputy Town Manager Approved - 6/14/2024
Jason Leslie, Deputy Town Manager Final Approval - 6/14/2024

Action Type

2) Administrative: Actions of routine nature that implement policies/directions or effectuate the functioning of government; such as contract approvals/granting of licenses and permits/etc.

Strategic Plan Alignment:



DYNAMIC, INCLUSIVE & CONNECTED COMMUNITY– Frederick is represented by diverse nonprofit, cultural, business, and geographic participation. Residents actively engage in activities and initiatives; they are encouraged and supported to address important community needs and issues.
- This request aligns with the Town's Strategic Plan by actively engaging with Frederick residents to provide the Town's Boards, Commissions and Committees with diverse and well-rounded representation.

Summary Statement:

Staff is submitting candidates for appointment to the Town of Frederick Boards, Commissions and Committees.

Detail of Issue/Request:

On May 29th, 30th and June 7th, Trustee Padia and Trustee TeVelde and various members of staff participated on an interview panel for various vacancies on the town's Boards, Commissions, and Committees.

Following the interviews, it is the recommendation of the panel to make several appointments to the Town Boards, Commissions and Committees.

The Parks, Recreation, Open Space and Trails Commission has two vacancies. The panel is recommending the appointment of Erin Fosdick and Kristen Davis to fill those vacancies.

The Planning Commission has one vacancy. The panel is recommending the appointment of Kristie Conroy to fill the vacancy.

The Frederick Arts Committee has 3 vacancies. The panel is recommending the appointment of Richard Maxwell, Jim R. Jacobs, and Jodee Wild to fill these vacancies.

The Historic Preservation Committee has 6 vacancies. The panel is recommending the appointment of Pamela Smith, Jodie Simek, and Krista Barnhardt to fill three of those vacancies. The panel interviewed Bill Simek and, while a great candidate, upon review with the attorney's office, the panel would not recommend appointment.

The Frederick Youth Commission has 15 vacancies. The panel is recommending the appointment of Eli Robins, Mackenzie Carroll, and Brayden Spotts to fill three of those vacancies.

Legal Comments:

As a matter of first impression, we have not had a staff member apply to be on a Board, Commission, or Committee. After review of the ethics policy and other potential complications, it is the attorney's office recommendation not to allow employees to serve on a Board, Commission, or Committee outside of their regular job function as a staff liaison.

Alternatives/Options

The Board may choose to appoint the candidates or request staff to continue to advertise the vacancies.

Financial Considerations

Not Applicable

Staff Recommendation

Staff proposes the following motions if the Board moves forward with the appointments.

Parks, Recreation, Open Space and Trails Appointments:

I move to appoint Erin Fosdick and Kristen Davis to the Parks, Recreation, Open Space and Trails Commission.

Frederick Planning Commission:

I move to appoint Kristin Conroy to the Planning Commission.

Frederick Arts Committee:

I move to appoint Richard Maxwell, Jim R. Jacobs, and Jodee Wild to the Arts Committee.

Frederick Historic Preservation Committee:

I move to appoint Pamela Smith, Jodie Simek, and Krista Barnhardt to the Historic Preservation Committee.

Frederick Youth Commission:

I move to appoint Eli Robins, Mackenzie Carroll, and Brayden Spotts to the Town of Frederick Youth Commission.



Built On What Matters

TOWN OF FREDERICK Board of Trustees Staff Report

Tracie Crites, Mayor

Kevin Brown, Mayor Pro
Tem
Dan March, Trustee
Mark Lamach, Trustee

Adam Mahan, Trustee
Windi Padia, Trustee
Chad teVelde, Trustee

Resolution 24-R-42 Go Outdoors Frederick 2050 Contract Approval

Agenda Date: 06/25/2024 BOT Meeting

Attachments:	1. 24168 Frederick POST MP Update - Final Draft	24168 Frederick POST MP Update - Final Draft.pdf
	2. Resolution 24-R-42 - PRSMP	Resolution 24-R-42 - PRSMP.pdf

Reviewed By:	Emily Nitcher, Deputy Town Clerk	Created/Initiated - 5/28/2024
	Colby Johnson, Parks and Open Space Director	Approved - 5/28/2024
	Kurtis Adams, Finance Director	Approved - 5/29/2024
	Jason Meyers, Town Attorney	Approved - 5/31/2024
	Jason Leslie, Deputy Town Manager	Final Approval - 6/14/2024

Action Type

2) Administrative: Actions of routine nature that implement policies/directions or effectuate the functioning of government; such as contract approvals/granting of licenses and permits/etc.

Strategic Plan Alignment:



EFFECTIVE, EFFICIENT & STRATEGIC GOVERNMENT OPERATIONS - As an employer of choice, the Town of Frederick will lead the region in a culture of

efficiency, innovation, and strategic partnerships in all municipal services to far exceed the community's expectations and exemplify the fact that Frederick is Built on What Matters, its people.



DYNAMIC, INCLUSIVE & CONNECTED COMMUNITY– Frederick is represented by diverse nonprofit, cultural, business, and geographic participation. Residents actively engage in activities and initiatives; they are encouraged and supported to address important community needs and issues.



COMMUNITY AND ECONOMIC VITALITY– Frederick is a community that fosters economic, recreational, cultural, and environmental vitality and builds upon and enhances a variety of economic opportunities.



STRATEGIC, RELIABLE & SUSTAINABLE INFRASTRUCTURE– Frederick is dedicated to investing in existing and future transportation, water, storm water, and technology while planning for sustainable growth and development.



SAFE & SECURE– Residents of Frederick experience safety and peace of mind knowing they live in the safest community in Colorado.



FISCALLY RESPONSIBLE GOVERNANCE– The Town of Frederick plans for, identifies, leverages, and utilizes resources that reflect exemplary stewardship for those who live in Frederick and those who will seek out Frederick in the future.

Summary Statement:

The purpose of this Action Item is to authorize the Town Manager to enter into a contract with Confluence in the amount of \$335,590 and any such amendments, as needed, subject to review by the Town Attorney, that is substantively the same as Exhibit A, in a total amount not to exceed \$500,000, to provide for the creation of a parks, recreation, open space and trails system master plan, dubbed “*Go Outdoors Frederick 2050*”.

Detail of Issue/Request:

Parks and Open Space staff have worked diligently over the past two years to create a strategic planning framework for the future of the Town’s recreational assets. Significant effort and resources have been invested into the creation of site plans for primary community assets, including Frederick Recreation Area, Centennial Park, Crist Park and Mendoza Open Space; annual action plans to implement the current year’s capital improvement program; employee action plans to implement strategic planning and capital improvements throughout the system on an individual basis and; creating standard operating procedures for maintenance and care of our recreation assets. Additionally, the Town is preparing to adopt a new Comprehensive Plan, which provides for a future vision of the Town’s outdoor recreation system.



Go Outdoors Frederick 2050 is the final missing link in the Parks and Open Space Department’s strategic planning framework. Originally anticipated in the 2023 and 2024 budget as four separate planning efforts to provide additional needed context to the 2021 Parks, Open Space and Trails Master Plan (2021 POST Plan), Department staff and the Parks, Recreation, Open Space and Trails Commission (PROST) felt that the most effective and efficient option moving forward for Frederick was a revision to the system’s master plan, looking forward 25 years into the future.

A full scope of services is attached as an amendment, but generally consists of the following:

25-year implementation plan for the vision prescribed by the 2024 Comprehensive Plan and our community.

Financial Plan

- Analysis of resources required for operations and maintenance, staffing, asset replacement and capital improvements alongside an analysis of available funding from the 0.5% parks and open space sales tax, future impact fees, grant opportunities and priorities, potential bonds or other borrowing techniques and donations.

Levels of Service

- Recommendations for maintenance service levels to adequately maintain the system that exists today and what will exist in the future. Additionally, an analysis on increasing or decreasing maintenance service levels if future funding availability should have an unexpected or expected change.

Improvements to Neighborhood Parks and Open Spaces

- The Department manages nearly 80 (depending on how you count) different tracts of parks, open spaces and trail corridors throughout Frederick that have not been previously site planned. This plan will prescribe a prioritization schedule and rubric for improvements, menu of options for residents to consider with a community engagement framework to follow throughout implementation.
- Improvements could include water conservation/naturalization, improved base amenities, inclusive universal accessibility, trail connections and asset replacement schedules.
- This section would include potential improvements to oil and gas tracts now managed as open spaces.

Implementation of Community Park and Open Space Improvements

- Recommendations and scheduling for the implementation of proposed improvements to FRA, Crist, Centennial and Mendoza in a phased approach.

Trail Planning

- This plan will build upon the 2021 POST Plan and Comprehensive Plan and prescribe priorities for missing trail links, opportunities for construction by other developments, prioritize open space internal trails, wayfinding and public mapping and regional trails and connections to surrounding municipalities.

Coordination with the Land-Use Code Revision

- This plan will coordinate the Town's efforts with a revision to the Land-Use Code pertaining to parks and open spaces, which is being conducted in-house and with outside counsel, with proposed improvements to the existing system to ensure equity of access and opportunity.

Development of a Parks and Open Space Design Guide

- While the Land-Use Code can require new developments to adhere to strict codes, the codes can be somewhat opaque. A Design Guide can provide additional context to both Town planning and development staff and future

developments to ensure the future parks and open spaces are properly constructed and to prevent “cookie-cutter” parks or inadequate open spaces.

Dedication and Development Policies

- This plan will contemplate the current and alternative strategies pertaining to the development and dedication of parks and open space lands to the Town and/or neighborhood HOAs. While each municipality varies in Colorado in these policies, we will research and advise the PROST Commission and Board on what strategy may be most appropriate for Frederick.

CAPRA Accreditation

- The Commission for Accreditation of Parks and Recreation Agencies prescribes a series of standards that eligible agencies must meet for accreditation. Our Department has begun this process informally, but can utilize this planning effort, alongside other efforts, to create or refine those standards for Frederick as many do not exist because we did not have a dedicated Department until 2022.

Open Space Acquisition

- The Town does not currently have a priority list of acquisition opportunities for open space preservation. The Comprehensive Plan outlines significant acreage for open space preservation and this plan will create a framework for protection of those corridors and the prescription we can apply to do so.

Community Outreach

- This plan will have significant stakeholder and community outreach with a project website as the home base for that information. The PROST Commission will be our primary advisory committee. Stakeholders include, but are not limited to, residents, visitors, CVPRD, CPW, adjacent landowners along Boulder Creek, SVVSD and other Town departments.

Staff recognizes the most recent Parks, Open Space and Trails Master Plan was adopted by the Board in January 2021. However, that plan effort has significant gaps in its recommendations for the future of the system. Some of those gaps include, but are not necessarily limited to:

- It was written under the vision set in the 2006 and 2016 Comprehensive Plans.
- The window of planning was around five years for this effort. Several, more generic, recommendations were around a ten-year window.
- It did not contemplate the creation of a standalone Parks and Open Space Department and the resources required to accommodate that.

- It did not plan anything for Bella Rosa Golf Course, except noting its total acreage.
- It did not revise open space recommendations beyond the 2010 POST Master Plan.
- It recommended minimal revisions to the LUC for park and open space developments.
- It did not contemplate significant community park improvements.
- It contained minimal financial planning for improvements or maintenance.
- It did not include any recreational analysis of need for amenities to accommodate programming from CVPRD.
- It did not contemplate significant improvements needed to neighborhood parks.
- It did not contemplate significant improvements needed to neighborhood open spaces, including oil and gas sites.

Throughout 2020, the Town invested approximately \$40,000 into the 2021 POST Master Plan effort. This updated plan will be able to utilize a sizable portion of that effort and capitalize on that initial investment, most notably, the robust community engagement and analysis on park access and equity.

Staff understands fully the significant investment this potential plan represents. \$300,000 to \$500,000 of taxpayer's hard-earned money is not something we take lightly. However, Frederick's park and open space planning is in need of this holistic, long-term implementation plan to adequately provide services at the levels our community is asking for. This is not planned as a "turn over the keys" effort to a consultant; Department staff have been and will continue to work tirelessly to complete needed planning, maintenance and improvements alongside and in addition to this effort. We are asking for assistance from a team of experts to help provide this plan under the leadership of our Department for our community by the end of 2025. If staff were to take on the depth of this effort entirely internally, our timeframe for completion would be extended by years, due to the considerable workload we have challenged ourselves with.

For perspective, the current 0.5% sales and use tax dedicated to parks and open spaces generates about \$2,000,000 annually. Assuming for the sake of argument that it will never go up, which it will, and that we will have no other funding sources, which we certainly do, the budget for this plan represents a 1% investment over the 25-year timeframe of its implementation.

For tonight's authorization, staff is asking the Board to allow the Town Manager and staff to potentially utilize the entire \$500,000 budget allocation for this project, but it is important to note that the initial scope of services and contract with Confluence is \$335,590. We intend to enter into that contract amount at the current time, but a planning effort of this magnitude will very likely reveal supplementary scope items that require additional investigation, analysis or implementation. By authorizing the Town Manager to enter into potential future amendments with this Resolution, up to the total budgeted allocation, we will reduce any "red tape" required to come back to the Board. However, staff will hold the consultant accountable to the original contract amount until we determine, at the Town's sole discretion, any additional items that may be needed.

Staff have considered opportunities for grant funding a portion of this project. However, most available grant funds require certain “strings” for parks and open space master planning. Staff feels that by cash funding this endeavor, with our currently healthy cash funds, we can ensure the product fits our Frederick values and is not driven by external forces pushing us in a particular direction.

Staff is exceptionally confident that this is the most effective and efficient manner in which to provide a 25-year implementation plan for the future of our recreational assets. The #1 comment we hear from our neighbors is to plan and grow responsibly. This proposed effort provides that for our Department and stakeholders and not only brings us up to “par” with our neighboring communities, but places us “with a tap in for birdie,” ensuring our recreational assets are Built on What Matters.

Legal Comments:

The Town Attorney's Office has reviewed and approved the agreement and drafted resolution.

Alternatives/Options

The Board has the option to reject the bid and not proceed with this planning effort.

Alternatively, the Board could direct staff to modify the terms of the contract, scope or budget in any manner.

Financial Considerations

This project is funded through the Open Space Fund, Water Fund and General Fund. The recommended not to exceed award is within the approved budget allocations.

Staff Recommendation

Staff recommends the Board authorize the Town Manager to enter into a contract with Confluence in the amount of \$335,590 and any such amendments, as needed, subject to review by the Town Attorney, that is substantively the same as Exhibit A, in a total amount not to exceed \$500,000, to provide for the creation of a parks, recreation, open space and trails system master plan, dubbed “*Go Outdoors Frederick 2050*”.

May 23, 2024

DRAFT V3
05-23-2024

Colby Johnson
Parks and Open Space Director
Town of Frederick
P.O. Box 435
Frederick, Colorado 80530
cjohnson@frederickco.gov

**RE: Frederick POST Master Plan Update
Professional Services Agreement**

Mr. Colby Johnson,

We are pleased to submit this professional services agreement to provide Park Planning and Design Services as provided herein between the **Town of Frederick** (*Client*) and **Confluence** (*Landscape Architect / Planner*). Please return one copy of the executed agreement to Confluence. We are looking forward to working on your Project!

Project

To assist the Town of Frederick with an update to its **2021 Parks, Open Space and Trails (POST) Master Plan**, resulting in a parks and recreation system master plan to help guide funding, implementation, and management for the next 25-years, which will be called ***“Go Outdoors Frederick 2050”***

Article 1: Landscape Architectural and Planning Services

- 1.1 Scope of Services. The Scope of Landscape Architectural/Planning Services to be provided under this agreement are detailed in “Exhibit A”.
- 1.2 Supplemental Services. Supplemental Services are detailed in “Exhibit A” – Supplemental Services are beyond the basic Scope of Services, and when requested in writing by the Client, shall entitle the Landscape Architect/Planner to additional compensation (either on the hourly basis stated in “Exhibit C” or the basis of a negotiated sum) beyond the Compensation stated in Article 4 Landscape Architect Compensation.
- 1.3 Standard of Care. The Landscape Architectural/Planning Services shall be performed with care and diligence in accordance with the professional standards applicable at the time and in the location of the Project and appropriate for a project of the nature and scope of this Project.
- 1.4 Coordination. The Landscape Architect/Planner shall coordinate the Services of its sub-consultants (PROS Consulting and others if needed) and shall cooperate with the Client’s representatives and separate consultants in the best interest of the Project.

- 1.5 Representations. The Landscape Architect/Planner represents that it and its sub-consultants have and shall maintain through the performance of the Landscape Architectural/Planning Services under this agreement the requisite licenses, registrations, and/or certifications required for the performance of these Services in the jurisdiction in which the Project is located.
- 1.6 Approval of Services/Changes to Approved Services. The Landscape Architect/Planner shall proceed with a phase or design package of the Landscape Architecture/Planning Services only after receiving the Client's approval of the Services and deliverables provided in the previous phase and authorization to proceed into the next phase. Revisions to drawings or other documents shall constitute Supplemental Services made necessary because of Client-requested changes to previously approved drawings or other documents, or because of Client changes to previous Project budget parameters or Project requirements.
- 1.7 Schedule of Performance. The Client's signature on this Agreement shall be the basis for the Landscape Architect to begin providing services for the Project. The Landscape Architect shall perform the services per the Client's proposed schedule or as expeditiously as is consistent with the standard of care described in section 1.3, above.

Article 2: Client's Responsibilities

2.1 Information

- 2.1.1 The Client shall provide access to all available data from previous plans, studies, base data related to previous parks & recreation planning and design efforts.
 - 2.1.2 The Client shall provide data about the site(s) and other information on which the planning/design is to be based as well as Client's budget parameters for the Project. Some data for the site may be provided as part of the Scope of Services. The Landscape Architect/Planner shall be entitled to rely on the accuracy and completeness of information provided by the Client.
 - 2.1.3 The Client shall be responsible for all legal, accounting, and insurance Services the Client may require or deem necessary in the interest of the Project.
- 2.2 Client's Representative. The Client shall designate a representative with authority to act on the Client's behalf with regard to the Project. If for any reason the Client's designated representative is replaced during the progress of the Project, the Landscape Architect/Planner shall be notified of the change in a timely manner.
- 2.3 Approvals. Client's decisions, approvals, reviews, and responses shall be communicated to the Landscape Architect/Planner in a timely manner so as not to delay the performance of services. Comments from the Client's Representative shall be a consolidation of all comments of interested user groups or entities to provide clear direction to the Landscape Architect/Planner and to avoid delays.

2.4 Project Permit and Review Fees. The Client shall pay all fees required to secure jurisdictional approvals for the Project.

Article 3: Ownership of Documents

3.1 The Landscape Architect/Planner shall be deemed the author and owner of all documents and deliverables developed pursuant to this Agreement and provided to the Client by the Landscape Architect (collectively, the "Planning & Design Materials"). Subject to payment by the Client of all fees and Reimbursable Expenses owed to the Landscape Architect/Planner, the Landscape Architect/Planner grants the Client an irrevocable, non-exclusive license to reproduce the materials as needed.

Article 4: Landscape Architect/Planner Compensation

4.1 Compensation for the Scope of Services described in Section 1.1 of "Exhibit A" under this agreement shall be an Hourly Fee Not to Exceed of \$500,000.00 including Reimbursable Expenses as defined below, Supplemental Services described in Section 1.2 of "Exhibit A", when requested in writing by the Client, shall be compensated on an hourly basis at the rates provided in "Exhibit B" or on the basis of a negotiated fee provided in an amendment to this Agreement. The Compensation breaks out as follows:

Fee by Task

1. Project Initiation and Management	\$38,560.00
2. Data Collection and Analysis	\$30,180.00
3. Coordination on Land-Use Code and Develop Design Standards and Guidelines	\$42,440.00
4. Community Outreach and Stakeholder Engagement	\$30,440.00
5. Needs Assessment, Service Analysis, and Capital Improvement	\$44,880.00
6. Priorities and Budget Strategy	\$42,600.00
7. Action Plan and Recommendations	\$60,300.00
8. Final Master Plan Update	\$37,220.00

Reimbursable Expenses \$8,970.00

Total Fee = \$335,590.00

The fees for each task above are estimated amounts and may change at the request of the Client to build upon or re-focus work efforts during the planning process.

4.2 Reimbursable Expenses are expenditures made by the Landscape Architect/Planner, its employees, and sub-consultants in the interest of the Project plus an administrative fee of 10%. Reimbursable Expenses include but are not limited to travel expenses, costs of reproduction of documents, postage, services of professional consultants which cannot be quantified at the time of contracting, and other, similar, direct Project related expenditures. See Exhibit A for Confluence standard Reimbursable Expenses.

- 4.3 Supplemental Services, when requested in writing by the Client, shall require additional compensation to be determined on an hourly basis or based on a negotiated fee. See "Exhibit B" for Confluence standard hourly rates.
- 4.4 Monthly payments to the Landscape Architect/Planner shall be based on (1) Hourly billing toward tasks completed from Scope of Services and shall include payments for (2) Supplemental Services performed, and (3) Reimbursable Expenses incurred.
- 4.5 Payments are due and payable 45 days from the date of the Landscape Architect/Planner's invoice. Invoiced amounts unpaid 60 days after the invoice date shall be determined overdue and shall accrue 1.5% simple interest per month. At the Landscape Architect's option, overdue payments may be grounds for termination or suspension of services. In the event any portion or all of an account remains unpaid 120 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

Article 5: Insurance, Consequential Damages & Limitation of Liability

5.1 Insurance. The Landscape Architect/Planner shall secure and maintain insurance coverages indicated as follows:

<u>Coverage:</u>	<u>Liability Limits:</u>
Professional Liability:	\$2,000,000 per claim/\$4,000,000 aggregate
Commercial General Liability:	\$1,000,000 per claim/\$2,000,000 aggregate
Comprehensive Automobile Liability:	\$1,000,000 combined single limit
Umbrella Liability:	\$3,000,000 each occurrence/\$3,000,000 aggregate
Drone Aviation Liability:	\$1,000,000 per claim
Workers Compensation:	\$2,000,000 per claim/\$2,000,000 policy limit

5.2 Consequential Damages. The Landscape Architect/Planner and the Client waive consequential damages for claims, disputes, or other matters in question which arise of or are related to this Agreement, including but not limited to consequential damages due to the termination of this Agreement by either party in accordance with the provisions of Article 7 thereof.

Article 6: Dispute Resolution

- 6.1 If a dispute arises out of or relates to this agreement, the parties shall endeavor to resolve their differences first through direct discussions between the parties or their representatives who shall have authority to settle the dispute. If the dispute has not been settled within 14 days of the initial discussions, the parties shall submit the dispute to mediation, the cost of which shall be shared equally by both parties.
- 6.2 For any claim subject to, but not resolved by, mediation pursuant to 6.2, the method of binding dispute resolution shall be; litigation in a court of competent jurisdiction
- 6.1 Nothing in these provisions shall limit rights or remedies not expressly waived under applicable lien laws.

Article 7: Termination

- 7.1 This agreement may be terminated by either party on seven (7) days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination, provided the defaulting party has not cured or in good faith diligently commenced to cure the breach during the 7-day notice period. If the project is terminated, the Landscape Architect/Planner shall be paid their compensation for services performed prior to receipt of written notice from the Client, together with reimbursable expenses and applicable taxes then due.

Article 8: Other Terms & Conditions

- 8.1 Promotional Materials & Images. The Landscape Architect/Planner shall have the right to include photographic or artistic representations of the design of the Project among the Landscape Architect/Planner's promotional and professional materials. The Landscape Architect/Planner shall be given reasonable access to the completed Project to make such representations. However, the Landscape Architect/Planner's materials shall not include the Client's confidential or proprietary information if the Client has previously advised the Landscape Architect/Planner in writing of the specific information considered by the Client to be confidential or proprietary. The Client shall provide professional credit for the Landscape Architect/Planner in the Client's promotional materials for the Project.
- 8.2 Assignment. Neither party shall assign their interest in this Agreement without the expressed written consent of the other, except as to the assignment of the proceeds.
- 8.3 Governing Law. The laws of the State of Colorado shall govern this agreement.
- 8.4 Complete Agreement. This Agreement represents the entire understanding between the Client and Landscape Architect/Planner and supersedes all prior negotiations, representations, or agreements, whether written or oral with respect to its subject matter. The person(s) signing this Agreement on behalf of the parties hereby individually warrant that they have full legal power to execute this Agreement on behalf of the respective parties and to bind and obligate the parties with respect to all provisions contained herein. This Agreement may be amended only in writing signed by both the Client and Landscape Architect.

Exhibits

The following Exhibits are incorporated in and made part of this Agreement:

"A" – Scope of Services and Supplemental Services

"B" - Landscape Architect's Hourly Compensation Rates & Reimbursable Expenses Schedule

Offered by:

Confluence, Inc.

Accepted By:

Town of Frederick, Colorado

 05-23-2024

Signature & Date

Signature & Date

Chad Herd, Principal

Printed Name & Title

Printed Name & Title

Confluence
3457 Ringsby CT, Unit 223
Denver, CO 80216

Copy: PROS Consulting

Exhibit “A”: Scope of Services and Supplemental Services

1.1 Scope of Services

Task 1- Project Initiation and Management

Initial meetings with Town of Frederick Parks and Open Space Staff will be facilitated by Confluence to clearly establish roles and responsibilities; identify project contacts and communication protocols; determine any initial data needs; and verify our proposed schedule of work with confirmed dates for project milestones and deliverables. A key component of these meetings will be to review and confirm the anticipated stakeholder engagement process and timing. We also suggest that in addition to meeting with Town Staff, we also hold initial meetings with other recreation stakeholders including the Carbon Valley Parks & Recreation District (CVPRD) along with other potential recreation partners. This will ensure that the resulting master plan is representative of the broader program needs of the area. We will pay special attention to meetings and presentations outlined below:

Project Meetings and Presentations

- Participate in progress meetings (in-person or virtual) with the Town Project Leader and Parks and Open Space Team as often as necessary, but no less than every two weeks throughout the project.
- Provide the Town Trustees and PROST Commission with a presentation of our approach to the planning process and provide monthly progress reports (in-person or virtual).
- Co-present planning approach along with Town staff to Carbon Valley Parks & Recreation District (CVPRD) and provide regular progress reports. Assuming presentations at key points in the project (in-person or virtual).
- The goals from the 2021 POST Plan need to be reviewed and updated with the PROST Commission and Town Staff.

Task 2- Data Collection and Analysis

Gather relevant data for the existing parks system including, site amenities, facilities, landscape elements, topography, infrastructure and utilities, adjacent land use, and socio-economic factors. Analyze the data to understand the current state of the parks system and identify potential challenges and opportunities. We understand that this has largely been completed during the 2021 POST Master Planning effort. We will gather and review all info as available including the following items:

2.1 Base Mapping - collect any relevant base data which is currently available or obtainable in readily usable electronic format, including GIS and AutoCAD information for the site. This information will serve as the base for the development of our analysis and later for planning concepts. Town staff will have two dedicated GIS interns from June through November to assist with base mapping and GIS data collection efforts.

2.2 Past Plans and Reports - collect and review any previous plans or studies related to the Frederick Parks System or related Recreation facilities. We will review this

information to better understand the sites, neighborhood linkages and past community desires.

2.3 Summary Assessment and Analysis - The following assessment and analysis efforts will be provided by the Confluence Team, as necessary, with assistance from noted national experts on parks and recreation assessment, PROS Consulting. PROS has a multitude of experience in the analysis and assessment of parks and recreation programs and facilities. The result of the effort will be a technical based analysis that identifies opportunities and constraints for the Frederick Parks system and will serve as the basis for program development. We understand that some of this work may have been performed during the 2021 POST Master Plan effort. We will work with the Town to determine the level of parks assessment that is needed to update the plan. Our focus will be on the budgetary planning, staffing, along with maintenance and operations.

- Asset Management Plan - Town uses OpenGovs, Cartegraph – Asset Management Software
- Needs Assessment and Level of Service Analysis
- Programs and Services Assessment
- Operations and Maintenance Assessment
- Prioritization Analysis
- Funding and Revenue Strategies
- Land Acquisition/Divestiture Analysis

Task 3- Coordination on Land-Use Code and Develop Design Standards and Guidelines

Confluence has experienced planners on staff company wide. Our landscape architects and planners have a variety of experience preparing development code, development standards as well as design guidelines for a variety of communities and municipalities. For this project, Confluence recognizes that the Town Planning Department is drafting a new Land Use Code for Parks and Open Space with outside counsel. Confluence will be prepared to coordinate with that new code as it pertains to the master planning of existing and future parks and open spaces. Confluence will prepare Design Standards and Guidelines with the Town to help implement the Code that is drafted. It is important for the 2021 POST update to mesh with the land use code and recently update Comprehensive Plan.

3.1 - We will coordinate with the Town Planning Department on Parks and Recreation related land use code requirements and help to develop Design Standards and Guidelines as necessary to support the Town of Frederick Comprehensive Plan.

3.2 – Assist the Town with updates to policies pertaining to parks and open space dedication and long-term maintenance practices, subject to Board of Trustee and the PROST Commission input and adoption.

3.3 – Ensure park equity and accessibility to all parks and improvements. Strive for Universal Play Design in new parks and updates to existing parks and improvements.

Task 4- Community Outreach and Stakeholder Engagement

Our team has the capabilities and expertise to integrate community and stakeholder engagement safely and effectively into the design and planning process. Confluence uses 'Social Pinpoint', a comprehensive online platform as a tool during stakeholder outreach efforts, which maximizes stakeholder accessibility. Our methods and tools have been proven

to inform constituents about relevant project issues while gathering input and ideas that shape a project's final recommendations. As stated in the RFQ, we proposed to conduct targeted public information sharing and strategic stakeholder engagement to bolster survey input data acquired in recent Town of Frederick planning efforts. We will work with the Town of Frederick Staff to determine the best course of action for the outreach effort, number of events, and strategy, which will likely include the following elements: Public engagement during the previous POST MP effort was extensive and only 3-years ago. Therefore, our outreach efforts will be more informational. We will use Social Pinpoint to set up a project site for sharing info, inviting people to events, and allowing input where needed.

4.1 - We will review public input data from the recently completed Town Comprehensive Plan, 2021 POST Master Plan and recent site plans for the area community parks along with other outreach efforts and compile input relevant to parks, open space, and trails or related topics such as recreation, special events, revenues, and capital expenditures.

4.2 - We will engage stakeholders, to include Carbon Valley Parks and Recreation District, Colorado Parks and Wildlife, neighboring municipalities, and St. Vrain Valley School District, to identify opportunities for partnership related to recreational programming, facilities, IGAs, etc.

4.3 - We will specifically engage communities, non-profits or other groups with an expertise in inclusive design, to ensure our public areas have universal accessibility, are sensory-rich environments and have experiences for all ability levels.

4.4 - We will engage nearby communities of Erie, Longmont, Boulder and Boulder County pertaining to open space management and acquisition along Boulder Creek.

4.5 - We will assist the Town to facilitate targeted informational sessions during the master plan update effort to allow public comment, specifically to gather public input on future improvements. It is assumed that Town Staff will conduct most outreach efforts, but we will create drawings, hand-outs, etc to facilitate these events. We will propose the use of Social Pinpoint, an effective outreach tool that allows for virtual input, during the process.

4.6 - We will provide a concise, comprehensive summary of community input to include results of past community outreach efforts, new stakeholder input, new public comment, and staff input.

4.7 - We will create a project digital library (website), in conjunction with Social Pinpoint, that is available throughout the project for public viewing. The website can host a comment gathering feature for various plan aspects. While we don't anticipate significant, new public outreach, we want to ensure transparency through a project website.

4.8 - We will make a presentation with Town Staff for input and review to the PROST Commission at multiple intervals during the project and to the Board of Trustees for review, input, and adoption near the end of the project.

Task 5- Needs Assessment, Service Analysis, and Capital Improvement

Based on the findings of the needs assessment and level of service analysis, the Confluence Team will work with Town staff to define an improvement program and determine the goals for the planning update effort. We will facilitate a work session that engages the Town and other recreation stakeholders in meaningful dialogue that provides us with an understanding of the priorities of group members, community desires, and the sustainability

and functionality that should define the master plan. To this end we will revise and update the POST Master Plan based on the Project Objectives shown above and the tasks below, as listed in the RFQ. Note: The Town currently uses OpenGovs, Cartegraph – Asset Management Software

- 5.1 - Review the Level of Service findings and recommendations from the 2021 POST Master Plan.
- 5.2 - Identify target areas for open space property acquisition and assign priority based on conversations with Town Staff and available funding
- 5.3 - Identify missing trail links, opportunities to integrate with neighboring communities, and regional trail links to create a Town Trails Action Plan with prioritization throughout the planning period. New and improved trail sections should identify funding sources, ie Town Impact Fees, Town Sales Tax Funding or to be funded and constructed by new Development. This section will prioritize the development of a Town “loop trail” under direction of the updated Comprehensive Plan.
- 5.4 - Update discussion of Parks, Open Space and Trails to reflect new classifications in the Frederick system today, matching those in the updated Land Use Code.
- 5.5 - Create a sustainable, publicly focused strategy with future outreach materials to be conducted by Town Staff for the maintenance of Town open spaces, specifically a mowing strategy and vegetation control and improvement strategy.
- 5.6 - Create a sustainable strategy for agricultural use of Open Space and develop related policies.
- 5.7 - Identify potential public/private partnerships or joint ventures to optimize public benefit from agricultural use of Town open space lands.
- 5.8 - Identify natural resource planning recommendations to guide decisions related to ecology, habitat preservation, land acquisition, recreational development, etc.
- 5.9 - Analyze the status of existing, privately developed, and managed parks within the Frederick system to investigate transition to Town management in the future, in coordination with the revisions to the Land Use Code.
- 5.10 - Identify, prioritize, and provide a menu of options with public outreach materials to be conducted by Town Staff for improvements to the Town’s existing inventory of neighborhood and pocket parks and open spaces, with a specific emphasis on inclusion, water conservation, naturalization, connectivity, improved shade/reducing heat island effects and improved amenities.
- 5.11 - Provide recommendations for future improvements to enhance public access and use, and quality of park and open space lands.
- 5.12 -Develop a Capital Improvement Plan that specifies proposed improvements and amenities on a site-by-site basis with costs projected for work to be completed over the life of the Plan and generalized budgetary impacts for those projects with a longer timeline.
- 5.13 - Collaborate with Town of Frederick staff to update the GIS parks, open space, and trails database currently in development to reflect existing conditions.
- 5.14 - Ensure all parks, open space and trails development adheres to the vision of the updated Comprehensive Plan.
- 5.15 – Utilizing Town staff’s analysis, include recommendations for existing asset replacement within the capital replacement and improvement framework.

Task 6- Priorities and Budget Strategy

Confluence will integrate the findings of the analysis and assessment phase along with stakeholder input to define a preliminary Capital Improvement Plan (CIP) that addresses the identified opportunities and challenges within the entire Town Parks system. The new plan should consider the entire parks system as one with established standards. The plan should guide implementation standards for new parks and upgrade elements and amenities in the existing parks. The CIP will consider various options for the development of recreational enhancements, establish a budget for elements, and start to prioritize recreation facility improvements. This effort will include prioritized lists of improvements with supporting diagrams that will identify park locations for proposed elements, such as playground areas, play fields, sports courts, trails, and their relationship to each other.

Confluence will review these initial CIP recommendations with Town staff, the Board of Trustees, and the PROST Commission for consideration. This planning work session will be an open dialogue format with sharing of ideas. We will work with Town staff to gather feedback on the preliminary plans and their preferences for each alternative presented. The alternative plans will be revised based on the comments received in preparation for the upcoming community engagement meetings.

6.1 - Prioritization and Recommendations

To summarize... after evaluation of the CIP Plan based on technical feasibility, cost effectiveness, and stakeholder preferences, select the most appropriate amenities for further development. Complete a technical based alternative analysis, reviewing constructability, probable costs and permitting impacts. Define a list of potential projects and work with the Town to develop a strategy for phasing based on available funding, future budgets, and potential project partners. The summary will also include the following elements:

- Prioritize recommendations for needs regarding capital investment, development of trails, and amenities. Establish a Parks Design Guideline Manual to address both Town Parks and HOA Parks.
- Prioritize recommendations for maintenance, renovation, and operations of the assets on the site.
- Recommend collaborative partnerships and other solutions to minimize duplications or enhance opportunities for collaborative partnerships.
- Identify areas of service shortfalls and projected impact of future trends and demographic change.
- Develop recommendations for operations, staffing, maintenance, programming, and funding needs.
- Provide a clear plan for development of programming based on demand analysis.

6.2 - Budgetary Planning / Staffing

Develop explicit provisions for budgetary planning and strategic funding to guide staffing and organization for establishment of a standalone Parks and Open Space Department. .
Note: the Parks and Open Space Department was created in January 2022. The 2021

POST MP did not call for or contemplate that in any staffing analysis or level of service analysis.

- Evaluate Town budgeting, staffing, and operations related to parks, open space, trails and golf.
- Determine logistical needs, such as office and maintenance space, to accommodate long-term planning and Departmental growth.
- Review and restructure Level of Service recommendations as outlined in the 2021 Plan to account for a newly dedicated Parks and Open Space Department.
- Provide a detailed budget analysis and plan for the length of the plan to include staffing, capital improvements, repairs and expansion. This should focus on recommendations for modification to the Town's Impact Fees and providing prioritization of Plan recommendations utilizing the Town's existing 0.5% sales tax dedicated to parks, open space and trails. It should further provide recommendations to include operational subsidies required to operate Bella Rosa Golf Course within the funding availability and structure of the Department.
- The Carbon Valley Rec District will continue to run youth sports, adult activities and services. The Town will concentrate on seasonal events, holiday festivals, hot-air balloon and others.

Task 7- Action Plan and Recommendations

Based on the preferred CIP Plan and the stakeholder input, develop an Action Plan that includes management strategies, program priorities and an analysis of budget support and funding mechanisms for the short-, mid- and long-term for the park system, green space, trails and recreation programs and services. The action plan should prioritize strategies by their level of impact on social, health and environmental outcomes. Some primary elements that are missing from the 2021 POST plan are specific recommendations for implementation of large-scale improvements and funding strategies for neighborhood parks and open spaces.

7.1 - Goals / Policies / Prioritization

As noted in the RFQ, while the 2021 POST Plan provides excellent broad Goals for the Department to follow, it lacks specific tactics to achieve these. A detailed strategic plan is envisioned that will integrate short-term priority tasks identified in the 2021 POST Master Plan and this Plan with newly identified mid-term and long-term efforts. Recommendations should clearly identify action items prioritized to meet overall goals.

- Review Goals and Policies of the 2021 POST Master Plan with PROST and Park Staff
- Review Implementation Matrix of the 2021 POST Master Plan.
- Develop actionable tasks to achieve each stated Goal.
- Identify short-, mid-, and long-range priorities with a 25- year planning horizon.
- Ensure proposed improvements and amenities will address Level of Service gaps systemwide based on analysis and planning efforts for this 2024 POST Master Plan update.
- Develop additional action items for Open Spaces.
- Develop additional action items for Support Services

- Clearly prioritize all needed improvements using a rubric or methodology.
- Provide a menu of site improvements that captures anticipated steps in detail for use by Town staff to add amenities and enhance water conservation, naturalization, inclusion, etc.
- Assist Town Staff with the creation of planning documents as they relate to CAPRA Accreditation.
- The new plan needs to maintain “levels of service” and provide options to level up or level down depending on frequency of use and trends.
- The new plan must also focus on funding & staffing... meet service based on the Town’s half-cent sales tax.

The Action Plan will also include specific recommendations for actionable items such as maintenance and operations as outline below:

7.2 - Operations & Maintenance

Develop guidelines and standards for maintenance and operations in collaboration with Town staff to yield a system applicable to entire park, open space, and trail system

- Work with Maintenance Staff to develop a set of multi-tiered service levels that outline maintenance expectations and standards with clearly articulated guidelines for each level. Service levels must be achievable within the Staffing and Budget planning for the length of this plan.
- Apply service levels to each park and open space property.
- Develop and prioritize a sustainable strategy for water conservation.
- Account for expansion of park system within 25-year planning horizon.
- Work with staff to integrate O&M standards into an asset management and work tracking system already in use by the Town of Frederick.
- Need to understand build-out for infrastructure for larger rec areas and rec needs for expansion of future park areas.

Task 8- Final Master Plan Update

8.1 - Develop Final Parks, Open Space and Trails Master Plan Documents

Develop a Final Parks, Open Space and Trails Master Plan document that features the Capital Improvement Plan (CIP) and the Action Plan, and summarizes the planning process and outlines the chosen strategies, policies, and projects. The final plan will highlight current facilities, assets, community recreation needs, and will recommend improvements, programs, and implementation strategies. The final document will also include setting initial targets, establishing preliminary timelines, and considering the allocation of resources for future implementation. The document will summarize how the planning process was a result of extensive community engagement, research, and collaboration with stakeholders to ensure that it reflects the needs and desires of the community of Frederick. The goal is to have final adoption of the updated plan by August 2025

Exclusion to Scope of Work

The following scope items were identified in the RFQ as being addressed in the 2021 POST Master Plan and do not require updates:

Statistical Public Input Survey: Robust survey results from the 2021 POST MP effort, in addition to more recent outreach efforts, should minimize need for new outreach and limit it to information sharing rather than soliciting input from the community.

Public Lands Inventory: Town owned public lands are current in the inventory and are being digitized into a GIS database as a staff effort.

Gap Analysis: Gap analysis of Level of Service provision for park and open space lands is well developed in the 2021 POST MP.

Other Excluded Items

The items below are generally related to final design and implementation of a project and typically not a part of a planning update. Upon request by the Client some of these services may be provided under 1.2 Supplemental Services.

- Final design and construction drawings for parks or specific related design elements.
- Engineering: traffic, parking, civil, water resources, hydraulic, acoustic, sound, waterproofing, sustainability, electrical and mechanical engineering services or specialty consultants.
- Architectural Design
- Ecological or environmental services
- Utility Design.
- Stormwater management plan and permitting.
- Groundwater monitoring.
- Structural Engineering
- Site lighting, site electrical plan, and site lighting photometric.
- Irrigation – Irrigation design is not included in the landscape scope of work or fees.
- Entitlements, PUD documents, and County submittals above and beyond are noted in Basic Services.
- Design and coordination of site signage, artwork, and graphics program.
- Site / Landscape Phasing Plans and associated interim condition plans.
- Professional renderings.
- Presentation models: additional drawings not identified in the previous contract sections, marketing quality 3D illustrations.
- LEED or other green certification processes.
- Geotechnical or soil fertility testing.
- Surveys or easement documentation or variances.
- As-Built Drawings.
- Construction Administration

Project Deliverables

Deliverables shall include the above analyses as a report, or reports, and any supporting charts, graphs, or maps to illustrate data. CIP plans for the individual parks should also be provided as singular files and incorporated into a report document detailing the outcomes of the project. All documents shall be compatible for multiple internet browsers and platforms. The following products shall also be provided during the planning process.

Key project deliverables include:

- Establish work plan and project schedule.
- Provide regular project progress reports or meetings with Town staff.
- Create presentations for the Board of Trustees meetings, PROST Commission meetings, Planning, Commission meetings, pop-up shops, and website as needed.
- Develop Initial Draft Master Plan Update or Plan sections, including maps and exhibits in agreed formats for comments.
- Prepare Final Draft Master Plan Update for Project Team/ Board of Trustees/PROST Commission review and comment.
- Compile Final Master Plan Update.
- Provide digital library for access by Town and stakeholders with versions of all project documents, research material, photographs, illustrations, data files and the final Master Plan in PDF format with both web and print ready versions.
- Provide access to Social Pinpoint during engagement process.
- Parks Design Guideline Manual

1.2 Supplemental Services – (also reference Exclusions to Scope of Work above for other items that may be addressed as part of Supplemental Services)

1.2.1 Design Phase Supplemental Services. Unless otherwise agreed to, the following are Supplemental Services:

- (a.) Scale models.
- (b.) 3D perspective images and/or “Birds-eye” views of the Project.
- (c.) Jurisdictional & Permitting Services beyond those listed described in Section 1.1.
- (d.) Life cycle costs.
- (e.) Long-distance travel to inspect materials and equipment of potential suppliers.
- (f.) Expert witness testimony.
- (g.) Attendance at litigation or arbitration proceedings when the Landscape Architect is not a party.

1.2.2 Construction Contract Administration Supplemental Services. The Landscape Architect shall provide the following administration Services associated with the construction of the Project as Supplemental Services. When requested, the Landscape Architect shall:

- (a.) Prepare Client initiated Change orders.
- (b.) On behalf of the Client, revise and forward to the Client written guarantees, warranties, release of liens, and related documents required from the contractor.
- (c.) Review the Contractor’s marked-up “As-built” Drawings.

- (d.) Determine consent of surety if any, to issuance of final certificate of payment.
- 1.2.3 Post-Construction Services. The following post-construction Services shall be considered Supplemental Services. When requested by the Client, the Landscape Architect shall:
- (a.) Prepare record drawings of the actual construction based on marked-up drawings and other data furnished by the contractor.
 - (b.) Provide observations of work and/or warranty items at appropriate times.
 - (c.) Perform post-construction evaluation of functional and operational performance of the Project.

End of Exhibit "A"

Exhibit “B”: Landscape Architect’s Standard Hourly Rates & Reimbursable Expenses

STANDARD HOURLY RATES

Senior Principal	\$175.00 - \$255.00 per hour
Principal	\$160.00 - \$220.00 per hour
Associate Principal	\$140.00 - \$190.00 per hour
Associate	\$115.00 - \$175.00 per hour
Senior Project Manager	\$105.00 - \$155.00 per hour
Project Manager	\$95.00 - \$135.00 per hour
Senior Landscape Architect	\$95.00 - \$175.00 per hour
Landscape Architect	\$85.00 - \$125.00 per hour
Senior Project Planner	\$95.00 - \$135.00 per hour
Planner II	\$85.00 - \$125.00 per hour
Planner I.....	\$75.00 - \$115.00 per hour
Landscape Architect-In-Training / Landscape Designer.....	\$75.00 - \$115.00 per hour
Landscape Architect Intern / Landscape Designer	\$65.00 - \$90.00 per hour
Draftsperson	\$55.00 - \$90.00 per hour
Graphic Designer	\$75.00 - \$105.00 per hour
Clerical / System Staff	\$75.00 - \$125.00 per hour

REIMBURSABLE EXPENSES

Social Pinpoint Public Engagement Tool	\$1,500.00
Filing Fees	1.15 x cost
Materials and Supplies	1.15 x cost
Meals and Lodging	1.15 x cost
Mileage	\$.655 per mile
Postage	1.15 x cost
Printing by Vendor	1.15 x cost
B/W Photocopies/Prints 8½ x 11	\$.10 each
B/W Photocopies/Prints 11x17.....	\$.20 each
Color Photocopies/Prints 8½ x 11	\$.75 each
Color Photocopies/Prints 11x17.....	\$1.50 each
Large Format Plotting – Bond	\$2.50/SF
Large Format Plotting - Mylar	\$4.50/SF
Large Format Plotting - Photo	\$5.00/SF
Flash Drives.....	\$10.00 each
Booklet Binding (cover, coil, back)	\$4.50 each
Foam Core	\$8.00 each
Easel Pads	\$32.75 each
Electronic Files	\$50.00 Each
Online Meeting Service.....	\$35.00 Each

Effective 1/1/2023

End of Exhibit “B”

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 24-R-42**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO,
AUTHORIZING THE TOWN MANAGER TO ENTER INTO A CONTRACT
AND AMENDMENTS TO PROVIDE FOR THE CREATION OF A PARKS,
RECREATION, OPEN SPACE AND TRAILS SYSTEM MASTER PLAN,
DUBBED “GO OUTDOORS FREDERICK 2050”**

WHEREAS, in accordance with Chapter 4 Article V, the Town is not required to seek bids for technical and professional services, notwithstanding the Town issued a Request for Qualifications in March 2022 and three firms responded with a Submittal of Qualifications for the Go Outdoors Frederick 2050 project; and,

WHEREAS, the Town of Frederick’s Parks and Open Space Department staff conducted interviews of the interest firms and unanimously found Confluence to be the most qualified consultant; and,

WHEREAS, the Town of Frederick’s Parks, Recreation, Open Space and Trails Commission approved and supported this planning effort in the 2024 Parks and Open Space Department Action Plan; and,

WHEREAS, the Town of Frederick’s current Parks, Open Space and Trails Master Plan, adopted in January 2021, requires additional implementation analysis and recommendations over a longer period of time; and,

WHEREAS, the Town of Frederick’s residents have expressed that parks, open spaces and trails are a high priority for their quality of life; and,

WHEREAS, the Town of Frederick is preparing to adopt an updated Comprehensive Plan with a long-term vision for the parks, recreation, open space and trails system and,

WHEREAS, the Board of Trustees recognizes preferred consultant for this contract award is Confluence.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

1. The Board of Trustees accepts Confluence as the preferred consultant on the Go Outdoors Frederick 2050 project as reflected in the accompanied Action Memorandum and authorizes the Town Manager to enter into a contract with Confluence in the amount of \$335,590 and any such amendments, as needed, subject to finalization and review by the Town Attorney, that is substantively the same as the attached Exhibit A, in a total amount not to exceed \$500,000.

INTRODUCED, READ, PASSED AND SIGNED THIS 25th DAY OF JUNE, 2024.

TOWN OF FREDERICK

By: _____
Tracie Crites, Mayor

ATTEST:

By: _____
Tricia David, Town Clerk



Built On What Matters

TOWN OF FREDERICK Board of Trustees Staff Report

Tracie Crites, Mayor

Kevin Brown, Mayor Pro
Tem
Dan March, Trustee
Mark Lamach, Trustee

Adam Mahan, Trustee
Windi Padia, Trustee
Chad teVelde, Trustee

Resolution 24-R-43 Colorado Water Plan Grant

Agenda Date: 06/25/2024 BOT Meeting

<u>Attachments:</u>	1. Frederick Reuse-Prelim Sched-6.4.24	Frederick Reuse-Prelim Sched-6.4.24.pdf
	2. Water Plan Grant - Statement of Work	Water Plan Grant - Statement of Work.pdf
	3. Resolution 24-R-43 Colorado Water Plan Grant	Resolution 24-R-43 Colorado Water Plan Grant.docx

<u>Reviewed By:</u>	Traci Garcia Castells, Grants Administrator Kevin Ash, Engineering Director Kurtis Adams, Finance Director Jason Meyers, Town Attorney Jason Leslie, Deputy Town Manager	Created/Initiated - 6/7/2024 Approved - 6/7/2024 Approved - 6/11/2024 Approved - 6/14/2024 Final Approval - 6/14/2024
----------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------

Action Type

1) Legislative: Actions that relate to subjects of a long term and general applicability; such as the passing of ordinances/resolutions/policies/etc.

Strategic Plan Alignment:

This item aligns with the Strategic, Reliable, and Sustainable Infrastructure goal. The Plan will guide the Town in how to capture and deliver the Town’s reusable supplies, allowing the Town to maximize the investment the Town has made in water for the community. Frederick is dedicated to investing in existing and future transportation,

water, storm water, and technology while planning for sustainable growth and development. The Water Reuse Plan will serve as a guiding document for the development of a reuse system. The Town's goals for the Reuse Study are to be strategic with existing and future investments in the water systems and improve water service for our existing and future customers. This Reuse Plan will identify the next steps for making the most use of the Town's potential reusable supplies as identified in the Long-Term Water Supply Plan.

Summary Statement:

The Town of Frederick ("Town") seeks funding through the 2024 Colorado Water Plan Grant from the Colorado Water Conservation Board for the development of a Water Reuse Study. The study will provide a vision for the Town's reusable water supplies and serve as a guide for the strategic development of a reuse system.

Components of study will include:

- Recommendations for existing and future investments in the potable and nonpotable water systems.
- Recognizing evolving technology and future trends in water reuse, the combination of reusable water resources in the Town's portfolio are intended to be used to meet irrigation demands currently met by native water rights.
- Treatment for the native water rights for potable use. These needs and the Town's reusable supplies were identified in the Town's Long Term Water Resources Study and this proposed Reuse Plan will extend those planning efforts to prepare the Town for future implementation of a Reuse system.
- Effectively leveraging reusable supplies will help the Town address the challenges of facilitating growth in a strategic manner, within the reasonable fiscal constraints of the Town's budget and limited state and federal funding, and in a way that is responsive to anticipated changes.

Town staff have identified the Colorado Water Plan grant as a funding opportunity for this plan and are preparing to apply in July for funding through the grant program. The minimum match funding for the grant is 25%.

Detail of Issue/Request:

To better understand the Town's water supply, water quality, and existing water data for water reuse, the Frederick Engineering department must perform complete study of the town's water supply and future water infrastructure system needs for water reuse. The department seeks grant funding through the 2024 Colorado Water Plan Grant from the Colorado Water Conservation Board to support a portion of the total project costs to support contracted services. The proposed deliverables include administration, coordination, and reporting throughout the study period, evaluation of exchange potential, evaluation of raw water supply and conveyance alternatives, evaluation of water storage alternatives, evaluation of potential reuse water quality, and community engagement. Staff are requesting authorization to make the application, and that the

Board of Trustees authorize the Town Manager to sign the grant agreement on behalf of the Town in the event the Town receives the grant, after review by the Town Attorney's Office.

The Water Reuse Plan will include a projection of reusable supplies available from the Town's portfolio, recommendations and timeline for next steps and water court applications needed to quantify, capture, and store the water. In addition to the plan document the consultant team will provide confidential memos regarding storage location options and pipeline corridors for delivery of the reuse water.

This project will continue the Town's efforts of making the best use of our existing and future water supplies as identified in the Long-Term Water Supply Plan. The Reusable water supplies have been identified to meet a large portion of our non-potable demands in the future. The Long-Term Water Resources Plan projects that the reusable supplies will be 540-1,180 to 850-1,500 AF depending on how supplies are used. At build out the raw water demands are projected to be around 2000 AF, the reusable supplies will be used to meet 25%-75% of the raw water demands. That means that 25%-75% of parks and ROW will be irrigated by these supplies.

Legal Comments:

The Town Attorney has reviewed the resolution.

Alternatives/Options

The Town Board may choose to fund the project entirely from the water fund with no grant funding.

Financial Considerations

The grant requires 25% of local match. The estimated total cost is \$360,000, not including in-kind staff time costs.

Staff Recommendation

Staff recommends approving Resolution 24-R-43, which authorizes:

1. Town staff to apply for the 2024 Colorado Water Plan Grant to fund the Water Reuse Study.
2. The Town manager to sign on behalf of the Town a grant agreement in the event the Town receives the grant, subject to review and finalization by the Town Attorney's Office.



Town of Frederick
 Water Reuse Study
 Preliminary Schedule
 6/4/2024

TASK	DESCRIPTION	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
1.0	Coordination & Reporting																
1.1	Project management plan, document review																
1.2	Progress meetings																
2.0	Evaluate Exchange Potential																
2.1	Evaluate availability of reuse water from LIRFs																
2.2	Analysis of Exchange potential																
2.3	Draft tech. memo																
2.4	Town review & finalize tech. memo																
3.0	Raw Water & Conveyance																
3.1	Evaluate reusable water supply projections																
3.2	Develop operational scenarios to evaluate																
3.3	Tour St. Vrain outlet works & consider pump station site options																
3.4	Evaluate 3-4 feasible reuse pipeline alignment alternatives																
3.5	Evaluate hydraulics and pump station needs/potential sites																
3.6	Field visit to confirm pipeline alignments & pump station sites																
3.7	Conceptual plans for screened pipeline & pump station alternatives																
3.8	Preliminary cost opinions																
3.9	Draft, Town review & finalize tech. memo																
4.0	Water Storage																
4.1	Determine reuse water volumes for reservoir sizing																
4.2	Evaluate 3 possible reservoir sites																
4.3	Evaluate expansion of Milavec Reservoir																
4.4	Geotechnical investigation of 3 potential sites																
4.5	Draft, Town review & finalize tech. memo																
5.0	Water Quality																
5.1	Obtain & review data																
5.2	Determine blending scenarios																
5.3	Describe conceptual treatment																
5.4	Draft, Town review & finalize tech. memo																
6.0	Water Reuse Study																
6.1	Coord. Planning with neighboring communities																
6.2	Meet and document conceptual regional plans																
6.3	Draft Reuse Study																
6.4	Draft Town reuse policies																
6.5	Outline funding options for capital projects																
6.6	Prepare and coord. Public outreach materials																
6.7	Review draft Study with Town staff and revise																
6.8	Prepare and present storymap to Town Board																
6.9	Incorporate review comments and finalize Study																

Exhibit A – Statement of Work

(Template updated November 2023)

Statement Of Work	
Prepared Date:	6/7/24
Name of Grantee:	Town of Frederick
Name of Water Project:	Town of Frederick Water Reuse Plan
Water Project Overview: Please provide brief description of the proposed water activity (no more than 200 words). Please define all acronyms.	
<p>The Town of Frederick (the Town) seeks funding for the development of a Water Reuse Study; the study will provide a vision for the Town of Frederick reusable water supplies and serve as a guide for the strategic development of a reuse system.</p> <p>Components of study will include:</p> <ul style="list-style-type: none"> Recommendations for existing and future investments in the potable and nonpotable water systems. Recognize evolving technology and future trends in water reuse, the comprehension of reusable water resources in the Town’s portfolio are intended to be used meet irrigation demands currently met by native water rights. Treatment for the native water rights for potable use. These needs and the Town’s reusable supplies were identified in the Town’s Long Term Water Resources Study and this proposed Reuse Plan will extend those planning efforts to prepare the Town for future implementation of a Reuse system. Effectively leverage reusable supplies will help the Town address the challenges of facilitating growth in a strategic manner, within the reasonable fiscal constraints of the Town’s budget and limited state and federal funding, and in a way that is responsive to anticipated changes. 	
Project Objectives:	
<p>To optimize water resource utilization, this study will:</p> <ol style="list-style-type: none"> 1. Analyze water quality: This will determine if treatment is necessary before reuse. 2. Develop a capture, storage, and delivery system: This ensures efficient management of reusable water supplies. 3. Maximize non-potable water use: Captured water will be directed towards non-potable applications, extending the lifespan of our primary water sources. <p>Public Engagement and Implementation Timeline:</p> <ul style="list-style-type: none"> Public Input: The study's findings will be presented for public and Town Board review before finalization. Implementation Roadmap: The plan will outline a timeline for: <ul style="list-style-type: none"> Water court applications (if needed) Future facility acquisitions Milavec Reservoir expansion (if applicable) Pipeline easement negotiations 	

Tasks
Task 1
Description of Task:
Administration & Coordination and Reporting throughout the study period.
Method/Procedure:
<ul style="list-style-type: none"> • Project set-up and project management plan including deliverable timelines • Review previous reports and maps, kickoff meeting preparation • Project kickoff/collaboration meeting with Town staff • Determine baseline water quality and delivery objectives • General project coordination and monthly reporting • Meetings to include weekly status updates virtually, and up to five in-person meetings to include INTERA regarding exchange potential, and up to four in-person meetings to include W.W. Wheeler regarding water storage.
Deliverable:
Progress of Project: Kickoff meeting summary, weekly status meeting summaries, monthly email reports, two Town meetings with the Board, two public work sessions with the Board.

Tasks
Task 2
Description of Task:
Evaluation of exchange potential
Method/Procedure:
<ul style="list-style-type: none"> • Evaluate Lawn Irrigation Return Flows (LIRFs) from raw water use. Relevant irrigated areas will be delineated and return flows will be estimated for these areas. • Evaluate exchange potential for the identified scenarios. This will include an evaluation of exchange-to points and storage options. The evaluation will be based on existing information (e.g. StateMod, call data, historical stream flows, information from Water Commissioner). The exchange potential analysis will be used for evaluating water supply options. The analysis will include relevant water rights, competing exchanges, call data, stream gages and other information as needed to allow for evaluating exchange potential and storage availability for the Town. This analysis will also be used to advise how optimization of reuse will “fit in” with the existing water supply portfolio and provide input on operational considerations.
Deliverable:
Evaluation Report: Technical memo summarizing the findings of the evaluation. Review meeting with staff and consultant to discuss the draft memorandum.

Tasks
Task 3
Description of Task:

Evaluation of raw water supply and conveyance alternatives.
Method/Procedure:
<ul style="list-style-type: none"> • Evaluate the Town’s reusable water supply projections using existing information and analyses above. This includes obtaining and reviewing projections provided by Element Water Consulting (Element) and any adjustments to these projections as needed. These projections will consider the sources of water supplies (e.g. changed Lower Boulder Ditch shares, junior storage rights, Windy Gap, NISP) and the monthly delivery patterns of these supplies. Up to two 1-hr virtual meetings will be held with Element to discuss the data and their analysis. • Develop a set of feasible operational scenarios for further evaluation that incorporate feasible delivery patterns, building on the findings from previous studies: Town’s Short-Term and Long-Term Water Resources Plan and Water Efficiency Plan. • Review pending/on-going issues - the Town has a pending water rights application to change additional shares in the Lower Boulder Ditch and may consider building a new water treatment plant and/or storage facility, and/or expand its existing storage facilities to allow for treatment of its raw water supplies. These will be considered in the evaluation. Although an exchange of reusable supplies on Boulder Creek may be the most economical option, other scenarios will be considered and evaluated collaboratively with the Town. Other items to consider may include demand management, outdoor landscaping regulations and programs that influence irrigation demands. Projections of reusable supplies will inform the exchange potential analysis. • Visit St. Vrain Sanitation District Wastewater Treatment Facility and photo/diagram the outlet works. Identify locations and means for possible connection of a reuse pipeline. Consider site options near the facility for a return pump station. • Identify three to four of the most feasible and economical preliminary alignments for the reuse pipeline with a preference for public rights-of-way to minimize the need for easements across private property. Identify the possible alignments initially using publicly available satellite imagery and topography, and parcel maps, and then drive the routes to “ground truth” conditions. • Similarly, evaluate the topography between the treatment facility and possible delivery points in Frederick, and generally determine options for the number, location and power requirements for the pump station(s) needed. • Confirm selection of three or four alignment options and up to three pump station alternatives with Town staff for further consideration. • Prepare conceptual plans to support cost opinions and identify pros and cons to compare the three or four most feasible and economical pipeline alignments, and up to three pump station alternatives. • Prepare draft technical memorandum comparing pipeline alignment and pump station alternatives. • Meet with the Town staff to review the draft memorandum and then finalize it.
Deliverables:
Report-Draft and final technical memorandum documenting analysis and findings from the return flow and exchange potential evaluation. Draft and final confidential technical memorandums comparing pipeline alignment and pump station alternatives. Review meeting with staff and consultant to discuss the draft memorandum.

Tasks
Task 4
Description of Task:
Evaluation of water storage alternatives.
Method/Procedure:

<ul style="list-style-type: none"> • Determine the projected wet-year and average-year seasonal volumes of reuse water that can be used in the Town’s nonpotable system. Use those volumes to consider reservoir sizing alternatives. • Utilize publicly available satellite imagery and LiDAR topography of a two-mile swath of land between Frederick and the St. Vrain facility, along with available information on the area soils and geology, to identify options for reservoir sites. Reservoir siting study will consider sites where land is readily available and earthwork volumes can be minimized. Complete a cursory hydrology study generally following DWR Dam Safety Group guidelines to estimate inflow design flood and spillway size. • Utilize record drawings of Milavec Reservoir, existing DWR stage storage data, along with topography of the general area to develop expansion alternatives for the reservoir. Update the inflow hydrology generally following current guidelines. Prepare concept drawings and storage volume estimate for proposed expansion alternative. Evaluate the reservoir expansion alternative and identify deficiencies with respect to DWR’s safety regulations. • Identify the most feasible reservoir alternatives. Review with Town staff to select up to three new reservoir site options for further consideration. • Perform preliminary geotechnical investigations with up to three borings at each of the three sites and provide a geotechnical data memorandum. • Prepare conceptual plans to support cost opinions and facilitate identifying pros and cons. Compare up to three of the most feasible and economical alternatives for new reservoir sites assuming moderate hazard dams, along with the alternative of expanding Milavec Reservoir. • Prepare draft technical memorandum comparing reservoir storage options, including expanding Milavec Reservoir. Memo will provide feasibility level drawings, cost opinions, site comparisons. • Meet with the Town staff to review the draft memorandum and then finalize it.
Deliverables:
Report- Draft and final confidential technical memorandum comparing water storage alternatives including expansion of the existing Milavec Reservoir. Review meeting with staff and consultant to discuss the draft memorandum.

Tasks
Task 5
Description of Task:
Evaluation of potential reuse water quality.
Method/Procedure:
<ul style="list-style-type: none"> • Review available literature and existing data to understand the water quality and seasonal variations of that quality in treated effluent (reuse water) from the St. Vrain Sanitation District Wastewater Treatment Facility. • Similarly, review available literature and existing data to understand the water quality and seasonal variations of that quality in the Town’s raw water from its other sources to be used in the nonpotable water system. • Determine water quality for the range of possible blends of reuse water with the other nonpotable water sources and determine what additional treatment may be needed so that the resulting water quality is appropriate for irrigation use. Also identify where such treatment should be located. Coordinate with another Town consultant concurrently preparing the Drinking Water Treatment Feasibility Study. • Prepare draft technical memorandum reviewing treatment requirements and locations, building on the preliminary pipeline alignment, pumping and storage selections. • Meet with the Town staff to review the draft memorandum and then finalize it.
Deliverables:

Report- Draft and final confidential technical memorandum reviewing the treatment requirements and where treatment should be located. Review meeting with staff and consultant to discuss the draft memorandum.

Tasks

Task 6

Description of Task:

Preparation of the final Water Reuse Study and presentation of the study findings to the public and the Town Board.

Method/Procedure:

- Contact the neighboring towns of Firestone and Dacono regarding possible joint interest in developing their reusable return flows from the St. Vrain facility with Frederick in a regional plan.
 - Meet with each entity to conceptualize such a plan.
 - Prepare confidential draft Reuse Study compiling the three technical memoranda described under Task 3 and identifying the recommended reuse water system. Reference how that planned system could possibly be coordinated with plans for Firestone and Dacono if there is interest and identify pros and cons.
- Outline possible Town policies to support water reuse and include in the draft study.
 - Outline possible funding options for priority projects in support of water reuse and include in the draft study.
- Prepare public information and coordinate with Town staff for website postings.
- Review the draft Water Reuse Study with the Town staff and obtain their comments.
- Present the revised draft to the Town Board and obtain comments.
- Finalize the study.

Deliverables:

Adoption of Plan: The consultant will provide summary of meetings with neighboring towns re. joint water reuse interests, public information notices, draft Water Reuse Study, revised draft of Study, StoryMap presentation to Town Board, and Final Water Reuse Study.

Budget and Schedule

This Statement of Work is accompanied by a combined Budget and Schedule that reflects the tasks identified in the Statement of Work.

Reporting Requirements

Progress Reports: The grantee shall provide the CWCB a progress report every six months, beginning from the date of issuance of the grant agreement. The progress report shall describe the status of the tasks identified in the statement of work, including a description of any major issues that have occurred and any corrective action taken to address these issues.

Final Report: At completion of the project, the applicant shall provide the CWCB a final report on the applicant's letterhead that:

- Summarizes the project and how the project was completed.
- Describes any obstacles encountered, and how these obstacles were overcome.
- Confirms that all matching commitments have been fulfilled.
- Includes photographs, summaries of meetings and engineering reports/designs.

The CWCB will pay out the last 10% of the budget when the final report is completed to the satisfaction of CWCB staff. Once the final report has been accepted, and final payment has been issued, the grant agreement will be closed without any further payment.

Payment

Payment will be made based on actual expenditures and must include invoices for all work completed. The request for payment must include a description of the work accomplished by task, an estimate of the percent completion for individual tasks and the entire project in relation to the percentage of budget spent, identification of any major issues, and proposed or implemented corrective actions.

Costs incurred prior to the effective date of this grant agreement are not reimbursable. The last 10% of the entire grant will be paid out when the final deliverable has been received. All products, data and information developed as a result of the grant agreement must be provided to the CWCB as part of the project documentation.

Performance Measures

Performance measures for the grant agreement shall include the following:

(a) Performance standards and evaluation: Grantee will produce detailed deliverables for each task as specified. Grantee shall maintain receipts for all project expenses and documentation of the minimum in-kind contributions (if applicable) per the budget. Per grant guidelines, the CWCB will pay out the last 10% of the budget when the final report is completed to the satisfaction of CWCB staff. Once the final report has been accepted, and final payment has been issued, the grant agreement will be closed without any further payment.

(b) Accountability: Per grant guidelines full documentation of project progress must be submitted with each invoice for reimbursement. Grantee must confirm that all grant conditions have been complied with on each invoice. In addition, per Grant Guidelines, progress reports must be submitted at least once every 6 months. A final report must be submitted and approved before final project payment.

(c) Monitoring Requirements: Grantee is responsible for ongoing monitoring of project progress per Exhibit A. Progress shall be detailed in each invoice and in each progress report, as detailed above. Additional inspections or field consultations will be arranged as may be necessary.

(d) Noncompliance Resolution: Payment will be withheld if grantee is not current on all grant conditions. Flagrant disregard for grant conditions will result in a stop work order and cancellation of the grant agreement.

TOWN OF FREDERICK, COLORADO

RESOLUTION NO. 24-R-43

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, APPROVAL OF TOWN OF FREDERICK'S WATER REUSE STUDY PLAN GRANT APPLICATION

WHEREAS, Frederick is dedicated to investing in existing and future transportation, water, storm water, and technology while planning for sustainable growth and development; and,

WHEREAS, the Town of Frederick plans for, identifies, leverages, and utilizes resources that reflect exemplary stewardship, which includes compliance for seeking grant opportunities to assist in the funding of various Town projects and initiatives; and,

WHEREAS, Town staff are applying for the Colorado Water Conservation Board's 2024 Colorado Water Plan Grant to assist in funding a Water Reuse Study, which will provide a vision for the Town's reusable water supplies and serve as a guide for the strategic development of a reuse system.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF FREDERICK, COLORADO, AS FOLLOWS:

- Section 1. Authorization to Make Application.** Town staff are authorized to apply for the Colorado Water Conservation Board's 2024 Colorado Water Plan Grant.
- Section 2. Authorization to Sign Grant Agreement.** In the event the Town is awarded the 2024 Colorado Water Plan Grant, the Town Manager is authorized to sign such grant agreement, subject to review and finalization by the Town Attorney's Office.
- Section 3. Effective Date.** This resolution shall become effective immediately upon adoption.
- Section 4. Repealer.** All resolutions, or parts thereof, in conflict with this resolution are hereby repealed, provided that such repealer shall not repeal the repealer clauses of such resolution nor revive any resolution thereby.
- Section 5. Certification.** The Town Clerk shall certify the passage of this resolution and make not less than one copy of the adopted resolution available for inspection by the public during regular business hours.

RESOLUTION APPROVED AND ADOPTED this 25th day of JUNE, 2024.

TOWN OF FREDERICK, COLORADO

Mayor Tracie Crites

ATTEST:

BY: _____
Tricia David, Town Clerk



Built On What Matters

TOWN OF FREDERICK Board of Trustees Staff Report

Tracie Crites, Mayor

Kevin Brown, Mayor Pro
Tem
Dan March, Trustee
Mark Lamach, Trustee

Adam Mahan, Trustee
Windi Padia, Trustee
Chad teVelde, Trustee

Resolution 24-R-37 WCR13 and WCR20 Intersection Operation Improvement Project - Contract for Design Services

Agenda Date: 06/25/2024 BOT Meeting

<u>Attachments:</u>	1. Option 1	Option 1.pdf
	2. Contract_JUB Engineers	Contract_JUB Engineers.docx
	3. Resolution 24-R-37	Resolution 24-R-37.docx

<u>Reviewed By:</u>	Emily Nitcher, Deputy Town Clerk	Created/Initiated - 6/12/2024
	Kevin Ash, Engineering Director	Approved - 6/12/2024
	Kurtis Adams, Finance Director	Approved - 6/14/2024
	Jason Meyers, Town Attorney	Approved - 6/14/2024
	Jason Leslie, Deputy Town Manager	Final Approval - 6/14/2024

Action Type

2) Administrative: Actions of routine nature that implement policies/directions or effectuate the functioning of government; such as contract approvals/granting of licenses and permits/etc.

Strategic Plan Alignment:

Strategic, Reliable and Sustainable Infrastructure – The Town is actively engaging in opportunities to enhance transportation infrastructure and further implement the Town’s Transportation Master Plan through identified projects.

Summary Statement:

Statements of Qualification for the design of the WCR13 and WCR20 Intersection Operation Improvement project were opened on April 17, 2024 and staff is providing a recommendation for the award of this project to the most qualified consultant.

Detail of Issue/Request:

The WCR13 and WCR20 intersection was recognized in the Town of Frederick Transportation Master Plan (TMP) as a Tier-3 Short Term project, which are intersections identified for operational improvements and widening for high priority turn lanes. Additionally, the TMP Planning Action Committees (PAC) identified the WCR13 and WCR20 intersection as the second highest area of need in Town.

The Southwest Weld County Subregional Forum as part of DRCOG consisting of the City of Brighton, the City of Dacono, the Town of Erie, the Town of Frederick, the Town of Firestone, the Town of Lochbuie, the City of Longmont, the Town of Mead, the City of Thornton and Weld County awarded the Town of Frederick with support from the Town of Firestone the FY 2024-2027 Subregional STBG TIP grant for the design and construction of the WCR13 and WCR20 Intersection Operation Improvements project in the amount of \$2,059,000 with \$516,000 in Local Agency matching funds for a project total of \$2,575,000.

Frederick and Firestone staff have completed the WCR13 and WCR20 Intersection Operation Improvement Project IGA. The agreement codifies each Town's Peer Agency Support Form, included with the grant application, which outlined that the partnering Town's would split the Local Agency matching funds totaling \$516,000 with each contributing \$258,000. Additionally, the agreement establishes any project costs above the total grant amount that may be incurred during the project will be split evenly, 50-50 between the Towns.

The design effort for the WCR13 and WCR20 intersection improvement will include the ultimate intersection configuration with installation of additional auxiliary acceleration and deceleration turn lanes, striping, signage and new traffic signals with ADA curb ramps, sidewalk connections with new installation in northwest quadrant and pedestrian crossing controls for increased multimodal public safety as well as improved drainage infrastructure including curb and gutter.

On March 20, 2024 the Town solicited qualifications-based proposals from design firms for this project. Eleven firms submitted proposals which were reviewed by Town of Frederick and Town of Firestone engineering staff and the firm of J-U-B Engineers, Inc. received the highest average score in a competitive evaluation process and contract negotiations are now finalized.

Legal Comments:

The Town Attorney has drafted the resolution.

Alternatives/Options

The Town has the option of awarding the contract for this work, to reject the negotiated scope and fee and not proceed with the WCR13 and WCR20 Intersection Operation Improvement project, or re-bid a different contract scope with grant and budgeted funds.

Financial Considerations

The contract amount for the design services of J-U-B Engineers, Inc. as part of the WCR13 and WCR20 Intersection Operation Improvement project is \$380,000. Not approving the request may place the Town out of compliance with grant requirements.

Staff Recommendation

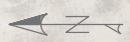
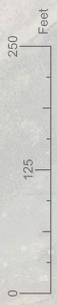
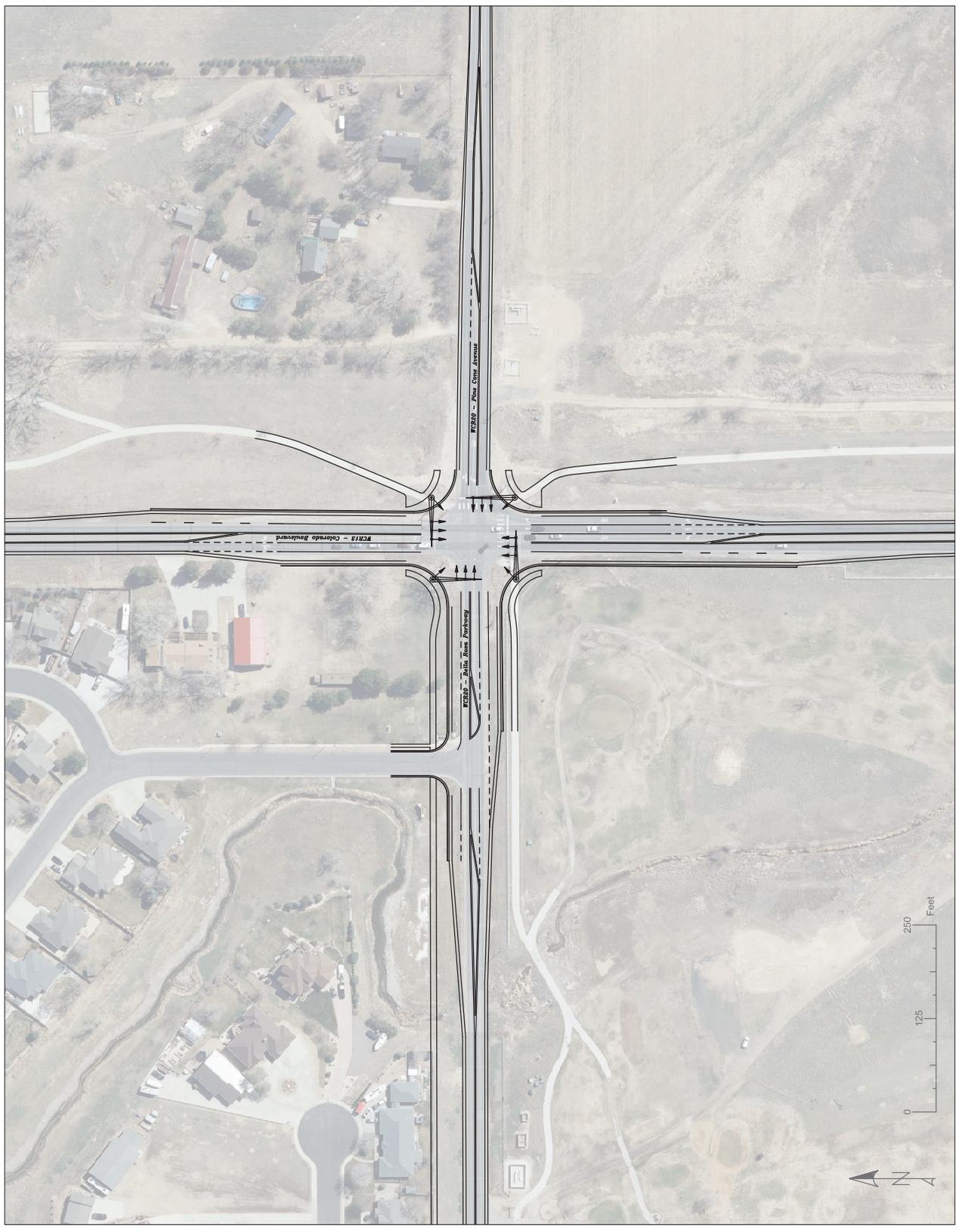
Staff recommends that the Board award the contract and approve Resolution 24-R-37.

Conceptual Layout WCR 13 and WCR20 Intersection Operation Improvement

No.	Revision/Issue	Date

Project Location:
 40.131398,-104.941912
 CR13/CR20 Intersection
 Frederick, CO

Project:	331003234	Sheet:	1
Date:	01/09/2024	Scale:	1" = 125'



INDEPENDENT CONSULTANT AGREEMENT

Town of Frederick WCR13 and WCR20 Intersection Operation Improvement

THIS INDEPENDENT CONSULTANT AGREEMENT (the "Agreement") is made and entered into this ___ day of _____ 2024 (the "Effective Date") by and between the Town of Frederick, Colorado, a Colorado municipal corporation (the "Town") and J-U-B Engineers, Inc., ("Consultant").

WHEREAS, The Town desires to engage the services of consultant to provide the “Services” more fully described on Exhibit A; and

WHEREAS, the Consultant wishes to become associated with the Town as an independent Consultant; and

WHEREAS, the parties wish to memorialize their contractual relationship.

NOW, THEREFORE, incorporating the foregoing Recitals herein, which are hereby acknowledged as being true and correct, and in consideration of the mutual promises, agreements, undertakings and covenants, as set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby mutually agree as follows:

SECTION 1: PARTIES

- 1.01 Town. Town is a municipal corporation located in Frederick, Colorado.
- 1.02 Consultant. Consultant is a private, independent business who will exercise discretion and judgment of an independent Consultant in the performance and exercise of its rights and obligations under this Agreement. Consultant shall use its own judgment and skills in determining the method, means, and manner of performing this Agreement. Consultant shall be responsible for the proper performance of this Agreement in accordance with any and all applicable federal, state, and municipal laws, regulations, and orders.
- 1.03 Intent of the Parties. By this Agreement, Town and Consultant intend for Consultant to be an independent Consultant in relationship to the Town and not the Town’s employee or agent. Consequently, Consultant will not be considered an employee or agent of the Town at any time under any circumstances, for any purpose.
 - a) Consultant does not have the authority to act for the Town, or to bind the Town in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the Town. Consultant is not an agent of the Town, and will not hold itself out to the public as an agent of the Town.
 - b) Consultant has and hereby retains control of and supervision over the performance of Consultant’s obligations hereunder and control over any persons employed by Consultant for performing the Services hereunder. As Consultant will interact with members of the public, Consultant agrees to employ courteous staff for work on the Services.

- c) The Town will not provide training or instruction to Consultant or any of its employees regarding the performance of Services hereunder, but will provide information and access to Town staff throughout the Services as contemplated in Exhibit A.
- d) Consultant represents that it may be engaged in providing similar services to other municipalities and is not required to work exclusively for the Town.
- e) All Services are to be performed solely at the risk of Consultant, and Consultant shall take all precautions necessary for the proper and sole performance thereof.
- f) Consultant will not combine its business operations in any way with the Town's business operations, and each party shall maintain their operations as separate and distinct.

1.04 Additional Consultant Obligations. In addition to all other obligations contained herein, Consultant agrees:

- a. To furnish all tools, software, labor, and supplies in such quantities and of the proper quality to professionally and timely perform the Services.
- b. To proceed with diligence and promptness and hereby warrants that such Services shall be performed in accordance with the professional standard of care.
- c. To comply, at its own expense, with the provisions of all state, local, and federal laws, regulations, ordinances, requirements, and codes which are applicable to the performance of the Services hereunder or to Consultant as an employer.

SECTION 2: TERM, DUTIES, COMPENSATION

2.01 Term. This Agreement shall commence on the Effective Date, and shall remain in existence for a period of one (1) year unless sooner terminated as herein provided, and if necessary, shall be submitted to the Town sixty (60) days prior to the expiration of the Agreement to consider renewal subject to annual appropriations by the Town.

2.02 Duties and Compensation. The Consultant's duties, compensation and provisions for payment thereof shall be as set forth in Exhibit A, and any contemplated change in said terms shall be submitted to the Town in writing for review and approval prior to any such change. Consultant shall submit a properly itemized invoice for services performed and expenses incurred under this Agreement and shall cooperate with and provide any other necessary information to Town. Town will pay Consultant within thirty (30) days after receipt of such properly itemized claim forms.

2.03 Background Check. The Town may, at its sole discretion, conduct a background check of consultants, its owners and employees. Consultant agrees to execute any forms necessary to facilitate the background check.

2.04 Information of Reports. The Consultant shall, at such time and in form as the Town may require, furnish such periodic reports concerning the status of the project, such statements, and copies of

proposed and executed plans and other information relative to the project as may be requested by the Town. The Consultant shall furnish the Town, upon request, with copies of all documents, and other material prepared or developed in relation with or as part of the project. Electronic material prepared and/or developed shall be in a format compatible with Microsoft Office 2019 products or other Town compatible software.

SECTION 3: OPERATIONS

- 3.01 Expenses: The Consultant shall not incur any expense or debt on behalf of the Town without written authorization.
- 3.02 Federal, State, and Municipal Laws and Regulations. Town and Consultant each agree to abide by all applicable federal, state, and municipal laws and regulations and rules.

SECTION 4: INSURANCE AND INDEMNITY PROVISIONS

- 4.01 Insurance. Consultant shall maintain and keep in force during the term hereof in an amount adequate for the Services to be provided herein. Consultant shall require that any of its agents and/or subconsultants who enter upon the Town's premises shall maintain like insurance. Certificates of such insurance shall be provided to Town upon request.

With regard to all insurance, such insurance shall be primary insurance with any applicable insurance held by the Town being excess insurance only. Nothing contained within this Agreement or attachments is intended to be a waiver of the Town's immunity pursuant to the Colorado Governmental Immunity Act.

- 4.02 Damage and Indemnity. Consultant assumes full responsibility for any and all damages to the extent caused by Consultant's negligent acts, errors or omissions in the exercise of its activities as authorized by this Agreement. Consultant agrees that it will at all times indemnify and hold harmless the Town, its officers, agents, employees, tenants and their successors and assigns from and against all liabilities, losses, claims, demands, actions and court costs (including reasonable attorneys' fees), to the extent arising from or growing out of loss or damage to property or injury to or death to any persons resulting in any manner from the negligent actions or failure to act of Consultant or any invitees, guests, agents, employees or subconsultants of Consultant, whether brought by any of such persons or any other person arising from Consultant's negligent activities as authorized by this Agreement. Consultant shall promptly pay to the Town, its successors or assigns, the full amount of any such costs, loss or damage which the Town, its successors or assigns may sustain or incur, or for which the Town, its successors or assigns, may become liable. Such indemnity shall not be limited by reason of the enumeration of any insurance coverage required herein. The Town shall not provide such indemnification to Consultant, provided, however, that Consultant shall be relieved of its indemnification obligation to the extent any injury, damage, death or loss is attributable to the acts or omissions of the Town.

SECTION 5: TERMINATION

- 5.01 Termination. Either party upon thirty (30) days prior written notice may terminate this Agreement with or without cause.

- a) Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement or interruption of service resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes, floods, pandemic, or any causes beyond the control of such party.
- b) Upon termination by either party, Consultant shall immediately cease any and all activities related to this Agreement, and shall return any keys, materials, tools, or other items provided by the Town to the Consultant in conjunction with this Agreement along with any work product created prior to the termination.
- c) Within thirty (30) days of termination Consultant shall submit a final invoice for unpaid services rendered up to the date of termination. In determining the amount of final payment to be made to Consultant upon such termination no amount shall be allowed for anticipated profit on unperformed services or other work; furthermore, an adjustment shall be made to the extent of any additional costs incurred or reasonably foreseen by Town to be incurred by reason of Consultant's default of this Agreement.

SECTION 6: MISCELLANEOUS

6.01 Notice. Any notice required to be sent under this Agreement shall be sent by internationally recognized overnight courier, certified mail, facsimile or other delivery method which provides confirmation of receipt and shall be directed to the persons and addresses specified below (or such other persons and/or addresses as any party may indicate by giving notice to the other party):

To Consultant:		To Town:	Town of Frederick
			c/o Town Manager
			P.O. BOX 435
			Frederick, CO 80530

6.02 Savings Clause. If any part, term, or provision of this Agreement is declared unlawful or unenforceable, the remainder of this Agreement shall remain in full force and effect, except that, in the event any state or federal governmental agency or court authoritatively determines that the relationship between Consultant and Town is one of employment rather than independent Consultant, this Agreement shall become null and void in its entirety.

6.03 Conflicts of Interest. Consultant is free to enter into this Agreement, and that this engagement does not violate the terms of any agreement between the Consultant and any third party. During the term of this agreement, the Consultant shall devote as much productive time, energy and abilities to the performance of its duties hereunder as is necessary to perform the required duties in a timely and productive manner. The Consultant is expressly free to perform services for other parties while performing services for the Town. Consultant certifies and warrants to Town that neither it nor any of its officers, agents, employees, or subconsultants who will participate in the performance of any services required by this Agreement has or will have any conflict of interest, direct or indirect, with the Town.

- 6.04 Right to Injunction. The parties hereto acknowledge that the services to be rendered by the Consultant under this Agreement and the rights and privileges granted to the Town under the Agreement are of a special, unique, unusual, and extraordinary character which gives them a peculiar value, the loss of which cannot be reasonably or adequately compensated by damages in any action at law, and the breach by the Consultant of any of the provisions of this Agreement will cause the Town irreparable injury and damage. The Consultant expressly agrees that the Town shall be entitled to injunctive and other equitable relief in the event of, or to prevent, a breach of any provision of this Agreement by the Consultant. Resort to such equitable relief, however, shall not be construed to be a waiver of any other rights or remedies that the Town may have for damages or otherwise. The various rights and remedies of the Town under this Agreement or otherwise shall be construed to be cumulative, and no one of them shall be exclusive of any other or of any right or remedy allowed by law. Consultant waives any and all right to injunctive relief in the event of any dispute with the Town, and the Consultant's sole remedy in such a dispute shall be at law limited to the amounts paid by the Town for Services provided pursuant to this Agreement.
- 6.05 Independent Consultant. This Agreement shall not render the Consultant an employee, partner, agent of, or joint ventures with the Town for any purpose. The Consultant is and will remain an independent Consultant in their relationship to the Town. The Consultant shall have no claim against the Town hereunder or otherwise for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

IMPORTANT NOTICE: INDEPENDENT CONSULTANT IS NOT ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS OR WORKERS' COMPENSATION BENEFITS UNLESS SUCH COVERAGES ARE PROVIDED BY THE INDEPENDENT CONSULTANT OR SOME OTHER ENTITY. CONSULTANT SHALL SATISFY ALL TAX AND OTHER GOVERNMENTALLY IMPOSED RESPONSIBILITIES INCLUDING, BUT NOT LIMITED TO, PAYMENT OF STATE, FEDERAL AND SOCIAL SECURITY TAXES, UNEMPLOYMENT TAXES, WORKERS' COMPENSATION AND SELF-EMPLOYMENT TAXES. NO FEDERAL, STATE OR LOCAL TAXES OF ANY KIND SHALL BE WITHHELD OR PAID BY THE TOWN.

- 6.06 Records; Audit. Consultant shall maintain books, records, documents and other evidence directly pertinent to performance of services under this Agreement. Consultant shall make such materials available at its offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under this Agreement for inspection by the Town or any other authorized representative of the Town. Copies thereof, if requested, shall be furnished at no cost to the Town.
- 6.07 Ability to Bind the Other Party. Neither Town nor Consultant is the agent of the other, and neither shall have the right to bind the other by contract or otherwise, except as specifically provided in this Agreement.
- 6.08 Applicable Law. This Agreement shall be construed according to the laws of the State of Colorado with venue in Weld County, Colorado.
- 6.09 Time. In the computation of any period of time, which shall be required or permitted hereunder, for notice, or under any law for any notice or other communication or for the performance of any term, condition, covenant, or obligation, the day from which such period runs shall be excluded and the last day of such period shall be included, unless it is a Saturday, Sunday or legal holiday,

in which case, the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday, or legal holiday.

- 6.10 Recitals and Exhibits. The Recitals hereto and any Exhibits which may be attached to this Agreement are hereby incorporated herein and made a part of this Agreement by this reference; however, in the event of a conflict between provisions in this Agreement and any exhibits, the provisions in this Agreement shall control.
- 6.11 Attorney's Fees. Consultant shall be liable to the Town for reasonable attorneys' fees incurred by the Town in connection with the collection or attempt to collect, any damages arising from the negligent or wrongful act or omission of consultant, or from Consultant's failure to fulfill any provisions or responsibility provided herein, as determined by the tier of fact.
- 6.12 Assignment and Subcontracting. Consultant shall not subcontract, assign or delegate any portion of this Agreement or the services to be performed hereunder without prior written approval of Town. In the event that the Town approves of any such subcontracting, assignment or delegation, Consultant shall remain solely responsible for managing, directing and paying the person or persons to whom such responsibilities or obligations are sublet, assigned or delegated. The Town shall have no obligation whatsoever toward such persons. Consultant shall take sole responsibility for the quality and quantity of any services rendered by such persons. Any consent given in accordance with this provision shall not be construed to relieve Consultant of any responsibility for performing under this Agreement.
- 6.13 No Modification or Waiver of Conditions. Consultant may not waive or modify all or any part of its duties, obligations or conditions hereunder without obtaining the express written consent of the Town.
- 6.14 Merger of Understanding. The provisions of this Agreement represent the entire and integrated agreement between the Town and the Consultant and supersede all prior negotiations, representations and agreements, whether written or oral, except as where noted. This Agreement may be modified only by a written document signed by both parties and approved by the Town Board at a public meeting.
- 6.15 Third Party Rights. The parties do not intend to confer any benefit hereunder on any person or entity other than the parties hereto and their respective successors and assigns.
- 6.16 Non-discrimination. Consultant and its officers, agents, employees, and subconsultants shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to her or his hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of her or his race, sex, sexual orientation, gender identity, religion, color, national origin, ancestry, age, disability, or United States military service veteran status. Breach of this section shall be regarded as a material breach of this Agreement
- 6.17 Waiver. No consent or waiver, express or implied, by a party to or of any breach or default by the other in the performance by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of such party or any other party of the same or any other of its obligations. Failure on the part of any party to complain of any act or failure to act of any other party or to declare any such party in default, irrespective of

how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

- 6.18 Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and in no way define, limit or prescribe the scope or intent of this Agreement or any part thereof.
- 6.19 Acknowledgment of Review. Consultant hereby expressly acknowledges that he/she has reviewed and understands each and every provision of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates written below.

TOWN OF FREDERICK

CONSULTANT

By: _____
Bryan Ostler, Town Manager

By: _____

Name, Title: _____

ATTEST:

By: _____
Tricia David, Town Clerk

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 24-R-37**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO, TO AWARD
A CONTRACT FOR THE DESIGN OF THE WCR13 AND WCR20
INTERSECTION OPERATION IMPROVEMENT PROJECT AND
AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the WCR13 and WCR20 intersection was recognized in the Town of Frederick Transportation Master Plan as a Tier-3 Short Term project, which is an intersection that is identified for operational improvements and widening for high priority turn lanes; and,

WHEREAS, in accordance with Chapter 4 Article V of the Town Municipal Code, the Town has requested Statements of Qualification for the design of the WCR13 and WCR20 Intersection Operation Improvement project; and,

WHEREAS, the Board of Trustees finds that the most qualified consultant for the contract award for this project design is J-U-B Engineers, Inc.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE
TOWN OF FREDERICK, COLORADO, AS FOLLOWS:**

1. The Board of Trustees accepts J-U-B Engineers, Inc. as the most qualified consultant to perform design for the WCR13 and WCR20 Intersection Operation Improvement project.
2. The Board of Trustees awards the contract for the design of the project in the amount of \$_____ as reflected in the accompanied Staff Report and authorizes the Town Manager to sign a contract, subject to finalization and review by the Town Attorney, that is substantively the same as the attached Exhibit A.

INTRODUCED, READ, PASSED, AND SIGNED THIS 25TH DAY OF JUNE, 2024.

TOWN OF FREDERICK

By: _____
Tracie Crites, Mayor

ATTEST:

By: _____
Tricia David, Town Clerk