



Town of Frederick Board of Trustees Agenda

Frederick Town Hall
Board Chambers
401 Locust Street
Tuesday, September 8, 2020

6:30 PM Work Session

7:00 P.M. Regular Meeting

In order to promote social distancing and to protect the health and safety of our Board members, staff, and community this meeting will be conducted via Zoom Video Communications or in person. Interested parties are encouraged to access the meeting either via the web or by telephone. The meeting information is as follows:

Join Zoom Meeting

<https://zoom.us/j/98595534402?pwd=NVJsRHdvNFIUekZDZmhGa0ExaU9jZz09>

Meeting ID: 985 9553 4402

Passcode: 561924

One tap mobile

+12532158782,,98595534402# US (Tacoma)

+13017158592,,98595534402# US (Germantown)

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 301 715 8592 US (Germantown)

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+1 669 900 6833 US (San Jose)

+1 929 436 2866 US (New York)

Meeting ID: 985 9553 4402

Find your local number: <https://zoom.us/u/ainXxNuw6>

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Public Comment at a Virtual Meeting Board of Trustee Meeting

Interested parties who would like to address the Board of Trustees during the Public Comment portion of the agenda may address the Board of Trustees virtually or in person. **To address the Board in person, individuals may also appear at Town Hall (401 Locust Street Frederick, CO) and are asked to sign up on the sign-up sheet in the Board Room. Individuals who would like to attend virtually are asked to sign up to speak during public comment by emailing the Town Clerk at mmartinez@frederickco.gov. Individuals are asked to provide the Town Clerk the following information:

1. Name
2. Address
3. Topic for Comment
4. Phone Number or Name that will be utilized in the zoom meeting application
5. Any documents that will be shared in the meeting.

The Town Clerk will verify your attendance prior to the meeting and will test your connection and microphone.

If there are public hearings scheduled for the Board of Trustee meeting, individuals who wish to address the Board of Trustees virtually are asked to contact the Town Clerk via email at mmartinez@frederickco.gov by 5:00 PM on date of the meeting. Individuals are asked to provide the Town Clerk the following information:

1. Name
2. Address
3. Public Hearing Item for Comment
4. Phone Number or Name that will be utilized in the zoom meeting application
5. Any documents that will be shared in the meeting

**Individuals that would like to attend the meeting at Town Hall are asked to sign up on the public comment sheet in the board room.

Any individual who is attending the meeting and wishes to be address the Board of Trustees during Public Comment or a Public Hearing may utilize the “raise your hand” feature in the Zoom Meeting App.

How to raise your hand in Zoom

1. During the meeting, click on the icon labeled “Participants” at the bottom center of your PC or Mac screen
2. At the bottom of the window on the right side of the screen, click on the button labeled “Raise Hand.”



3. Your digital hand is now raised. Lower it by clicking the same button, now labeled “Lower Hand”
4. If you are on a mobile device, simply tap “Raise Hand” at the bottom left corner of the screen. The lower hand icon will turn blue and the text below it will switch to say “Lower Hand” while your hand is raised.

****In the interest of public safety in person attendees will be asked to wear a mask, have their temperature taken by the Frederick PD and sanitize their hands up entry to the building. Town Staff will be on hand to assist attendees****



**Town of Frederick
Board of Trustees Agenda**

Frederick Town Hall
Board Chambers
401 Locust Street
Tuesday, September 8, 2020

**6:30 P.M.
Work Session**

**7:00 P.M.
Regular Meeting**

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 Town Board. Please sign in and the Mayor will call you. 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
- B. Town Clerk’s Report – Meghan Martinez, Town Clerk

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.

- C. August 18, 2020 Minutes – Meghan Martinez, Town Clerk
- D. August 25, 2020 Minutes – Meghan Martinez, Town Clerk
- E. List of Bills – Jason, Leslie, Administrative Services Officer

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- F. Consideration of Amendments to the Intergovernmental Agreements with Weld County for Administration of Community Development Block Grant Program – Bryan Ostler, Town Manager

Action Agenda:

- G. First Amendments to the Memorandums of Agreement for Public Improvements for Silverstone Filings 1 and 2 – Rick Samson, Town Attorney
 - 1. Resolution 20-R-62 Authorizing the Mayor to Execute the First Amendment to the Silverstone Filing 1 MOAPI
 - 2. Resolution 20-R-63 Authorizing the Mayor to Execute the First Amendment to the Silverstone Filing 2 MOAPI
- H. Resolution 20-R-64 Authorizing the Mayor to Execute the Memorandum of Agreement for Public Improvements for Silverstone Filing 5 - Jason Berg, Engineer
- I. Resolution 20-R-65 Approving the Job Description of the Town Attorney and Direction the Town Manager to Advertise the Position – Lauren Mueller, Human Resources Director

Mayor and Trustee Reports:

Adjournment:



Town of Frederick Memorandum

TO: Honorable Mayor and Board of Trustees

FROM: Bryan Ostler, Town Manager

DATE: September 8, 2020

CC: Town Staff
Local Media

SUBJECT: Departmental Report

Upcoming Board of Trustees Work Sessions – If there are topics that the Board would like staff to schedule for discussion, please let me know. The following topics are recommended for Board discussion (all meetings will be held in the Town Board Chambers unless otherwise indicated):

- September 8, 2020 – Regular Meeting
 - September 15, 2020 – Work Session
 - September 22, 2020 – Regular Meeting
 - September 29, 2020 – Work Session
-

Police Department

- *Leadership Training* – Recently, Sergeant Bakes and Sergeant Albert completed an FBI sponsored Law Enforcement Executive Development Association (LEEDA) course. This front line supervision training is geared to improve and standardize leadership in the law enforcement profession across the country. This course was one of three needed for the sergeants to earn the coveted Trilogy Award presented by LEEDA upon completion of the full program.
- *Hiring Update* – The department continues to seek applications and test candidates for three open police officer positions. Our two new officers currently still in field training are progressing well and expected to complete the FTO program in the next four to five weeks.

Administration

- *Economic Development* – Staff has been working on developing an economic development policy that can be applied consistently. This is something that most larger jurisdictions have created and further positions Frederick to compete for desired development. Staff will be presenting to the Board on September 22nd Board meeting.

Public Works

- *Streets* – PW has been repairing speed signs (35mph/45mph) being damaged along Aggregate Blvd and along Godding Hollow due to autos hitting them. Also, crews are repairing shoulder work along WCR 5 and Colorado Blvd. At 6th St and Oak St, crews trimmed a tree that had branches obstructing

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a STOP sign. Street sweeping continues at The Farm, No Name Creek, Moore Farms, Morningside, Wildflower, Wyndham Hill, and Rinn Valley.

- *Parks* – PW pursued following up with the contractor regarding installation and progress on the Coal Ridge “pour and play”. Parks crews are still actively mowing and trimming all parks. At Centennial Park, the lake was skimmed and a new intake screen was installed, along with 5 diffusers to create better circulation and algae control. Bi-weekly, checks continue in parks and around Milavec Lake for trash and replenishing dog bags. Ongoing, PW is repairing failing irrigation lines. A new concrete curb and gutter were added to the lake exit.
- *Water* – The water team performed their monthly reads and re-reads routine. Also, the team continues to repair and swap out old water meters.
- *Buildings* – Around the Town Hall building and the Bank building, backfilling and clean up were needed around the pull boxes. New asphalt should be started on 9/3/20 in the Town Hall parking lot, weather permitting. At the museum, PW has been checking and repairing lights and also rehung the front screen door.
- *Open Space* – The open space mowing schedule continues, focusing on No Name Creek and Bella Rosa open space areas.
- *Storm Water* – PW has been checking inlets and outlets to ensure proper storm drainage.
- *Miscellaneous* – Crews are continuing to mosquito spray twice a week, weather permitting. PW sealed the last of the wood carvings and are getting ready to set remaining carvings. PW has been handling a situation with a landowner on the east side of Silver Birch. The landowner had an irrigation water leak on his property that flooded and damaged the northbound lane of Silver Birch. The landowner repaired the road damage. Residents were allowed to drop off tree branches at PW on Saturday, 8/29/20. There were 27 drop offs. A new vinyl fence is being installed at the dog park, making the dog park bigger. A split rail cedar fence is being added around the east side of Milavec Lake.
- *Training* – Justin Marr and Sean Murphy participated in a Playground Certification Zoom class. Alan Isaac passed all testing for obtaining his CDL license.

Administrative Services:

Admin Services General

- *Building Move* – Staff from all Administrative Services departments have formed a Building User Group (BUG) to work on the move to the old bank building (new name TBD) on the corner of 5th Street and Oak. More details on the move will be provided as staff works on a timeline this Fall.

Communications and Engagement

- *Social media* – “Frederick named safest city” was the top August post reaching 10.1K people. “Do you know PONS?” was the most engaging post with 2.8K unique comments, likes or shares.
- *Events Status:*
 - *Finale Friday & Farmers Market:* The August 28 market had 150 attendees and 11 vendors. The last event is Friday, September 25.
 - *Community Tour & Talks:* The August 19 event at Savannah Park had 36 RSVP and 40 attendees. A survey is sent after each tour and results will be compiled at the end of the season. Next stop is Wednesday, Sept. 2 in Countryside featuring Georgia Boys BBQ.
 - *Miners Day:* So far we have 22 burro racers, 15 Miners Market vendors and planning for 5 food trucks. Virtual tours of the museum have been filmed. We are reaching out to the community for stories but have not had any responses.
- *Bella Rosa* – Evaluating weekly golf tip production as we move into the off season
- *POST Master Plan Engagement* – The POST Master Plan Update Open House had 8 attendees and 5 virtual attendees on Thursday, August 27 from 6 pm to 7 pm at Bella Rosa. The prioritization exercise was also available online and had
- *Carbon Valley Communities That Care-* Angela participated in the POLARIS and Adults Meeting in person meeting on August 17.

- *Leadership Training* – Angela participated in the Mastering Conflict-5 Behaviors of a Cohesive Team training on August 26.
- *CCCMA* – Jessica participated in the Engagement Team for Emerging managers meeting on August 26.
- *Carbon Valley Chamber* – Angela and Jessica participated in multi chamber business after hours networking on August 26 at the Wildlife Sanctuary.
- *Colorado Women Leading Government Conference* - Angela participated in a 2 day conference on August 31 & September 1)

Finance Department

- *2021 Budget* – Staff is working on preparing the proposed budget reports and presentation for the upcoming board work sessions.
- *Certification of Values* – The Town has received the preliminary certification of values from the Weld County Assessor. Final valuations will arrive in December. This is not a recertification year so values have not changed much.

GIS/IT Department

- *GIS Roadshow* – GIS staff is meeting with each department to leverage GIS town-wide to aid in making viable business decisions.

Human Resources

- *Compensation Study* – Our compensation study is complete and highlights will be presented to the Board at the September 15 work session. Our consultant, Bob Longmire from Public Sector Personnel Consultants, will be on hand to present the overall findings and answer any questions that the Board may have. Staff will also make its recommendations regarding next steps.
- *Benefits* – The Benefits Advisory Committee has been hard at work researching and gathering data around three key areas identified in the employee benefit survey as most in need of attention: health benefits, retirement benefits, and paid time off. We have already identified a new health benefit plan and provider for 2021, who has presented us with an enriched benefit plan at a lower cost than we are currently paying. Information about the new plans will be presented to employees in the coming month. We have presented a revised retirement plan benefit to the budgetary committee, and they are in the process of running the numbers to ensure economic feasibility. The paid time off proposals are also in the process of being studied, adjusted and finalized for presentation.
- *Recruitment and Hiring* – We have posted the Economic Development Director and the Finance Manager positions, and will be looking to begin reviewing resumes and scheduling interviews in the coming weeks. As was discussed with the Board at the Sept. 1 work session, the Town Attorney position has also been posted.

Engineering Department

- *Building Permits* – Permits remain strong through the first half of 2020. 2019 was a record year and we are currently tracking at a similar rate. Through August 2020, 183 single family building permits, 14 multi-family building permits and 4 commercial building permits have been issued. Comparatively, through August 2019, 174 single family building permits, 0 multi-family building permits and 10 commercial building permits were issued.
- *Thunder Valley K-8 Multiuse Trail Project SRTS Grant (no change)* – The Town approved a contract for construction at the January 14 Board meeting with Concrete Works of Colorado (CWC). Construction items are complete and final grant paperwork is being processed.
- *Stormwater Master Plan* – Frederick and Dacono jointly submitted a Department of Local Affairs Energy Impact Grant application in December 2019 to develop a stormwater master plan and on April 3, the Town received notification that they were awarded funding! A contract was approved to Anderson Consulting Engineers at the June 23rd Town Board meeting. This project is underway and the consultant is using field survey to gather existing conditions. This contract is scheduled to take 18 months and complete the end of 2021.

- *Transportation Master Plan* – A contract was approved to Felsburg, Holt and Ullevig (FHU) to develop a Town of Frederick Transportation Master Plan. An infographic showing the results of our second public survey have been uploaded to the Town website. The consultant is preparing an initial list of projects for consideration. The next PAC meeting is scheduled for 9/23.
- *2020 Pavement Maintenance Project* – Final patching and punchlist items are being completed.
- *Tipple Pkwy/Frontage Rd Streetlight* – Coordination efforts continue with CDOT and United Power regarding installation of a streetlight at this intersection. Additional surveying needs and possibly moving the light to the west side of the road have been the most recent discussions.
- *Raw Water Change of Use (no change)* – Engineering staff is coordinating with its water attorney and water rights consultant to evaluate its current raw water portfolio to support filing a change of use application in water court so that these raw water shares could be used for future town use. The preliminary schedule is to complete the evaluation and file the application by November 25, 2020.
- *Milavec Lake Raw Water Delivery (no change)* – Engineering staff is coordinating with a consultant to evaluate the delivery of raw water from the lake to various developments. Preliminary recommendations have been provided and staff is evaluating a course of action.
- *Bridge Inspections (no change)* – CDOT has completed their annual inspection of the bridges in town. They identified a need to repair the bridge along County Road 7 over the Sullivan Ditch. It was noted that there are bridge rail posts pulled out of their anchors along with impact damage on both rails which has affected the overall integrity of the bridge rails. Money was budgeted in anticipation of requested repairs.

Planning Department

- *Development Applications* – The development review process has a few steps land use applications go through prior to submitting an application such as a pre-application meeting and neighborhood meeting. There are fourteen projects that have completed the pre-application step. Two neighborhood meetings are scheduled. Nine projects have completed the neighborhood meeting, allowing them to submit an application. The following applications have been accepted for review and are now quasi-judicial.

| <i>Project Name (Date of Application)</i> | <i>Subdivision</i> | <i>General Location</i> | <i>Brief Description</i> |
|---|----------------------------|---|--|
| Bear Industrial Park, Block 1, Lot 10, 4030 Bruin Site Plan Amendment (05/04/2020) | Bear Industrial Park | 4030 Bruin Boulevard | Site plan amendment to create an approved outdoor storage area. |
| Bear Industrial park Replat 1, Block 2, Lot 2, Site Plan Amendment (06/15/2020) | Bear Industrial Park | 4180 Busch Place | Site plan amendment to remove second building from approved site plan and provide for outdoor storage. |
| Bear Industrial Park Replat 5, Block 1, Lot 1 – 4021 Kodiak Ct. Site Plan (02/18/2020) | Bear Industrial Park | 4021 Kodiak Court | Site plan for a 1,000 square foot facility with outdoor storage. |
| Bear Industrial Replat 1, Block 1, Lot 4, Site Plan (07/06/2020) | Bear Industrial Park | 9083 Bruin Boulevard | Site plan for a 10,077 square foot facility with outdoor storage. |
| Carriage Hills Filing 1 Replat A (03/15/2020) | Carriage Hills | Generally, north of Highway 52, west of Frederick Way | Replat to adjust lot sizes and remove alleyways. |
| Carriage Hills Marketplace Filing 1, Subdivision Amendment, Conditional Use, and Site Plan (10/07/19) | Carriage Hills Marketplace | 6731 Highway 52, Generally, east of 7-11 and Napa on Frederick Way, north of Highway 52 | Subdivision amendment, conditional use, and site plan for a Ziggi's Drive Through (624 |

| | | | |
|---|--------------------|--|---|
| | | | square feet) and site plan for a 5,000 square foot commercial building. |
| Clearview Villages Zoning Amendment, Preliminary Development Plan, Final Development Plan, Preliminary Plat and Final Plat (11/18/19) | Clearview Villages | Generally, at the southwest corner of Silver Birch Boulevard and Godding Hollow Parkway | Zoning amendment, development plan and plat on approximately 102 acres. |
| Dean Annexation (07/06/2020) | Dean Annexation | Generally, on the west side of Aggregate Boulevard, approximately 1/3 mile south of Tipple Parkway | Annexation of a .34 acre residential property. |

| <i>Project Name (Date of Application)</i> | <i>Subdivision</i> | <i>General Location</i> | <i>Brief Description</i> |
|---|------------------------------|--|--|
| Dreamers Ridge II Annexation (12/02/19) | Dreamers Ridge II Annexation | Generally, at the southwest corner of Aggregate Boulevard and Godding Hollow Parkway | Annexation and subdivision of approximately 36.5 acres with a zoning of Residential Estate. |
| Eagle Business Park Filing 3, Lot 1B – Black Diamond Site Plan (10/21/19) | Eagle Business Park Filing 3 | 7400 Eagle Boulevard | Site plan for a 11,800 square foot office/warehouse. |
| Glacier Business Park Amended First Filing Block 1, Lots 6 and 7 Rezoning (07/06/2020) | Glacier Business Park | 3759 Imperial Street | Zoning amendment from Business Light Industrial to Commercial Highway 52. |
| Glacier West Business Park Lot 9B – Ziggi’s West Subdivision Amendment, Conditional Use and Site Plan | Glacier West Business Park | 3450 Highway 52 | Subdivision amendment, conditional use, and site plan for a Ziggi’s Drive Through (624 square feet). |
| HCT Annexation – McDonald Farms Zoning and Site Plan | HCT Annexation | 7440 East I-25 Frontage Road | Zoning of approximately 136.3 acre property and documentation of the existing site. |
| Hepp Farm – Gooch Zoning Amendment and Subdivision Amendment (03/02/2020) | Hepp Farm | Generally, ¼ mile north of Bella Rosa Parkway and west of Silver Birch Boulevard | Zoning amendment to apply zoning and subdivision amendment to create 2 residential lots. |
| Hidden Creek Amendment 4 (04/06/2020) | Hidden Creek | Generally, north of Tipple Parkway, east of Ridgeway Boulevard | Subdivision Amendment to revise the location of 35 lots within the subdivision. The net change in the number of lots is 0. |

| | | | |
|---|-------------------------------|---|--|
| Morningside Estates Filing #2 Block 3, Lot 3, Variance Request (06/15/2020) | Morningside Estates Filing #2 | 8027 Dawnhill Circle | Variance to request two driveways. |
| Nelson Lakes Subdivision MOAPI Amendment and Construction Plan Review (10/17/19) | Nelson Lakes | Generally, north of CR 16 ½ and west of CR 3 ¼ | Amendment to the existing MOAPI and review of construction plans. |
| Nelson Wells – Kerr McGee (07/15/19) | Lanson Farm | Generally, south of Tipple Parkway, ½ mile west of Silver Birch Boulevard | Special use permit for 24 new wells |
| Old Town Block 17, Lot 11 – 141 5 th Street Site Plan Amendment (04/15/2020) | Old Town | 141 5 th Street | Site plan amendment to add approximately 500 square feet. |
| Old Town Block 21, Lot 6 – 502 Walnut Street Site Plan (08/29/19) | Old Town | Generally, the southeast corner of 5 th Street and Walnut Street | Site plan for an approximately 3,723 square foot mortuary. |
| <i>Project Name (Date of Application)</i> | <i>Subdivision</i> | <i>General Location</i> | <i>Brief Description</i> |
| Silverstone Filing 5 Tract A, Circle K Site Plan (04/20/2020) | Silverstone | Generally, the northeast corner of William Bailey Avenue and Highway 52 | Site plan for a 5,187 square foot convenience store, 2,100 car wash, and gas facility. |
| Tops Business Park Lots 1, 2, and 5 Site Plan (05/16/18) | Tops Business Park | South of Hurt St/West of Colorado Blvd | Site plan for expansion of the existing storage facility. |

- *Park Development* – Our 2020 park improvements are well underway. Please look at the Town’s website for update pictures.

Work at the skate park continues to progress and the end is nearing. Team Pain concrete work is nearly complete. Concrete for additional walks is set to be poured in the next few weeks. Electrical work is being completed. Landscaping will be last to be installed. Art continues to be added to the park. The bid for restroom installation is out and installation is anticipated to be completed in late October. Ribbon cutting plans are being made for this.

The fitness court landscaping is estimated to be completed next week. We’re working with the communications team on a soft opening.

Coalridge Neighborhood Park is open for use. If you’re stomach can take it, try out one of the new slides. They’re both great fun!!



Town of Frederick Memorandum

TO: Honorable Mayor Tracie Crites and Board of Trustees

FROM: Meghan Martinez, Town Clerk

DATE: September 4, 2020

SUBJECT: Town Clerk's Report

- *Liquor Licensing*
 - Approved Back 9 at Bella Rosa Renewal Application
 - Working with Circle K on an application in Silverstone
 - Reviewing Glacier Liquors Renewal Application
- *Commissions Updates*
 - Arts Commission
 - Working with GIS staff to update Art Map
- *Training*
 - Attending CMCA Academy throughout September on various topics of leadership, management, and various clerk topics.
- *Bella Rosa Golf Course*
 - Junior Golf Fall classes
 - Bella Rosa is hosting Fall junior golf classes. Classes run on Monday evenings (4:00-5:00) and Saturday mornings (9:00-10:00) through September. The cost is \$25 per class. Online registration is available at bellarosagolf.com.
 - Family Golf Day
 - Bella Rosa is hosting a Family Golf Day on September 19th. This is a complimentary event for all families. Please visit the upcoming events tab at bellarosagolf.com for more information.
 - Glow Ball Golf Tournament
 - Our Glow Ball golf tournament is scheduled for September 26th. Dinner is served at 7:00 pm and golf starts at 7:30 pm. The cost is \$45 per person and includes dinner and 2 glow balls (additional golf balls available for purchase). Online registration is available at bellarosagolf.com.
 - Restaurant Upgrades
 - New flooring will be installed in the building next week

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Town of Frederick Board of Trustees

Special Virtual Board Meeting Minutes
Frederick Town Hall, 401 Locust Street

August 18, 2020

Call to Order: At 5:05 p.m. Mayor Crites called the meeting to order and requested roll call.

Roll Call: Present were Mayor Crites, Mayor Pro Tem March and Trustees Mahan, Lamach, Brown and Padia. Trustee O'Neal was not present. Also present were Town Attorney Rick Samson, Town Manager Bryan Ostler and Town Clerk Meghan Martinez.

Action Agenda:

Executive Session: Motion by Mayor Pro Tem March and seconded by Trustee Brown to go into executive session for a conference with the Town Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b) regarding potential litigation. Upon roll call vote, motion passed unanimously.

At 5:05 Mayor Crites recessed the meeting of the Board of Trustees to go into executive session.

At 5:40 Mayor Crites reconvened the meeting of the Board of Trustees.

There being no further business of the Board, Mayor Crites adjourned the meeting.

ATTEST:

Approved by the Board of Trustees:

Tracie Crites, Mayor

Meghan C. Martinez, CMC, Town Clerk

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Town of Frederick Board of Trustees

Regular Virtual Board Meeting Minutes

Frederick Town Hall, 401 Locust Street

August 25, 2020

Call to Order: At 7:00 p.m. Mayor Crites called the meeting to order and requested roll call.

Roll Call: Present were Mayor Crites, Mayor Pro Tem March and Trustees Mahan, Lamach, Brown, O'Neal and Padia. Also present were Town Attorney Rick Samson, Town Manager Bryan Ostler and Town Clerk Meghan Martinez.

Pledge of Allegiance: Mayor Crites invited everyone to join the pledge.

Staff Reports:

Administrative Report: Town Manager Bryan Ostler provided a written report.

Town Clerk's Report: Town Clerk Meghan Martinez provided a written report.

Town Attorney's Report: Town Attorney Rick Samson provided a written report.

Public Comment: Mayor Crites announced that no one had signed up for public comment.

Consent Agenda:

Motion by Trustee O'Neal and seconded Mayor Pro Tem March to approve the consent agenda which consisted of the following item:

- August 11, 2020 Minutes

Action Agenda:

Consideration of the Tops Business Park Lots 1, 2 and 5 Expansion of Storage Facility Conditional Use: Planning Director Jennifer Simmons presented the proposed project. The applicant, Wolfram Kasemir was present and addressed the Board. Motion by Trustee O'Neal and seconded by Mayor Pro Tem March to approved Resolution 20-R-60C with the following condition: the unpermitted structure be removed before the permits are issued for the 2nd phase of construction. Upon roll call vote, motion passed unanimously.

Motion to Retain Legal Counsel: Town Attorney Rick Samson presented the proposal and submitted Resolution 20-R-61 for consideration. Motion by Mayor Pro Tem March and seconded by Trustee Brown to approve resolution 20-R-61. Upon roll call vote, motion passed unanimously.

Discussion Agenda: Public Works Director Kent VanDyne discussed the upcoming Clean Up Day. There was much discussion about the date. Clean Up Day will move forward in the same format as the Spring Clean Up Day.

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Mayor and Trustees Reports:

Trustee ONeal: He expressed his condolences and sadness regarding the passing of resident Tony Chavez.

Trustee Padia: She thanked members of the leadership team that have taken the time to meet with her. She is looking forward to her next set of meetings.

Trustee Lamach: He visited the skatepark and asked that the Board provide a meal for the Team Pain team that has been working so hard on the park.

Mayor Crites: She addressed the memo provided by Attorney Samson regarding his compensation. She also asked Bryan to provide an update on the In-House Attorney progress.

Motion by Trustee Lamach and seconded by Mayor Pro Tem March to go into executive session 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 economic development. Upon roll call vote, motion passed unanimously.

At 8:17 Mayor Crites recessed the meeting of the Board of Trustees to go into executive session.

At 9:41 Mayor Crites reconvened the meeting of the Board of Trustees.

There being no further business of the Board, Mayor Crites adjourned the meeting.

ATTEST:

Approved by the Board of Trustees:

Tracie Crites, Mayor

Meghan C. Martinez, CMC, Town Clerk

Town of Frederick - List of Bills
July 31, 2020 - August 27, 2020

| | | |
|---------------------------------------|---------------------------------------|------------|
| 4 RIVERS EQUIPMENT LLC | Equipment | 101.08 |
| ACE HARDWARE OF FIRESTONE | Maintenance supplies | 923.26 |
| ACUSHNET COMPANY | Shop merchandise | 1,364.18 |
| ADAMSON POLICE PRODUCTS | Police equipment and uniforms | 2,812.13 |
| ADVERTISING CONCEPTS INC | Gateway sign repairs | 1,275.00 |
| AIRGAS USA LLC | Shop supplies | 66.46 |
| ALAN MORGAN | Refund overpayment | 52.06 |
| ALLIANCE DEVELOPMENT LLC | Refund overpayment | 189.73 |
| AMERICAN PLANNING ASSOCIATION | Membership dues | 490.00 |
| APPLEGATE GROUP INC | Raw Water System Analysis | 6,495.33 |
| APPLIED CONCEPTS INC | Radar control | 134.00 |
| AXON ENTERPRISE INC | Assurance plan for body cameras | 1,577.76 |
| BCCONSULTING INC | Burro Race timing | 950.00 |
| BEN GRAF | Refund overpayment | 218.06 |
| BK TIRE, INC. | Tire replacement and disposal | 722.34 |
| BLACK HILLS ENERGY | Natural gas utility | 24.58 |
| BREAKTHRU BEVERAGE COLORADO | Restaurant supplies | 431.96 |
| BUTCHER AND THE BLONDE LLC | Community Tour & Talk catering | 900.00 |
| CALA MARKETING LLC | Promotional coupon mailing | 400.00 |
| CALLAWAY GOLF | Promotional items | 129.00 |
| CARBON VALLEY CAR WASH LLC | Vehicle maintenance | 189.67 |
| CARBON VALLEY PARKS & RECREATION DIST | Frederick URA - TIF Revenue Sharing | 252.79 |
| CARD AND FORM SOLUTIONS INC | Supplies | 110.03 |
| CARD SERVICES | Travel, training and supplies | 14,863.65 |
| CAREERS WORLD WIDE INC | CDL testing | 275.00 |
| CASELLE, INC. | Contract support & maintenance | 2,142.00 |
| CENTRAL COLLECTION SERVICES | Commission fees | 30.60 |
| CENTRAL WELD CTY WATER DIST | Water taps | 60,000.00 |
| CENTURY COMMUNITIES | Final Development Plan refund | 2,134.00 |
| CENTURYLINK COMMUNICATIONS LLC | Phone services | 339.90 |
| CINTAS CORPORATION | PW uniform service/First aid supplies | 791.05 |
| CLUB FORMS | Golf Course gift certificate supplies | 95.44 |
| CODE PUBLISHING INC | Codification | 700.25 |
| COLORADO MESA UNIVERSITY | 2020 Scholarship | 2,000.00 |
| COLORADO STATE UNIVERSITY | 2020 Scholarship | 6,000.00 |
| COLT FENCE AND LANDSCAPE LLC | Vinyl fence removal and repair | 2,823.00 |
| COMCAST | Phone, fiber and internet service | 4,879.77 |
| COMPLETE CONSTRUCTION CORPORATION | Town Hall building upgrades | 5,940.00 |
| CONCRETE WORKS OF COLORADO INC | SRTS construction | 177,193.90 |
| CORNWELL TOOLS | Shop tools | 5.81 |
| DANA KEPNER CO | Water meters and supplies | 37,644.40 |
| DBC IRRIGATION SUPPLY | Park supplies | 1,363.31 |
| DENNIS ZEWE | Final restitution payment | 150.00 |
| DENVER GOLF EXPO | Deposit for Denver Golf expo | 585.00 |
| DITCH & RESERVOIR COMPANY ALLIANCE | Annual membership | 100.00 |
| DR HORTON | Refund overpayment | 38.82 |
| E & G TERMINAL INC | Shop supplies | 27.48 |
| ECOLOGICAL RESOURCE CONSULTANTS INC | On call services Decree Accounting | 3,840.00 |

Town of Frederick - List of Bills
 July 31, 2020 - August 27, 2020

| | | |
|--|--|------------|
| EDUARDO LOPEZ | Police Equipment Loan Program | 2,000.00 |
| EMPLOYERS COUNCIL SERVICES INC | Mediation meeting and prep work | 1,800.00 |
| EON OFFICE | Office supplies | 402.00 |
| EVIKE.COM INC | Training supplies | 3,817.04 |
| FACTORY MOTOR PARTS CO | Equipment maintenance | 5,804.81 |
| FAIRFIELD AND WOODS PC | Legal services | 3,039.00 |
| FASTENAL COMPANY | Safety supplies and equipment | 2,697.85 |
| FCI CONSTRUCTORS INC | Hydrant meter deposit refund | 2,200.00 |
| FELSBURG HOLT & ULLEVIG, INC. | Transportation Master Plan | 5,750.00 |
| FEUERSTEIN CONSULTING LLC | SRTS Construction Management | 28,237.50 |
| FLUTTERBY FOUNDATION LTD | Bronze Sponsor 2020 Golf Tournament | 500.00 |
| FP MAILING SOLUTIONS | Quarterly payment for meter rental | 135.00 |
| FREDERICK FIRESTONE FIRE PROTECTION DIST | Frederick URA - TIF Revenue Sharing | 93,702.46 |
| FREEDOM MAILING SERVICES LLC | Utility billing statements | 2,392.85 |
| FRONT RANGE COMMUNITY COLLEGE | 2020 Scholarship | 2,000.00 |
| FRONT RANGE LANDFILL | Voucher provisions for Frederick residents | 9,634.95 |
| FRONTIER BUSINESS PRODUCTS | Equipment repairs | 150.00 |
| FUTURELINK INC | Equipment repairs | 1,069.14 |
| FUZION FIELD SERVICES LLC | Hydrovac services | 2,303.10 |
| G & G EQUIPMENT INC | Equipment repairs and supplies | 240.91 |
| G2 MOTORCARS LLC | Conditional Use Site Plan refund | 1,060.00 |
| GAYLE BEATTY | Refund overpayment | 98.50 |
| GENERAL AIR | Shop supplies | 18.24 |
| GEORGIA BOYS SMOKEHOUSE | Community Tour & Talk catering | 1,275.00 |
| GOLF & SPORT SOLUTIONS LLC | Golf course supplies | 448.48 |
| GREEN MILL SPORTSMAN'S CLUB | Training | 150.00 |
| GREEN MOUNTAIN PROMOTIONS | Golf swag | 1,254.94 |
| GREG CIERPIAL | Refund overpayment | 52.06 |
| GROUND ENGINEERING CONSULTANTS INC | SRTS - Material Testing | 480.00 |
| HEATHER SEAVY | Skate Park goldfish mural | 2,000.00 |
| HIGH COUNTRY BEVERAGE | Restaurant supplies | 405.70 |
| HIGH PLAINS LIBRARY DISTRICT | Frederick URA - TIF Revenue Sharing | 27,578.29 |
| HIGHER GROUND CONSULTING INC | 2020 Leadership Training/Coaching | 1,857.09 |
| HOME DEPOT CREDIT SERVICES | Maintenance supplies | 2,157.89 |
| INLAND TRUCK PARTS & SERVICE | Equipment parts and supplies | 336.20 |
| INSIGHT AUTO GLASS LLC | Stock parts | 843.74 |
| INTERSTATE FORD | Vehicle maintenance parts and supplies | 968.23 |
| INTERSTATE RENTAL & SALES, INC. | Equipment rental | 250.00 |
| JC GOLF ACCESSORIES | Golf shop merchandise | 345.88 |
| JEFF CAHN INC | Judge services | 1,200.00 |
| JOE SERRANO | Hydrant meter deposit refund | 2,200.00 |
| JOHN CUTLER & ASSOCIATES | Final billing for Audit | 2,000.00 |
| KING CHEVROLET | Vehicle repairs and supplies | 3,115.01 |
| KINSCO LLC | Police patches | 1,248.93 |
| KORBY LANDSCAPING LLC | Landscape materials | 1,719.50 |
| KORF CONTINENTAL | Public Works fleet and equipment install | 113,649.00 |
| KRISTIN NORDECK BROWN PC | Prosecution services | 1,526.00 |
| KUMAR & ASSOCIATES INC | Geotechnical testing | 3,890.00 |

Town of Frederick - List of Bills
July 31, 2020 - August 27, 2020

| | | |
|---|---------------------------------------|------------|
| L.L. JOHNSON DISTRIBUTING COMPANY | Irrigation maintenance supplies | 2,577.80 |
| LAMP RYNEARSON & ASSOCIATES INC. | SRTS consulting | 312.00 |
| LGI HOMES COLORADO LLC | Refund overpayment | 3.01 |
| LIGHTING, ACCESSORY & WARNING SYSTEMS | Equipment for police vehicles | 43,783.91 |
| MAC EQUIPMENT INC | Golf Course maintenance supplies | 75.27 |
| MALM ELECTRICAL CONTRACTORS LLC | Site Plan refund | 400.00 |
| METRON-FARNIER LLC | Water supplies | 7,160.00 |
| MICHAEL JAKI | Refund overpayment | 6.40 |
| MILE HIGH METAL WORKS INC | Skatepark Art centerpiece | 32,961.44 |
| MIRROR IMAGE BREWING COMPANY | Restaurant supplies | 110.00 |
| MOSES WITTEMYER HARRISON & WOODRUFF PC | Legal services | 7,041.00 |
| MOUNTAIN SALES & SERVICE | Restaurant equipment lease | 200.00 |
| NANCY SMITH | Refund overpayment | 61.73 |
| NELSON PIPELINE LLC | Hydrant meter deposit refund | 2,200.00 |
| NEWMAN TRAFFIC SIGNS, INC. | Skate Park signage | 152.07 |
| NORTH METRO FIRE RESCUE DISTRICT | Training Center Facility rental | 500.00 |
| NORTHERN CO. WATER CONSERVANCY DISTRICT | Frederick URA - TIF Revenue Sharing | 8,572.68 |
| NORTHERN ENGINEERING SERVICES | Village at Frederick survey | 3,569.42 |
| OCCUPATIONAL HEALTH CENTERS | New Hire evaluation | 308.00 |
| O'KEEFE PUBLISHING INC | Advertising & promotion services | 400.00 |
| ONE CALL NOW | Shut off call - Enhanced Plan | 103.45 |
| OPTUM | Merchant HSA fees | 121.00 |
| O'REILLY AUTOMOTIVE INC | Auto parts and supplies | 1,384.94 |
| ORIGINAL BY GREEKS LLC | C&C food voucher reimbursement | 91.30 |
| PET PICK-UPS | Park supplies | 1,560.53 |
| PETERSEN SPECIALTY | Notary stamp | 33.00 |
| PING INC | Golf equipment | 478.90 |
| PRAIRIE MOUNTAIN MEDIA | Publication costs | 216.92 |
| PRO GOLF REPAIR LLC | Pro Golf services | 4,050.00 |
| R & R PRODUCTS | Equipment maintenance supplies | 976.62 |
| RACING TURTLE LLC | Refund overpayment | 2.00 |
| REDI SERVICES LLC | Monthly Porta-john services | 490.00 |
| RENEWABLE FIBER INC | Park supplies and landscape materials | 4,972.46 |
| RICHMOND AMERICAN HOMES | Refund overpayment / Development Plan | 2,174.54 |
| ROCKY MOUNTAIN INTEGRATORS INC | Building repairs | 600.00 |
| RUTGERS UNIVERSITY-NEW BRUNSWICK | 2020 Scholarship | 2,000.00 |
| RYAN EIDSNESS | Refund overpayment | 57.02 |
| SAFEGUARD BUSINESS SYSTEMS | AP supplies | 336.88 |
| SAFEWAY | Cleaning supplies | 7.58 |
| SAM'S CLUB / GEGRB | Golf Course supplies | 993.17 |
| SAMSON LAW FIRM | Legal services | 14,000.00 |
| SCOTT CARTER | Refund overpayment | 2.08 |
| SHRED-IT USA | Document shredding | 190.50 |
| SIGNARAMA | Board room wall graphics | 970.00 |
| SILVERSTONE DEVELOPMENT CO | Final Development Plan refund | 2,134.00 |
| ST. VRAIN SANITATION DISTRICT | Frederick URA - TIF Revenue Sharing | 3,687.31 |
| ST. VRAIN VALLEY SCHOOL DISTRICT | Frederick URA - TIF Revenue Sharing | 274,226.24 |
| STAPLES ADVANTAGE | Supplies | 1,129.71 |

Town of Frederick - List of Bills
July 31, 2020 - August 27, 2020

| | | |
|---|--|--------------|
| STEADFAST TATTOO COMPANY LLC | Skatepark Centerpiece mural | 15,000.00 |
| SUMMIT STRATEGIES | Economic Development Consulting | 5,000.00 |
| SUNBELT RENTALS INC | Equipment rental | 270.25 |
| SYSCO DENVER | Restaurant food order | 5,031.93 |
| TEAM PAIN ENTERPRISES INC | FRA skatepark construction | 133,465.50 |
| TELOS ONLINE INC | Wi-Fi services | 159.99 |
| TEXAS CHRISTIAN UNIVERSITY | Certified Public Communications Course | 500.00 |
| THE HOME DEPOT PRO | Park supplies | 902.75 |
| THE SHERWIN-WILLIAMS CO | Maintenance supplies | 33.80 |
| THE SLAWPY BARN | C&C food voucher program | 512.00 |
| TIMBERLAN | VDI Licensing | 21,348.25 |
| TONYA KIMREY | Refund overpayment | 20.49 |
| TRANSWEST TRUCK | Equipment maintenance supplies | 868.36 |
| TRINIDAD STATE JUNIOR COLLEGE | 2020 Scholarship | 2,000.00 |
| TRISH TOMME | Refund overpayment | 53.66 |
| TRUDILIGENCE | DOT Drug Tests | 230.00 |
| U.S. POSTAL SERVICE (CMRS-FP) | Postage for meter machine | 1,000.00 |
| UME CUSTOM EMBROIDERY & IMPRINTING LLC | Apparel and embroidery services | 2,938.26 |
| UNIFIRST CORPORATION | Mat services | 148.55 |
| UNIVERSITY AUTO PARTS INC | Equipment maintenance | 775.35 |
| UNIVERSITY OF COLO AT BOULDER | 2020 Scholarship | 2,000.00 |
| UNIVERSITY OF IOWA | 2020 Scholarship | 2,000.00 |
| UNIVERSITY OF NORTHERN COLORADO | 2020 Scholarship | 2,000.00 |
| UPPER CASE PRINTING, INK. | Newsletter printing | 1,136.25 |
| USA PRINTER CO | Office equipment supplies | 251.94 |
| UTILITY NOTIFICATION CENTER OF COLORADO | Utility locate transmissions | 478.29 |
| VANCE BROTHERS INC | Crack seal project | 361,910.54 |
| VERIZON WIRELESS | Wireless services | 1,518.39 |
| VOLVIK | Golf shop merchandise | 740.43 |
| W.L. CONTRACTORS, INC. | Monthly Maintenance fee | 157.50 |
| WARD ELECTRIC COMPANY INC | Building maintenance | 3,248.68 |
| WASTE CONNECTIONS OF COLO INC | Trash service | 57,118.20 |
| WELD COUNTY DEPARTMENT OF PUBLIC | Laboratory services | 1,663.00 |
| WELD COUNTY INFORMATION TECHNOLOGY | RSA Tokens | 135.62 |
| WELD COUNTY TREASURER | Frederick URA - TIF Revenue Sharing | 32,653.30 |
| WELLY LLC | Logo promotional items | 790.00 |
| WELZIG HEATING & AIR | Golf Course building maintenance | 789.46 |
| WEX BANK | Fuel | 6,877.24 |
| WTC-WICKHAM TRACTOR CO | Equipment parts and supplies | 145.60 |
| WYNDHAM HILL METRO DIST NO.3 | Frederick URA - Property Tax Sharing Agmt. | 6,208.04 |
| YAMAHA MOTOR FINANCE CORP USA | Golf cart fleet lease payment | 3,307.75 |
| YES COMMUNITIES | Refund overpayment | 7.25 |
| ZEP SALES & SERVICE | Shop supplies | 129.98 |
| | Total | 1,786,689.57 |



TOWN OF FREDERICK

Board of Trustees

Action Memorandum

Tracie Crites, Mayor

Rusty ONeal, Trustee
Mark Lamach, Trustee
Adam Mahan, Trustee

Dan March, Trustee
Kevin Brown, Trustee
Windi Padia, Trustee

Consideration of Amendments to the Intergovernmental Agreement with Weld County for Administration of Community Development Block Grant Program

Agenda Date: Town Board Meeting – September 8, 2020

Attachments:

- a. Summary of Amendment Changes to IGA through HUD
- b. Weld County Amendment to IGA for Conduct of CDBG Program

Finance Review: _____
Finance Director

Submitted by: _____
[Signature]
Town Manager

Approved for Presentation: _____
[Signature]
Town Manager

Quasi-Judicial Legislative Administrative

Summary Statement:

In May of 2020, the Board approved an Intergovernmental Agreement with Weld County to authorize and cooperate with the County to participate in Weld County’s Community Development Block Grant (CDBG) Program. However, after this was approved, Housing and Urban Development (HUD) asked Weld County to provide additional technical language updates to the agreement that HUD legal team prefers the County use in their IGA’s with all municipalities.

Weld County is seeking Urban County classification for fiscal years 2020, 2021, and 2022, as well as future years. While the County is able to conduct community development activities within its unincorporated boundaries, the County does not have authority to conduct community development and housing assistance activities within the boundaries of the Town of Frederick. In order for Frederick to be considered a part of the Urban County and be included in the County’s annual requests to HUD for CDBG Program funds, the Town of Frederick and the County must enter into an agreement wherein the

Town authorizes and agrees to cooperate with the County to undertake or assist in the undertaking of essential community development and housing assistance activities within the Town's boundaries.

Entering into this IGA with Weld County will designate the Town as a participant in Weld County's Urban County designation. As a participant, the Town may apply for funds through the County CDBG Program for eligible activities, which must meet three national objectives: (1) principally benefit low- and moderate-income persons; (2) prevent and/or eliminate slums and blights; and (3) satisfy an urgent need in a community.

Detail of Issue/Request:

The amendment changes that were requested from HUD to the IGA are:

1) **Changing the Fiscal Year from 2022 to 2023**

Change From: last Whereas on page 1 of the original IGA which reads: WHEREAS, rules and regulation to qualify or re-qualify as an Urban County are published annually and the notice for the Federal fiscal years 2020-2022 are published in HUD Notice CPD-19-04, "Instructions for Urban County Qualification for Participation in the Community Development Block Grant (CDBG) Program for Fiscal Years (FYs) 2020-2022;"

Change To: WHEREAS, rules and regulation to qualify or re-qualify as an Urban County are published annually and the notice for the Federal fiscal years 2021 through 2022 and are published in HUD Notice CPD-20-03, "Instructions for Urban County Qualification for Participation in the Community Development Block Grant (CDBG) Program for Fiscal Years (FYs) 2021-2023

2) **Changing each party must adopt the amendment to the agreement and submit to HUD in the Urban County Qualification Notice**

Change From: page 2 Section I paragraph 2: This Agreement shall automatically be renewed for an additional three (3) year term unless either party provides written notice that it elects not to participate in a new qualification period. By the date specified in HUD's Urban County qualification notice for the next qualification period, County shall provide notice to Municipality of its right not to participate in the additional term, pursuant to applicable HUD regulations. Any changes to this Agreement required pursuant to HUD's Urban County Qualification Notice shall be made by written amendment to this Agreement, which shall be mutually agreed upon and executed by both Parties hereto and submitted to HUD.

Change To: This Agreement shall automatically be renewed for an additional three (3) year term unless either party provides written notice that it elects not to participate in a new qualification period. Each party must adopt any amendment to the agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period; the amendment must be submitted to HUD as provided in the urban county qualification notice; and Failure to comply will void the automatic renewal for such qualification period.

3) **Changing the Fiscal Year to read Oct 1 through September 30th**

Change From page 2 Section I paragraph 2: This Agreement shall automatically be renewed for an additional three (3) year term unless either party provides written notice that it elects not to participate in a new qualification period. By the date specified in HUD's Urban County qualification notice for the next qualification period, County shall provide notice to Municipality of its right not to participate in the additional term, pursuant to applicable HUD regulations. Any changes to this Agreement required pursuant to HUD's Urban County Qualification Notice shall be made by written amendment to this Agreement, which shall be mutually agreed upon and executed by both Parties hereto and submitted to HUD.

Change To: This Agreement shall automatically be renewed for an additional three (3) year term unless either party provides written notice that it elects not to participate in a new qualification period. Each party must adopt any amendment to the agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period; the amendment must be submitted to HUD as provided in the urban county qualification notice; and Failure to comply will void the automatic renewal for such qualification period.

4) **Changing paragraph to be more general that County and Municipality with agree to cooperate and undertake community renewal and lower-income housing assistance**

Change From: page 3 Section II A. : Municipality will cooperate and work with County in the preparation of detailed projects and other activities to be conducted or performed within Municipality during the Federal fiscal years during which this Agreement is in effect. Municipality will also cooperate with County, and County will cooperate with Municipality, to undertake or assist in undertaking community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing. The finalized projects and activities will be included in County's AAP when required, annually. Municipality understands and agrees, however, that County shall have final responsibility for the selection of all projects and activities to be included in the grant requests and the submission of requests. Municipality shall cooperate fully with County in all CDBG Program efforts planned and performed hereunder and does hereby allow and permit County to undertake or assist in undertaking essential community development and housing assistance activities within Municipality as may be approved and authorized in County's CDBG Plans, Agreements and/or Contracts, including the AAP, when required.

Change To: The County and the municipality agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities.

5) **Changing language to add Language to include Emergency Services Grant (ESG)**

Change From: page 5 Section II H. : Municipality understands that, while this Agreement is in effect, it may not apply for grants under the "Small Cities" or State CDBG Programs and HOME consortium with other local governments, except through the County regardless whether the County receives a HOME allocation for the Federal fiscal years during which it is participating in the Urban County's CDBG Program.

Change To: By executing the CDBG cooperation agreement, the included municipality understands that it:

- a. **May not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in the urban county's CDBG program.**
- b. **May receive a formula allocation under the HOME Program only through the urban county. Thus, even if the urban county does not receive a HOME formula allocation, the participating unit of local government cannot form a HOME consortium with other local governments.**
- c. **May receive a formula allocation under the Emergency Services Grant (ESG) Program only through the urban county.**

6) **Changing language to add specific statute citation of 2 CFR Part 200**

Change From page 6 Section II L.: If Municipality terminates its participation in the Urban County CDBG Program, any assets acquired under this Agreement or from CDBG Program funding shall be managed or disposed of in accordance with 24 C.F.R. Volume 1, Subtitle A, Part 85 and any other applicable HUD and/or Federal regulations.

Change To: If Municipality terminates its participation in the Urban County CDBG Program, any assets acquired under this Agreement or from CDBG Program funding shall be managed or disposed of in accordance with 2 CFR Part 200 and any other applicable HUD and/or Federal regulations.

Legal Comments:

Alternatives/Options:

The Board may choose to not amend the IGA with Weld County. If the Board chooses not to amend the agreement, then the Town will not be able to request funding through the Weld County CDBG Program. The Town will be able to apply for CDBG funds at the State level; however, the Town will be competing with other counties across the state to receive funding for CDBG eligible projects.

If the Board chooses to amend the agreement, the Town will be able to request funds for eligible projects through the Weld County CDBG program, but will not be able to apply for State CDBG funds.

Financial Considerations: N/A grant funding is a 100% with no matching requirements.

Staff Recommendation:

Staff recommends approval of the attached resolution.



AMENDMENT to
Intergovernmental Agreement for Conduct of
Community Development Block Grant Program in Weld County
Between the County of Weld
And
[Town of Frederick]

This Amendment to Intergovernmental Agreement for Conduct of Community Development Block Grant Program in Weld County (the “Amendment”) is made and entered into _____ day of _____ by and between the County of Weld, by and through the Board of County Commissioners of County of Weld (the “County”), and [Town of Frederick] (the “Municipality”).

WITNESSETH:

WHEREAS, the parties entered into an Intergovernmental Agreement for Conduct of Community Development Block Grant Program in Weld County (the “Agreement”) dated June 29, 2020, identified by the Weld County Clerk to the Board of County Commissioners as document No. [2020-1932], and approved on [June 29, 2020]; and

WHEREAS the parties hereby agree to amend the Agreement to incorporate the CDBG Program requirements described in Notice CPD-20-03, Instructions for Urban County Qualification for Participation in the Community Development Block Grant (CDBG) Program for Fiscal Years (FYs) 2021-2023 (the “Notice”).

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

1. The reference to Notice CPD-19-04 is amended to reflect Notice CPD-20-03, the current rules and regulations to qualify as an Urban County for Fiscal Years 2021-2023.
2. The first paragraph of Section I of the Agreement is hereby replaced with the following:

This Agreement covers the CDBG Entitlement program. The initial term of this Agreement shall be three years covered by the urban county qualification period of Federal Fiscal Year 2021 through 2023. Funding for this Agreement is based on the Federal fiscal year which begins October 1st and ends September 30th of the following year.

3. The second paragraph of Section I of the Agreement is hereby replaced with the following:

This Agreement shall automatically be renewed for additional three (3) year qualification periods unless either party provides written notice that it elects not to participate in a new qualification period. Each party must adopt any amendment to the agreement incorporating changes necessary to meet the requirements for cooperation agreements set forth in an Urban County Qualification Notice applicable for a subsequent three-year urban county qualification period; the amendment must be submitted to HUD as provided in the urban county qualification notice; and failure to comply will void the automatic renewal for such qualification period.

4. Section II.A. of the Agreement is hereby amended to include the following statement:

The County and the municipality agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities.

5. Section II.H. of the Agreement is hereby replaced with the following:

By executing the CDBG cooperation agreement, the included municipality understands that it:

- a. May not apply for grants from appropriations under the State CDBG Program for fiscal years during the period in which it participates in the urban county's CDBG program;
- b. May receive a formula allocation under the HOME Program only through the urban county. Thus, even if the urban county does not receive a HOME formula allocation, the participating unit of local government cannot form a HOME consortium with other local governments; and
- c. May receive a formula allocation under the ESG Program only through the urban county.

6. Section II.L. of the Agreement is hereby replaced by the following:

If Municipality terminates its participation in the urban county CDBG Program, any assets acquired under this Agreement or from CDBG Program funding shall be managed or disposed of in accordance with 2 CFR Part 200 and any other applicable HUD and/or Federal regulations.

7. All other terms and conditions of the Original Agreement are unchanged and remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment as of the day, month, and year first above written.

COUNTY:

ATTEST:
Weld County Clerk to the Board

BOARD OF COUNTY COMMISSIONERS
WELD COUNTY, COLORADO

By: _____
Deputy Clerk to the Board

(Current BOCC Chair Name), Chair

[Town of Frederick]:

[Municipality]
[Address]
[City, State Zip]

By: _____
[Name of Authorized Signor], [Title]

Date: _____



TOWN OF FREDERICK

Board of Trustees

Action Memorandum

Tracie Crites, Mayor

Dan March, Mayor Pro Tem
Mark Lamach, Trustee
Adam Mahan, Trustee

Rusty ONeal, Trustee
Kevin Brown, Trustee
Windi Padia, Trustee

First Amendment to the Memorandums of Agreement for Public Improvements for Silverstone Filing 1 and 2

Agenda Date: Town Board Meeting - September 8, 2020

Attachments:

- a. Resolution Approving the First Amendment for Filing 1
- b. Resolution Approving the First Amendment for Filing 2
- c. Amendments executed by the Developer

Finance Review: _____
Finance Director

Submitted by: _____
Rick Samson
Town Attorney

Approved for Presentation: _____

Town Manager

Quasi-Judicial Legislative Administrative

Summary Statement:

The developer is required to install a raw water irrigation system for his development. The original MOAPI did not contain a deadline for the installation of the system and this amendment imposes a deadline of March 31, 2021.

Detail of Issue/Request:

As part of the negotiations to issue building permits for Silverstone Filings 1 and 2, the developer agreed to set a deadline for the installation and acceptance of the irrigation system by the Town. That deadline is March 31, 2021 to have the irrigation line installed to the meter and then a statement from a third party that in fact the system is functional as it leaves the meter.

Built on What Matters.

Due to the length of time that this project has been under discussion, Town staff felt it was necessary to set a firm deadline for the system.

Legal Comments:

The Resolutions were prepared by the Town Attorney.

Alternatives/Options:

Without the amendments, the raw water infrastructure will probably be installed prior to March 31, 2021; however, the amendments avoid future problems, Town staff recommends that the agreements be amended with firm deadlines.

Financial Considerations:

N/A

Staff Recommendation:

Staff recommends approval of the amendments.

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 20-R-62**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO
AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO
SILVERSTYONE FILING 1 MOAPI**

WHEREAS, the parties entered into a Memorandum of Agreement for Public Improvements on December 21, 2018, said agreement is recorded at the Weld County Clerk and Recorder’s office at Reception No. 4459008 (“AGREEMENT”); and

WHEREAS, the Developer’s construction of a non-potable irrigation system as set forth in Exhibit F. paragraph 2. Raw Water Improvements has been delayed; and

WHEREAS, DEVELOPER has requested building permits pending the construction of the raw water improvements; and

WHEREAS, the Town is willing to suspend portions of Exhibit F, paragraph 2 as set forth in the amendment.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Frederick, Colorado, that:

Section 1. The First Amendment to the Memorandum of Agreement for Public Improvements for Filing 1 is approved and the Mayor is authorized to execute the same.

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 ADOPTED THIS 8TH DAY OF
SEPTEMBER 2020.**

ATTEST:

TOWN OF FREDERICK

By _____
Meghan C. Martinez, CMC, Town Clerk

By _____
Tracie Crites, Mayor

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 20-R-63**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO
AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO
SILVERSTYONE FILING 2 MOAPI**

WHEREAS, the parties entered into a Memorandum of Agreement for Public Improvements on December 21, 2018, said agreement is recorded at the Weld County Clerk and Recorder’s office at Reception No. 4459013 (“AGREEMENT”); and

WHEREAS, the Developer’s construction of a non-potable irrigation system as set forth in Exhibit F. paragraph 2. Raw Water Improvements has been delayed; and

WHEREAS, DEVELOPER has requested building permits pending the construction of the raw water improvements; and

WHEREAS, the Town is willing to suspend portions of Exhibit F, paragraph 2 as set forth in the amendment.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Frederick, Colorado, that:

Section 1. The First Amendment to the Memorandum of Agreement for Public Improvements for Filing 2 is approved and the Mayor is authorized to execute the same.

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 ADOPTED THIS 8TH DAY OF
SEPTEMBER 2020.**

ATTEST:

TOWN OF FREDERICK

By _____
Meghan C. Martinez, CMC, Town Clerk

By _____
Tracie Crites, Mayor

FIRST AMENDMENT TO

MEMORANDUM OF AGREEMENT FOR PUBLIC IMPROVEMENTS

THIS FIRST AMENDMENT to the Silverstone Subdivision Filing 1 Memorandum of Agreement for Public Improvements (“FIRST AMENDMENT”) is made and entered this _____ day of September 2020 by and between the Town of Frederick, a Colorado municipal corporation, whose address is P.O. Box 435, Frederick, Colorado (“TOWN”), and Silverstone Development Company, Inc. whose address is 2500 Arapahoe Avenue, Suite 200, Boulder, Colorado 80302 (“DEVELOPER”).

WHEREAS, the parties entered into a Memorandum of Agreement for Public Improvements on December 21, 2018, said agreement is recorded at the Weld County Clerk and Recorder’s office at Reception No. 4459008 (“AGREEMENT”); and

WHEREAS, the Developer’s construction of a non-potable irrigation system as set forth in Exhibit F. paragraph 2. Raw Water Improvements has been delayed; and

WHEREAS, DEVELOPER has requested building permits pending the construction of the raw water improvements; and

WHEREAS, the Town is willing to suspend portions of Exhibit F, paragraph 2 as set forth below.

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

1. Exhibit F, paragraph 2, **Raw Water Improvements** shall be modified to require the construction and conditional acceptance of the raw water infrastructure to be completed no later than March 31, 2021.
2. In all other respects the parties ratify and confirm the MEMORANDUM OF AGREEMENT FOR PUBLIC IMPROVEMENTS as amended.

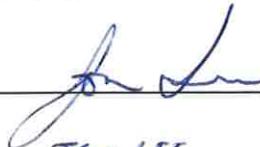
IN WITNESS WHEREOF, the parties have executed this agreement as of the date first set forth above.

TOWN OF FREDERICK

DEVELOPER

**SILVERSTONE DEVELOPMENT
COMPANY, INC.**

By _____
Tracie Crites, Mayor

By  _____
Name JON LEE
Title AUTHORIZED REPRESENTATIVE

ATTEST:

By _____
Meghan C. Martinez, CMC, Town Clerk

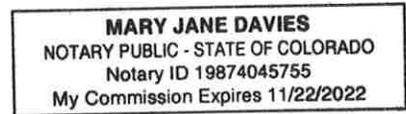
STATE OF COLORADO)
) SS:
COUNTY OF Boulder)

The foregoing First Amendment to the Memorandum of Agreement for Public Improvements for Silverstone Subdivision Filing 1 was acknowledged before me this 3rd day of September 2020 by Jon Lee as Authorized Representative of Silverstone Development Company, Inc.

My commission expires: 11-22-2022

Witness my hand and official seal.

Mary Jane Davies
Notary Public



STATE OF COLORADO)
) SS:
COUNTY OF WELD)

The foregoing First Amendment to the Memorandum of Agreement for Public Improvements for Silverstone Subdivision Filing 1 was acknowledged before me this _____ day of September 2020 by Tracie Crites, Mayor and Meghan C. Martinez, Town Clerk.

My commission expires:

Witness my hand and official seal.

Notary Public

FIRST AMENDMENT TO

MEMORANDUM OF AGREEMENT FOR PUBLIC IMPROVEMENTS

THIS FIRST AMENDMENT to the Silverstone Subdivision Filing 2 Memorandum of Agreement for Public Improvements (“FIRST AMENDMENT”) is made and entered this _____ day of September 2020 by and between the Town of Frederick, a Colorado municipal corporation, whose address is P.O. Box 435, Frederick, Colorado (“TOWN”), and Silverstone Development Company, Inc. whose address is 2500 Arapahoe Avenue, Suite 200, Boulder, Colorado 80302 (“DEVELOPER”).

WHEREAS, the parties entered into a Memorandum of Agreement for Public Improvements on December 21, 2018, said agreement is recorded at the Weld County Clerk and Recorder’s office at Reception No. 4459013 (“AGREEMENT”); and

WHEREAS, the Developer’s construction of a non-potable irrigation system as set forth in Exhibit F. paragraph 2. Raw Water Improvements has been delayed; and

WHEREAS, DEVELOPER has requested building permits pending the construction of the raw water improvements; and

WHEREAS, the Town is willing to suspend portions of Exhibit F, paragraph 2 as set forth below.

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

1. Exhibit F, paragraph 2, **Raw Water Improvements** shall be modified to require the construction and conditional acceptance of the raw water infrastructure to be completed no later than March 31, 2021.
2. In all other respects the parties ratify and confirm the MEMORANDUM OF AGREEMENT FOR PUBLIC IMPROVEMENTS as amended.

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

TOWN OF FREDERICK

DEVELOPER

SILVERSTONE DEVELOPMENT COMPANY, INC.

By _____
Tracie Crites, Mayor

By  _____
Name Jon LEE
Title AUTHORIZED REPRESENTATIVE

ATTEST:

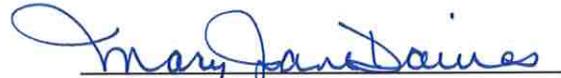
By _____
Meghan C. Martinez, CMC, Town Clerk

STATE OF COLORADO)
) SS:
COUNTY OF Boulder)

The foregoing First Amendment to the Memorandum of Agreement for Public Improvements for Silverstone Subdivision Filing 2 was acknowledged before me this 3rd day of September 2020 by Jon Lee as Authorized Representation of Silverstone Development Company, Inc.

My commission expires: 11-22-2022

Witness my hand and official seal.



Notary Public

| |
|---|
| MARY JANE DAVIES NOTARY PUBLIC - STATE OF COLORADO Notary ID 19874045755 My Commission Expires 11/22/2022 |
|---|

STATE OF COLORADO)
) SS:
COUNTY OF WELD)

The foregoing First Amendment to the Memorandum of Agreement for Public Improvements for Silverstone Subdivision Filing 2 was acknowledged before me this _____ day of September 2020 by Tracie Crites, Mayor and Meghan C. Martinez, Town Clerk.

My commission expires:

Witness my hand and official seal.

Notary Public



TOWN OF FREDERICK

Board of Trustees

Action Memorandum

Tracie Crites, Mayor

Dan March, Mayor Pro Tem
Adam Mahan, Trustee
Kevin R. Brown, Trustee

Mark Lamach, Trustee
Windi Padia, Trustee
Rusty O'Neal, Trustee

Silverstone Filing 5 Memorandum of Agreement for Public Improvements

Agenda Date: Town Board Meeting – September 8, 2020

- Attachments:**
- a. Silverstone Filing 5 Memorandum of Agreement for Public Improvements
 - b. Resolution 20-R-64

Finance Review: _____
Finance Director

Submitted by: Jason Berg _____
Civil Engineer

Approved for Presentation:  _____
Town Manager

- Quasi-Judicial Legislative Administrative

Summary Statement:

The Developer is required to enter into a Memorandum of Agreement for Public Improvements (MOAPI) with the Town prior to development of a Filing or Phase of a Subdivision with Public Improvements. The Town and the Developer are allowed to request special provisions within Exhibit F of the MOAPI.

Detail of Issue/Request:

As a requirement of development within the Town of Frederick, and as a condition of approval of the Final Plat of Silverstone Filing 5 the Developer is required to enter into an MOAPI with the Town prior to recordation of the final plat. There are five special provisions within Exhibit F that have been discussed between Town staff and the Developer.

Item 1: The Developer has requested an exception to Section 1.12(c) of the MOAPI. The Developer is requesting that the Improvement Guarantee shall be 20% of the total cost of the Improvements for each

phase of the Development, instead of 100% as the MOAPI and Land Use Code currently states. This request and modification is consistent with other approved MOAPI agreements of the Silverstone development.

Item 2: The Developer has requested that the requirement of MOAPI Section 9.9, which requires that shelters be installed at school bus stops, not apply. St. Vrain Valley School District is a referral agency that receives submittals for review during the development review process and no shelters were requested as part of their review, thus this section of the MOAPI does not apply to Silverstone Filing 5.

Item 3: Addresses the timing of the undergrounding of electric utilities within the Filing. The United Power overhead lines will be undergrounded from William Bailey Avenue to Colorado Boulevard at such time as 20-acres of the 40-acre commercial site are platted and under development.

Item 4: Establishes that the private access improvements in Tract A of the Silverstone Filing 5 final plat will be installed with the on-site improvements of the first building in any of the lots. The private access improvements shall be complete and accepted by the Town before a Certificate of Occupancy is issued for the first building on these lots. Improvements include curb, gutter, asphalt, public water lines, storm drain lines, and public sewer lines.

Item 5: Addresses installation of the sidewalk/trail in the Highway 52 right-of-way adjacent to Lots 1 and 2. This construction is to be completed prior to the Certificate of Occupancy of the first building on Lot 1.

Legal Comments:

The MOAPI and resolution have been reviewed by the Town Attorney.

Alternatives/Options:

The Board may approve, deny, or change the language of the special provisions proposed within Exhibit F.

Financial Considerations:

Not Applicable.

Staff Recommendation:

Staff recommends approval of resolution 20-R-64.

SILVERSTONE SUBDIVISION FILING 5
MEMORANDUM OF AGREEMENT FOR PUBLIC IMPROVEMENTS

THIS AGREEMENT is made and entered this ____ day of _____, 20____, by and between the TOWN of Frederick, a Colorado municipal corporation, whose address is P.O. Box 435, Frederick, Colorado (“TOWN”), and Silverstone Development Company INC., a Colorado corporation, whose address is 2500 Arapahoe Avenue, Suite 220, Boulder Colorado 80302 (“DEVELOPER”).

WHEREAS, DEVELOPER has submitted a Final Plat for the Silverstone Subdivision Filing 5 (“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 require 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. 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. 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) 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 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 storm drainage facilities.
- (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) 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, proposals, specifications and contracts for the public improvements furnished and let pursuant to this AGREEMENT shall be and hereby are made a part of this AGREEMENT by reference as fully as if set out herein in full.

1.8 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, DEVELOPER shall request inspection by the TOWN. If DEVELOPER does not request this inspection within fourteen (14) days of completion of improvements, the TOWN may conduct the inspection without the approval of DEVELOPER.
- (b) If improvements completed by 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 DEVELOPER are not in substantial compliance with the approved public improvement plans, the TOWN shall provide written notice to DEVELOPER of the repairs, replacements, construction or other work required to receive “conditional acceptance.” DEVELOPER shall complete all needed repairs, replacements, construction or other work within thirty (30) days of said notice, weather permitting. After DEVELOPER completes the repairs, replacements, construction, or other work required, DEVELOPER shall request of the TOWN a reinspection of such work to decide if 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 DEVELOPER as to whether or not the work is acceptable before the TOWN acts to complete any such work at DEVELOPER’s expense as provided in (d) below.

- (d) If DEVELOPER has not completed the improvements on or before the completion dates set forth in “Exhibit B” herein, or if 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) 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 (release14, 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 storm sewers, catch basins and stormwater detention ponds) and streets (including the curb, gutter and sidewalk, and the street with at least the asphalt base course completed) 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.

1.9 Maintenance and Warranty of Improvements. For a two (2) year period from the date of conditional acceptance of any improvements related to the Development, 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 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.

1.10 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, 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 DEVELOPER shall correct all deficiencies at 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 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 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 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.

1.11 Testing and Inspection.

- (a) 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. 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.

1.12 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.
- (b) DEVELOPER shall submit to the TOWN an Improvement Guarantee for all public improvements related to the Development. 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). The Improvement Guarantee shall include, 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, 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 as described by Exhibit B or by Exhibit F.

- (c) The total amount of the guarantee shall be calculated as one hundred ten 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. TOWN shall not release the Improvement Guarantee until the TOWN has granted final acceptance of the 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 DEVELOPER has not submitted or fails to maintain the Improvement Guarantee, then 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. 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 improvements or correct deficiencies in the public 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 improvements, or correct deficiencies in the public 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 improvements, or correct deficiencies in the public 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 improvements listed on "Exhibit B," or fails or refuses to finish the construction of the improvements listed on "Exhibit B," 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 improvements, or correct deficiencies in the public improvements, as the TOWN deems appropriate

1.13 Insurance. DEVELOPER shall guarantee, 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.

1.14 OSHA Compliance. 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).

1.15 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.

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 improvements shown on any approved plans or drawings and as listed in Exhibit B, then the larger quantity or more expensive improvement shall be required.

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) 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 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, 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. DEVELOPER shall pay the full cost of relocating existing utilities that the development of the SUBDIVISION may require. DEVELOPER shall relocate all existing overhead utilities within the SUBDIVISION or in road right-of-ways 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.** 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, DEVELOPER shall consult the Soil Conservation District regarding erosion and sediment control.

(b) DEVELOPER agrees that during construction of the development and improvements described herein, 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, DEVELOPER agrees to abate said nuisance and/or to correct any damage or injury within five (5) working days after notification by TOWN. If 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 DEVELOPER, at DEVELOPER's expense.

(c) 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 DEVELOPER does not abate such mud or debris, or if an emergency exists, TOWN may abate the same at DEVELOPER's expense.

2.7 State Stormwater Discharge Permit Required. 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) 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.

- 3. PUBLIC USE LAND DEDICATION.** Before the issuance of any building permits, 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 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 right-of-ways 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 not transferred to the TOWN at the time of annexation, the DEVELOPER will transfer to the TOWN 1.0 units of Colorado Big Thompson water for each residential lot, or for each Single-Family Equivalency (SFE) to be constructed within the subdivision before the TOWN records the final Subdivision Plat.
- (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 non-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. TOWN provides water service by an intergovernmental agreement with the Central Weld County Water District. TOWN does not guarantee the availability of water service to the DEVELOPER for any phase of the development from the CWCWD system. A determination of water service availability by TOWN shall be made by a water system analysis at the time the DEVELOPER requests water taps.

5.2 Extension of Water Services.

- (a) 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) 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 requests water service. Water connection and plant investment fees shall be paid when a building permit for a structure is requested from 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.

6. SANITARY SEWER SERVICES

6.1 Provision of Sanitary Sewer Service.

- (a) 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) 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) 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.** 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 a system analysis at the time the DEVELOPER requests sanitary sewer taps.

6.4 Sanitary Sewer Tap and Plant Investment Fees.

- (a) Sanitary sewer taps 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 The TOWN May Acquire United Power Facilities. The PROPERTY is to be served by United Power, a Colorado cooperative electric association based on the choice of the DEVELOPER. Pursuant to C.R.S. § 40-9.5-201, et seq., the TOWN may elect to become the sole and exclusive provider of electric service to the PROPERTY and may acquire all electric distribution facilities installed on the PROPERTY. In the event the TOWN elects to exercise its rights pursuant to C.R.S. § 40-9.5-201, et seq., the terms and conditions of Section 7 shall apply to future development of the PROPERTY.

7.2 The parties agree that the SUBDIVISION will receive electric service from the TOWN. The DEVELOPER shall comply at the time of development with the TOWN'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 TOWN to the TOWN 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 TOWN prior to final acceptance.

7.3 Electric Service Availability. TOWN does not warrant the availability of electric service to the DEVELOPER for any phase of development. A determination of electric service availability by TOWN shall be made by an electric system analysis at the time the DEVELOPER requests electric service. In the event that the TOWN determines that it has insufficient electric service capacity, TOWN shall issue no electric service connections until there is electric service capacity available.

7.4 Extension of Electric Services.

- (a) Town of Frederick shall install at the DEVELOPER's sole cost and expense, all the electric main feeder lines and appurtenances necessary to provide service from the TOWN system to the SUBDIVISION. Extensions may include the oversizing of main feeder lines for future development of adjacent property.

- (b) Town of Frederick shall install at the DEVELOPER's sole cost and expense, all the electric distribution system and appurtenances within the SUBDIVISION.
- (c) The DEVELOPER shall advance a refundable construction deposit to the TOWN equal to the estimated total cost of the line extension and subdivision distribution system construction. Upon completion of the construction of the line extension and distribution system, the construction deposit shall be compared to the actual cost of said construction. If the actual cost of said construction is less than the construction deposit originally estimated, the TOWN shall thereupon refund the difference to the DEVELOPER. If the actual cost of said construction is greater than the construction deposit originally estimated, the DEVELOPER shall reimburse the TOWN the difference.
- (d) Any reimbursements to the DEVELOPER for oversizing of main feeder lines and other electric facilities will be as specified in this MOAPI.

7.5 Electric Service Connection, Electric Capital Improvement and Main Feeder Capital Investment Fees. Electric service connection, electric capital improvement and main feeder capital investment fees shall be the existing TOWN electric service connection, electric capital improvement and main feeder capital investment fees at the time that the DEVELOPER requests electric service. Electric service connection and electric capital improvement fees shall be paid to the TOWN when a building permit for a structure is requested from the TOWN. Main feeder capital investment fees shall be paid as part of the construction deposit required for line extension, subdivision distribution and service connection construction by the TOWN.

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) DEVELOPER shall construct drainage improvements for the development in accordance with the master drainage plan 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, storage 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) 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. DEVELOPER shall install at his sole cost and expense, such sedimentation and erosion control measures as are required. DEVELOPER shall install at his sole cost and expense, such groundwater and foundation drainage system as may be required for development of the SUBDIVISION.
- (c) 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 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. 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. 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) 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 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. 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.** TOWN will install, at DEVELOPER's expense, 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. TOWN 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 TOWN shall install at the DEVELOPER's sole costs and expense all required street lighting and underground electrical supply.
- 9.9 School Bus Shelters.** 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) 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.** DEVELOPER shall employ a qualified landscape planner or architect to design landscape improvements for public lands and rights-of-way within the development. 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, 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 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 DEVELOPER shall reimburse the TOWN within thirty (30) days after receipt of written demand and supporting documentation from the TOWN. If DEVELOPER fails to so reimburse TOWN, then 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. 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.** 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 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 DEVELOPER shall be limited to suits, actions or claims based upon conduct before "final acceptance" by the TOWN of the construction work. 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. 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. 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 DEVELOPER under this AGREEMENT.

EXCEPTION: The DEVELOPER may sell individual developed lots, commercial lots or single units in a multi-family development without the TOWN's approval.

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 Clerk
P.O. Box 435
Frederick, Colorado 80530

DEVELOPER:

Silverstone Development Company, Inc.
2500 Arapahoe Avenue, Suite 220
Boulder, Colorado 80302
Attn: Jon Lee

With copy to:

Samson Law Firm
255 Weaver Park Road, Suite 200
P.O. Box 1079
Longmont, CO 80502

Robert L. Preeo, Esq. Preeo Silverman Green & Egle, PC
6465 Greenwood Plaza Blvd.
Suite 1025
Centennial, Colorado 80111

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 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 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.** 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 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

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK)

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

TOWN OF FREDERICK

DEVELOPER

By _____
Tony Carey, Mayor

By _____

ATTEST:

By _____
Meghan C. Martinez, 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 _____
_____(signatory's name) as _____(position/title).

My commission expires:

Witness my hand and official seal.

Notary Public

EXHIBIT A
MAP AND LEGAL DESCRIPTION

EXHIBIT B

COST OF PUBLIC IMPROVEMENTS TO BE CONSTRUCTED

EXHIBIT B
OPINION OF PROBABLE PUBLIC IMPROVEMENT COST
SILVERSTONE FILING 5
June 25, 2020

| ITEM | NO. OF UNITS | UNIT COST | TOTAL COST |
|------------------------|--------------|---------------------------------------|------------------|
| STORM | | | |
| 18" RCP | 124 L.F. | \$ 50 | \$ 6,214 |
| Storm 48" Manhole | 1 Ea. | 1,800 | 1,800 |
| 5' Type 'R' Inlets | 2 Ea. | 6,500 | 13,000 |
| 18" Flared End Section | 2 Ea. | 1,000 | 2,000 |
| Outfall Structure | 1 Ea. | 5,500 | 5,500 |
| | | Subtotal | \$ 28,514 |
| WATER | | | |
| 6" Water Line | 24 L.F. | \$ 22 | \$ 535 |
| 8" 90° Bend | 2 Ea. | 410 | 820 |
| 8" 22 1/2° Bend | 1 Ea. | 410 | 410 |
| Blow Off Valve | 1 Ea. | 1,500 | 1,500 |
| 8" Water Line | 528 L.F. | 30 | 15,831 |
| Fire Hydrants | 1 Ea. | 4,500 | 4,500 |
| 6" W.V. | 1 Ea. | 1,200 | 1,200 |
| 8" W.V. | 2 Ea. | 2,000 | 4,000 |
| 8" x 6" Tee | 1 Ea. | 750 | 750 |
| | | Subtotal | \$ 29,546 |
| TRAIL | | | |
| 8' Trail | 425 L.F. | \$ 40 | \$ 17,000 |
| | | Subtotal | \$ 17,000 |
| | | SUBTOTAL | \$ 75,059 |
| | | 10% CONTINGENCY | \$ 7,506 |
| | | TOTAL | \$ 82,565 |
| | | LETTER OF CREDIT AMOUNT AT 20% | \$ 16,513 |

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 Silverstone Subdivision Filing 5 by and between the Town of Frederick, a Colorado municipal corporation and Frederick Development Company, Inc. a Colorado corporation (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. **Letter of Credit for Public Improvement Guarantee.** The DEVELOPER has requested an exception to Section 1.12(c) of the MOAPI. The DEVELOPER is requesting that the Improvement Guarantee shall be 20% of the total cost of the Improvements for each phase of the Development, instead of 100% as the MOAPI and Land Use Code currently states.
2. **School Bus Shelters.** Section 9.9 of the MOAPI shall not apply to the Silverstone Development.
3. **United Power Overhead Lines.** The United Power overhead lines will be undergrounded from William Bailey Avenue to Colorado Blvd. at such time as 20 acres of the 40-acre commercial site are platted and under development.
4. **Private Access Improvements.** The private access improvements in Tract A of this final plat will be installed with the on-site improvements of the first building in any of the lots. The private access improvements shall be complete and accepted by the Town before a Certificate of Occupancy is issued for the first building on these lots. Improvements include curb, gutter, asphalt, public water lines, storm drain lines, and public sewer lines.
5. **Trail Along Highway 52.** The sidewalk/trail in the Highway 52 right-of-way adjacent to Lots 1 and 2 shall be installed prior to the Certificate of Occupancy of the first building on Lot 1.

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 20-R-64**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO,
AUTHORIZING THE MAYOR TO EXECUTE THE MEMORANDUM OF
AGREEMENT FOR PUBLIC IMPROVEMENTS FOR THE SILVERSTONE
FILING 5**

WHEREAS, the Final Plat for Silverstone Filing 5 was approved by the Frederick Town Board subject to the execution of a Memorandum of Agreement for Public Improvements; and

WHEREAS, a Memorandum of Agreement for Public Improvements has been negotiated and agreed to by all parties.

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

Section 1. The attached Memorandum of Agreement for Public Improvements is approved and the Mayor is authorized to sign it.

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 THIS 13TH DAY OF SEPTEMBER 8,
2020.**

ATTEST:

TOWN OF FREDERICK

By _____
Meghan C. Martinez, CMC, Town Clerk

By _____
Tracie Crites, Mayor



TOWN OF FREDERICK

Board of Trustees

Action Memorandum

Tracie Crites, Mayor

Dan March, Mayor Pro Tem
Mark Lamach, Trustee
Adam Mahan, Trustee

Rusty O'Neal, Trustee
Kevin Brown, Trustee
Windi Padia, Trustee

Consideration of Approving a Resolution Authorizing the Posting of an In-House Town Attorney Position

Agenda Date: Town Board Meeting - September 8, 2020

Attachments: a. Resolution

Finance Review: _____
Finance Director

Submitted by: Lauren Mueller
Human Resources Director

Approved for Presentation: 
Town Manager

Quasi-Judicial

Legislative

Administrative

Summary Statement:

At the August 11, 2020 Board of Trustee Meeting, the Board directed staff to bring forward a resolution approving a job description for an In-House Town Attorney.

Detail of Issue/Request:

Staff prepared a job description and proposed timeline for discussion at the September 1, 2020 Work Session. The Board requested that this item be placed on the agenda for consideration at the September 8, 2020 Board Meeting.

Approval of the attached resolution would authorize staff to advertise for a Town Attorney position for a period of three weeks. Staff anticipates the position will be posted immediately upon approval by the Board of Trustees.

Legal Comments:

Built on What Matters.

The resolution was drafted by the Town Attorney.

Alternatives/Options:

The Board may choose to approve the attached resolution and job description or provide feedback and additional direction on the position.

Financial Considerations:

This item is anticipated to be budgeted in the 2021 Fiscal Year Budget. If the individual is hired in 2020, staff may request a budget amendment to account for the additional position.

Staff Recommendation:

Staff takes no position as this is strictly a decision of the governing body.



Town Attorney

| | | | |
|-------------|-------------------|-----------------|----------------|
| EXEMPT: | Yes | CLASSIFICATION: | Full-Time |
| REPORTS TO: | Board of Trustees | DEPARTMENT: | Administration |

ABOUT FREDERICK

The Town of Frederick is located on Colorado's beautiful Front Range of the Rocky Mountains. The Town is comprised of 14 square miles of area, both east and west of Interstate 25, south of State Highway 119, and along State Highway 52. Its current population of over 10,000 residents enjoy the town's central location which allows easy access to the Denver and northern metropolitan areas. A 2019 study by AdvisorSmith named the Town of Frederick the safest city in the State of Colorado. Using crime data published by the FBI, the study ranked 83 Colorado towns, 34 midsize cities, and 11 large cities. Frederick is ranked as the safest midsize city with 10,000 to 100,000 residents.

NATURE OF WORK

The Town Attorney is responsible for handling a broad range of advanced legal matters involving municipal law. Provides legal advice and guidance to the Board of Trustees and to members of the Town staff on a variety of topics. May provide oversight and supervision to support staff in the legal department. This position reports directly to the Board of Trustees.

ESSENTIAL DUTIES

The duties listed herein are illustrative of the essential duties of the job and do not include other nonessential or peripheral duties that may be required or assigned.

- Provides assistance and legal advice to the Board of Trustees, other boards and commissions, and staff members related to a broad range of advanced legal matters involving municipal law, including but not limited to: construction and other contracts; real property; state and federal constitutional law; zoning and land use; liquor licensing; taxation; open records; election law; municipal code interpretation, drafting and enforcement; governmental liability and immunity; human resources law and enforcement.
- Drafts Town ordinances, resolutions, policies, contracts and other legal documents.
- Confers with staff regarding Town-wide and departmental policies and procedures as needed.
- Confers and coordinates with outside counsel regarding litigation on behalf of the Town.
- Works cooperatively with outside counsel that may be retained in certain specialty areas such as water rights, urban renewal and economic development.
- Advises Board of Trustees and staff members of potential problems or concerns and makes recommendations for changes or improvements.
- Provides verbal and written information as requested, including legal opinions. Researches, interprets and applies laws, court decisions and other legal authority in the preparation of opinions and briefs.
- Reviews and negotiates contracts and agreements with third parties.

Built on What Matters.

- Effectively manages workload and ensures that responsibilities comply with the Frederick municipal code, state statutes, Town policies and procedures, and applicable state and federal regulations.
- Attends all Board meetings, work sessions, planning commission meetings and other functions as requested by the Board of Trustees. Meetings and work sessions are typically held during evening hours each week.
- Oversees the office of the Town Prosecutor.
- Prepares and maintains the department's annual budget.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES

- Knowledge of labor relations, civil litigation, and municipal, state, federal and constitutional law affecting municipal government.
- Knowledge of a broad array of legal matters related to labor and employment, land use and planning and development, economic development, water rights, public finance, public contracts, public records, governmental liability, municipal code, and new and existing state and federal regulations involving MS4 permitting and storm water quality parameters.
- Knowledge of and experience with Urban Renewal Authorities and Metro Districts.
- Ability to communicate effectively verbally and in writing; ability to compose clear and concise reports, written opinions, briefs and all other correspondence.
- Skilled in managing situations requiring diplomacy, fairness, firmness and sound judgement.
- Ability to evaluate controversial situations and present options in a clear and concise manner.
- Knowledge of, and ability to effectively communicate potential or pending changes to state and/or federal laws that may impact the Town.

EDUCATION, EXPERIENCE AND TRAINING

- J.D. degree from an accredited U.S. law school and admitted to practice before the Colorado Supreme Court.
- At least 5 years of experience in the practice of municipal law.
- Previous experience managing a law office or legal department is required, including the supervision of staff.

WORKING ENVIRONMENT / PHYSICAL REQUIREMENTS

The physical demands here are representative of those that must be met by an employee to successfully perform the essential functions of this job.

While performing the duties of this job, the employee is regularly required to talk, see and hear, and to use hands to finger, handle, touch or feel. The employee is frequently required to stand, walk, sit, and reach with hands and arms. The employee is occasionally required to climb or balance and stoop, kneel, crouch, or crawl. The employee must be able to lift and/or move up to 10 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, depth perception, and the ability to adjust focus. Most work is performed in a typical office setting. Work is subject to many interruptions and requires that individuals quickly prioritize job responsibilities and project work in an environment that may involve assisting several people at the same time. The noise level is usually moderate.

The Town of Frederick is an equal opportunity employer, and does not discriminate on the basis of age, race, color, ancestry, religion, creed, national origin, gender, physical or mental disability, sexual orientation, gender identity, or veteran status. The Town complies with the Civil Rights Act of 1964, related Executive Orders 11246 and 11375, Title IX of the Education Amendments Act of 1972, Sections 503 and 504 of the Rehabilitation Act of 1973, Section 402 of the Vietnam Era Veteran's readjustment Act of 1974, the Age Discrimination in Employment Act of 1967, as amended, the Americans with Disabilities Act of 1990, the Civil Rights Act of 1991, and all civil rights laws of the State of Colorado. Accordingly, equal opportunity of employment shall be extended to all persons and the Town shall promote equal opportunity and treatment through fair and equitable hiring practices. The Town of Frederick Administration Building is located at 401 Locust Street, Frederick, CO 80530.

**TOWN OF FREDERICK, COLORADO
RESOLUTION NO. 20-R-65**

**A RESOLUTION OF THE TOWN OF FREDERICK, COLORADO APPROVING
THE JOB DESCRIPTION OF THE TOWN ATTORNEY AND DIRECTING
TOWN MANAGER TO ADVERTISE THE POSITION OF TOWN ATTORNEY**

WHEREAS, the Board of Trustees has determined that the position of Town attorney should be advertised as a full-time position; and

WHEREAS, the Board of Trustees has determined that a revised job description for Town Attorney should be approved.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Frederick, Colorado, that:

Section 1. The attached job description and salary range for the position of Town Attorney is approved.

Section 2. The Town manager is directed to take the steps necessary to advertise for the position of Town Attorney for a period of three weeks.

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 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 ADOPTED THIS 8th DAY OF
SEPTEMBER 2020.**

ATTEST:

TOWN OF FREDERICK

By _____
Meghan C. Martinez, CMC, Town Clerk

By _____
Tracie Crites, Mayor