

**CONTRACT TO PROVIDE SERVICES  
AND PRE-ANNEXATION AGREEMENT**

THIS CONTRACT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between the TOWN OF COLLBRAN, COLORADO, a municipal corporation (hereinafter "Town") and \_\_\_\_\_, as the owners of the real property described hereafter (hereinafter "Owners");

**WITNESSETH:**

WHEREAS, the Owners desire to obtain the municipal service hereinafter described from the Town, and the Town is capable of providing such service; and

WHEREAS, the Owners' property, hereinafter described, is presently capable of being annexed to the Town of Collbran, but the Owners' wish to delay annexation for a period of time as described in Paragraph 8 herein. However, at such time as Owners' meet the criteria described in Paragraph 8 herein, Owners agree to annex the property to the Town; and

WHEREAS, the parties desire to enter into this Agreement pursuant to C.R.S. §31-12-121 to set forth the terms and conditions of the extension of such services by the Town.

NOW THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties agree as follows:

1. Service Provided. The Town agrees to provide Owners with the following municipal services: water / sewer (circle those that apply)

2. Property Served. The Town will provide said service to Owners' property (hereinafter "Property"), situate in the County of Garfield and State of Colorado, and described in Exhibit A attached hereto and incorporated herein by this reference.

The street address of Owners' Property is:

3. Uses. The service described in Paragraph 1 shall be provided to the Property described in Exhibit A for the following uses only (residential, commercial etc):

4. Costs. The Town will provide said service subject to the rules, regulations, charges, fees, and ordinances of the Town of Collbran as are now in effect, or as they may hereafter be amended. The cost of extending service lines will be borne by the Owners, as provided in the Collbran Municipal Code. At or prior to the first delivery of municipal service pursuant to this Contract, the Owners agrees to pay all system improvement fees at the out-of-Town rate. Owners further agree to reimburse the Town for all engineering, legal, and associated fees and costs it incurs in the review and implementation of this Contract. The Owners and their agents, employees, and tenants shall be bound by all of the ordinances of the Town of Collbran insofar as they may pertain to the provision of the municipal service herein described.

5. Service Charges. During the term of this Contract, the Owners agree to pay for the above-described municipal service at the rate and in the manner which may be provided by the Collbran Municipal Code for municipal utility consumers residing outside the Town limits. The Town reserves the right to modify these charges or regulations.

6. No Precedential Value. Nothing herein shall obligate the Town to extend additional service to the Owners or to the Property, other than that service described in Paragraph 1, above. There shall be no expansion of such service without the express written consent of the Town.

7. Service Subject to Municipal Code Provisions for Breach. The extension of municipal service under this Agreement is subject to all requirements of the Collbran Municipal Code applicable to the supplying of such services now in effect or as hereafter amended. A failure by the Owners to comply with all applicable provisions of the Collbran Municipal Code or with the terms of this Contract shall constitute a material breach, and the Town shall be entitled to terminate this Contract upon such a breach and/or to discontinue the municipal services provided hereunder.

8. Annexation. To the maximum extent permitted by law, the parties agree that this Contract, pursuant to C.R.S. §31-12-121, constitutes an enforceable obligation upon the Owners, their successors, and assigns to annex the Property as required under the terms hereof. At such time as the Property is subject to a land use application for zoning, creation of additional lots, conditional or special use permits, or any similar land use request or within five years of the date of this agreement whichever occurs sooner, the Owners shall submit a petition for annexation to the Town to annex the Property to the Town. The Owners may annex their Property in conjunction with adjoining property owners; provided, however, that a petition for annexation is filed within sixty (60) days of the time the Owners' Property becomes eligible for annexation. The Owners shall pay all costs for review of the annexation petition, as required by the Town of Collbran. The passage of time between the eligibility of the Property for annexation and the time the Town requests the Owners file a petition for annexation shall not constitute a waiver of the Town's right to enforce, or estop the Town from enforcing, the Owners' obligations under this paragraph. As required by the Collbran Municipal Code, the Owners will be required to submit a request for zoning with their petition for annexation or petition for annexation election.

9. Payment of Costs of outside Consultants and Fees Including Impact Fees.

Owners agree to pay at the time of annexation all applicable fees for the costs of outside consultants used by the Town for review of the application, application fees, offsite street impact fees and parkland dedication fees for the Property in the amounts set forth under duly adopted rules and regulations of the Town, or as hereafter amended, and any other fees prescribed by Resolution or Ordinance as may apply to annexations.

10. Termination Upon Annexation. This Contract shall terminate automatically on the effective date of the annexation to the Town of the Property; provided, however, that nothing in this paragraph shall limit any other rights of termination provided in this Contract. Upon termination after annexation, service to the Property shall be provided pursuant to the Collbran Municipal Code and all applicable rules and regulations. Until annexation, nothing herein shall be construed as obligating the Town to provide additional municipal services or taps of any kind to the Owners of the Property.

11. Districts. The Owners, upon execution of this Contract and at any time thereafter, shall join in any street, curb, sidewalk, or other improvement district which may be formed by the Town and which affects the Property.

12. Failure or Refusal to Annex. In the event the Owners fail to annex their Property to the Town as required by this Contract, the Town may, at its sole option and without otherwise limiting its legal rights, bring an action at law or equity, including an action for specific performance, to enforce the terms of this Contract, to compel the Owners to provide municipal service(s) to the Property, or treat this Contract as a petition for annexation and annex the Property without consent after thirty (30) days' written notice to Owners. The rights and remedies under this paragraph shall be cumulative. To the extent permitted by law, the Owners hereby appoint the Town Clerk as their attorney-in-fact to execute and deliver all documents necessary to annex Owners' Property to the Town, should the Owners fail or refuse to annex as required under this Contract. If the Town proceeds to annex the Owners' Property as permitted under this paragraph, it may advance all fees and costs related to the annexation, and shall be entitled to recover the same as a personal obligation of the Owners. Such fees and costs shall also constitute a lien against the Owners' Property, which may be foreclosed as provided by law.

13. Lien Rights. The Town shall be entitled to prepare and record a lien against the Owners' Property for the amount of any costs, fees, and other expenses which it has advanced or which the Owners are required to be pay pursuant to this Contract and/or the Collbran Municipal Code. Such costs and fees include, but are not limited to, system improvement fees, user fees, recording, annexation, and staff review and document preparation fees and costs; and engineering and attorneys' fees.

14. Time of Connection. The Owners shall, at their expense, connect to the offered Town service pursuant to the Collbran Municipal Code within one (1) year of the date of execution of this Contract and said connection shall comply with the requirements of the Town of Collbran Public Works Manual and other applicable Town standards and specifications. In the event the Owners do not make such connection within such one-year time period, this Contract shall be null and void and of no precedential value, and all parties relieved of all obligations hereunder; provided, however, that if the Town physically connects the offered Town

service to the Owners' Property after one (1) year, the fact of connection shall constitute a waiver of the time limit contained in this paragraph, and a bonafide purchaser of the Owners' Property shall be entitled to rely thereon.

16. No Guarantee of Fire Flows. Nothing herein shall be construed to obligate the Town to provide adequate fire flows for residences or developments outside the Town which receive Town water or sewer services hereunder.

17. Miscellaneous. The parties agree time is of the essence in the implementation of this Contract. All of the terms and conditions of this Contract shall bind the heirs, successors, assigns, or personal representatives of the parties hereto. This Contract constitutes a covenant which runs with the real Property. This Contract sets forth the entire understanding between the parties, and any previous agreements, promises, or understandings have been included in this Contract.

18. Recording; Fees. The Town shall record this Contract upon execution. The Owners shall simultaneously with the execution of this Contract tender to the Town the actual amount of recording fees. (Checks shall be payable to the Mesa County Clerk and Recorder.)

19. Affidavits. Upon completion or satisfaction by the Owners, or their successor in title, of all of the terms and conditions of this Contract, the Town Administrator is authorized to prepare an affidavit to that effect which the owner may record with the Mesa County Clerk and Recorder. If the Owners do not connect to the different Town services within the time limit in Paragraph 14, the Town shall have the right to record a notice of the termination of this Contract.

20. Regulatory Jurisdiction. The Town shall have the right to terminate this Contract in its sole discretion in the event the Colorado Public Utility Commission, the Mesa County Commissioners, or any other governmental entity or body asserts regulatory jurisdiction over the rates, fees, or charges the Town imposes pursuant to this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract on the day and year first written above.

TOWN OF COLLBRAN, COLORADO

By \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

OWNERS:

\_\_\_\_\_  
\_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF )

Acknowledged, subscribed, and sworn to before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_, Mayor, and \_\_\_\_\_,  
Town Clerk, on behalf of the Town of Collbran, Colorado.

WITNESS my hand and official seal.

My Commission expires \_\_\_\_\_

**Sample**

\_\_\_\_\_  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF )

Acknowledged, subscribed, and sworn to before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_ and \_\_\_\_\_.

WITNESS my hand and official seal.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

LEGAL DESCRIPTION

**Sample**