



# Town of Johnstown

## Right of Way Permit Application

Applicant Name \_\_\_\_\_ Application Date: \_\_\_\_\_

Company Name \_\_\_\_\_ Company Contact \_\_\_\_\_

Company Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email \_\_\_\_\_

Site Location of Work: \_\_\_\_\_ (Map must be included in submittal)

Work Starting Date Requested \_\_\_\_\_ Anticipated Work Completion Date \_\_\_\_\_

**Note:** Permit cannot be granted for work more than 30 days in advance. Town requires 10 days for review and approval of application. All road closures will require notification to the Public via VMB's 7 days in advance of closure. Permit extension request must be obtained 48 hours in advance if work completion date needs to be extended (\$75 extension fee applied). Any work resulting in a reinspection by Town Staff will result in additional fee of \$50.

Description of the work to be performed: \_\_\_\_\_  
\_\_\_\_\_

### Please Check Type of Work:

- Town Capital Improvement Project
- Occupy Right of Way Only
- Potholing - # of potholes \_\_\_\_\_ x \$50ea
- Street Cut/Patching/Trenching/Boring
  - Residential Road # of (cut/patch/trench/bore) \_\_\_\_\_ x \$150ea
  - Collector or Arterial Roadways # of (cut/patch/trench/bore) \_\_\_\_\_ x \$350ea
- Sewer/Water Utility Install \_\_\_\_\_ \$100 Residential \_\_\_\_\_ \$500 Commercial

### Application Materials

*(All materials Required to be Submitted in a PDF Format or application will be rejected)*

- Completed Application – Signed and Dated
- Traffic Control Plan (MHT)
- Detailed Map w/ Plans
- Certificate of Insurance

**Notice:** I have read and understand the requirements the Town has set forth in this application.

Applicant Signature of Acknowledgement: \_\_\_\_\_ Date \_\_\_\_\_

<b>To be completed by Johnstown</b>		
Application Fee: \$150	Fees from Above: \$ _____	Total Due \$ _____
Approved by: _____	Date: _____	
Extension Approved by _____	Date: _____	<input type="checkbox"/> \$75 Extension Fee Paid

## Permit Agreement

### SUBMITTAL REQUIREMENTS

**1. Complete application.** Permittee must submit a complete Right-of-Way Use Application and include required submittals for review and consideration of its Project. If the Project is approved, a Right-of-Way Use Permit will be issued to the Permittee. It is the Permittee's responsibility to inform its Contractor of all Permit requirements, Provisions, and attached Special Provisions.

**2. Drawing, plan set, and map.** A drawing, plan set and map are required to be submitted with the Application. Detailed plan(s), sketch, and/or map(s) showing the work location and roadway, edge of roadway, Johnstown ROW lines, at least one crossroad, and a legend. It is preferred, that drawings be 11x17 or capable of being printed out in 11 x 17. All underground installations must include a cross section typical showing depth of line being installed per Johnstown requirements based on the lowest point of the Johnstown ROW and show the Johnstown ROW width. Drawings at intersections must be in plan and profile and shall be at a scale of 1:100 or as determined by the Department of Public Works.

**3. Traffic Control Plan.** A Traffic Control Plan (TCP) or Method of Handling Traffic (MHT) must be submitted and approved prior to Permittee's commencement of work. Permittee shall provide all necessary traffic control in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) in drawing form; narratives will not be accepted.

- a) Flaggers shall be required at any locations where there is encroachment into a travelling lane.
- b) Full road closure requests must be prepared by and signed by a Traffic Control Supervisor (TCS).

**4. Insurance.** Permittee and/or its Contractor shall secure and maintain insurance policies and/or provide proof of adequate self-insurance that will protect itself, its sub-contractors, members of the public who use the right-of-way associated with the Project, and Johnstown, Colorado, from claims for bodily injury, death, or property damage which may arise from the construction of the Project, or caused by the facilities which are constructed as permitted herein. The following insurance policies and amounts are required. Certificates of insurance evidencing such policies shall be delivered to the Johnstown Department of Public Works:

- a) Statutory Worker's Compensation.
- b) Contractor's public liability and property damage in the following sums:

Bodily Injury:		Property Damage:	
Each person	\$1,000,000	Each accident	\$1,000,000
Each accident	\$1,000,000	Aggregate	\$2,000,000

**Bonding and Surety.** If determined necessary by Johnstown's Department of Public Works, Permittee shall provide a surety bond or other security for the total amount required to restore the right-of-way under which the Project is to be installed or constructed, based upon current Johnstown Department of Public Works contract prices for the performance of such work. Said collateral shall remain in effect for a period of two (2) years after inspection of completed construction by Johnstown Department of Public Works. Whether or not covered by a bond, Permittee shall reimburse Johnstown for all expenses incurred by it as the result of, or related to, the failure by Permittee or its Contractor to perform all installation, construction, maintenance or other work pursuant to this Permit in a workmanlike manner.

**6. Geotechnical Submittals.** The Johnstown Department of Public Works reserves the right to request from Permittee geotechnical submittals if deemed necessary.

**The grant of this Permit is conditioned upon Permittee's and its Contractor's compliance with the General Provisions, Construction Provisions, Pipeline Provisions (if applicable), and General Matters set forth below. By accepting this Permit, Permittee and its Contractor agree to comply with the terms and conditions set forth herein.**

## GENERAL PROVISIONS

### 1. Permit Required.

- a) Commencement of construction prior to receiving an approved Permit will result in applicable penalties (see emergency repair section for exclusions (see item number 9 below).
- b) Contractor must have a copy of this Permit on site during construction of the Project.
- c) This Permit requires commencement of construction within two (2) months from date issued unless otherwise stated. The Permittee may apply for an extension if work is not completed before the expiration date listed on the permit. All applicable fees must be paid before extension will be issued. If an existing permit to another company has been approved for the timeframe of the extension request, the extension may be denied for that timeframe.

**2. Inspection.** Inspection of work performed in Johnstown right-of-way is required. The Johnstown Department of Public Works must be notified 48 hours prior to commencing all work within Johnstown right-of-way. Final inspections are required. Johnstown shall have the right to order Permittee or its Contractor to stop work anytime Johnstown believes that a violation of this Permit has occurred or if there is a danger to the safety of the public if the work continues.

**3. Additional Permits.** Permittee shall be responsible for obtaining all other state, federal, or local permits which may be required of Permittee and/or its Contractor to install and/or maintain its Project. Permittee shall provide evidence of such other permits upon request by the Johnstown Department of Public Works.

**4. Determination of Placement.** Johnstown reserves the right to determine the specific placement of the Project within its right-of-way.

**5. Suspension of Work.** Johnstown's Department of Public Works shall have the authority to suspend work, wholly or in part, because of the failure of Permittee to properly execute the work in accordance with this Permit. Notwithstanding the issuance of this Permit, Johnstown reserves the right to make or to require Permittee to make any changes, additions, repairs or required relocation of any facilities within the dedicated right-of-way at any time.

**6. Setback Requirements.** By accepting this Permit, Permittee hereby waives its right to require industry setback requirements which it might otherwise require from other utilities which may be placed in Johnstown's right-of-way and relinquishes its authority over the placement of all other electric, power, gas, communications or other conduits, pipelines, appurtenances, or irrigation structures which Johnstown may allow to be placed in its Right-of-way. Johnstown must approve location prior to construction.

**7. Compliance with Utility Notification Requirements.** Permittee and/or its Contractor shall comply with all applicable requirements of C.R.S. §§ 9-1.5-101, et seq., and be responsible for locating all existing utilities and registering all new lines with 811. Contact the Utility Notification Center of Colorado at 811 or 1-800-922-1987 at least two days in advance of digging. Markers and flags are valid for 30 days. Permittee must remove all utility locates such as flags and marker pins from the right-of-way once the construction is complete. Any subsurface utility engineering notification sent to the Colorado Notification Association shall also be sent to the Johnstown Department of Public Works.

**8. No Damage to Other Projects.** No culverts, irrigation structures, drain lines, utility lines, or any other Projects or facilities within the right-of-way are to be cut or damaged. In the event Permittee or its Contractor damages an existing facility, Permittee shall first notify the owner and either immediately repair and replace the damaged facility or pay the owner to repair and replace the same in accordance with the desires of the owner.

**9. Emergencies.** Permittee shall report all emergency repairs to Johnstown Public Works immediately upon being advised that an emergency exists. During such repairs, Permittee shall utilize proper traffic control measures. Permittee shall apply for a Right-of-Way Use Permit and make the required repairs as soon as practicable after the Johnstown Department of Public Works is notified of the emergency situation and the need for such repairs. In no event shall such repairs be completed later than 24 hours after receiving such notification, unless adverse weather conditions prohibit the repair process.

**10. Changes Made to the Right-of-way - Permittee's Financial Responsibility.** In the event changes are made by Johnstown to the right-of-way or appurtenances within the right-of-way that would necessitate removal or relocation of the Project, Permittee shall do so promptly at its own expense upon the request of Johnstown.

**11. Permittee Responsible for All Project Related Expenses.** The construction, operation, maintenance and repair of the Project constructed by Permittee, and all other improvements described in this Permit, shall be at its own expense and without the aid or use of Johnstown funds.

**12. Permittee Solely Responsible.** Permittee or its successors and assigns, remains solely responsible for all matters pertaining to the Project and all costs associated with or pertaining to the Project. These responsibilities include, but are not limited to, the following: repair and maintenance of the physical components of the Project; removal of the physical components of the Project upon retirement of the use or following the request of Johnstown to remove the Project; cooperation with Johnstown and other Permittees whose projects are placed in Johnstown's right-of-way.

**13. Successors and Assigns of Permittee.** It is mutually understood and agreed that this Permit and all the terms and conditions hereof shall extend to and be binding upon the Permittee and its successors, and assigns.

## **CONSTRUCTION PROVISIONS**

**1. Road Crossings.** All underground installations crossing maintained or non-maintained Johnstown roadways and right of ways shall be by directional bore unless otherwise approved by Johnstown Public Works.

**2. Parallel Installations.** Parallel installations within the untraveled portion of Johnstown right-of-way may be performed by bore, trenching, plowing, drilling or excavation.

### **3. Bridge Structures.**

- a) No lines shall be attached or otherwise placed along or upon any Bridge structure or wing walls.
- b) No continuous line shall be installed crossing under a bridge structure.
- c) Underground projects installed parallel to a bridge structure must maintain a minimum clearance of five feet (5') from all wing walls and pilings.

**4. Minimum Cover for Johnstown right of way installations.** All depth requirements are minimums and are subject to approval or modification by the Department of Public Works based on engineering and safety standards and existing utilities in the right-of-way. In no event shall any facilities be installed in Johnstown right-of-way at depth less than four feet (4') from top of line measured from the lowest point of the right-of-way.

- a) Dry utilities shall be installed at a minimum depth of four feet (4') from top of line measured from the lowest point of the right-of-way (flowline).
- b) Wet utilities shall be installed at a minimum depth of six feet (6') from top of line measured from the lowest point of the right-of-way (flowline).
- c) All types of oil and gas lines shall be installed at a minimum depth of ten feet (10') from top of line measured from the lowest point of the right-of-way (flowline). Concrete surfaces shall be crossed at a minimum depth of fifteen feet (15') from top of line measured from the lowest point of the right-of-way (flowline).
- d) All line types crossing Non-maintained right-of-way shall be at a minimum depth of four feet (4') from top of line measured from the lowest point of the right-of-way (flowline).

- e) Culverts must have a minimum of twelve inches (12") of cover.

**5. Daily Construction Requirements.** At the end of each day during the installation and construction of the Project, Permittee shall observe the following requirements:

- a) Working hours allowed under this Permit are from 7:00 am to 5:00 pm M-F. Any work on Saturday must be approved by the Johnstown Public Works Department.
- b) All materials shall be removed a minimum of ten feet (10') from outside edge of the road shoulder.
- c) All excavations upon the traveled portions of the right-of-way shall be back-filled (or plated if pre-approved by the Public Works Department) in accordance with the compaction requirements set forth below unless otherwise approved by Johnstown.
- d) All traffic signs must be in place per the approved Traffic Control Plan or removed or covered if not applicable to nightly activities.

**6. Equipment Movement and Equipment Crossings.**

- a) Movement of cleated or track equipment is restricted to the immediate work area. Equipment shall be transported to a proper unloading area. No cleated or track equipment may work on or move over any road way surface without mats.
- b) Equipment crossings, in line with the Project, shall be built up level with the road surface with a practicable anti-tracking material to prevent damage to the road surfaces and shoulder areas. Crushed concrete is prohibited for use as a surface material. A minimum of a twelve-inch (12") culvert shall be placed in ditch areas under tracking pad to maintain proper drainage. Existing ditch and upstream and downstream culverts must be observed in determining appropriate drainage culvert size.

**7. Site Markers.** Permittee shall mark the site of the construction of the Project, whether permanent or temporary, with markers acceptable to Johnstown Department of Public Works. Markers shall be placed as far from edge of road as to not interfere with normal road maintenance.

**8. Future Line Location.** The installation of non-ferrous lines in the right-of-way shall require a suitable means to facilitate future line location with tracer wire installed above the line and registration with 811.

**9. Concrete Surfaces.** There is a strict no cut policy on all concrete surfaces, which includes potholing. Any damage or cutting of concrete surfaces will result in the Permittee being responsible for the cost of a full replacement of concrete panel(s) by a Contractor approved by Johnstown. Bore grout may be required for concrete surfaces.

**10. Asphalt Surfaces.** Asphalt surfaces are not to be cut unless approved by the Johnstown Department of Public Works. If an asphalt surface cut is granted, the cut may be temporarily repaired using flowable fill cement. Permanent repair will require T-Patch as shown on T-Patch detail.

**11. Compaction Requirements.**

- a) All compaction of backfills and road surfaces shall be compacted in accordance with the most current versions of the Colorado Department of Transportation (CDOT) Standard Specifications for Road and Bridge Construction and Field Materials Manual.
- b) All backfills located within an existing asphalt surface or under the asphalt not currently in place but will be as part of an existing roadway, must be compacted using flow-fill cement in the upper three feet (3') of backfill.
- c) If any wet or non-compactable materials are produced from excavations, they shall be completely removed from the right-of-way and replaced with compactable materials. the right-of-way shall then be returned to the original grades and cross sections. Johnstown Department of Public Works shall have the authority to determine what materials shall be discarded and what materials shall be acceptable as replacement.
- d) On gravel roads where excavation materials are stacked on the road surface, road base of CDOT class V or Class VI shall be required at a minimum depth of six inches (6") upon completion of the work. Shoulders on paved roads or barrow ditches where excavation is done shall require a minimum of four inches (4") of

CDOT Class V or Class VI road base material is required. These amounts are minimums and do not supersede any requirements within the Permit.

- e) On gravel roads where excavation is done within the roadway or shoulder, backfilling lifts greater than eight inches (8"), but not exceeding twelve inches (12"), shall be permitted providing that Permittee has suitable equipment to properly compact the depth of lift placed. Johnstown Public Works shall determine if Permittee's equipment and the depth of backfill lift is appropriate. Ninety-five percent (95%) of a standard proctor shall be required at any trench depth or in replacement of any materials within the right-of-way. Installations running parallel within a gravel roadway will require a final placement of a minimum of six inches (6") of surface gravel after all of the Project has been placed and compaction test results are in compliance.
- f) Potholes in gravel surfaces shall be filled completely with road base and compacted. Potholes in asphalt shall be filled with a cement/grout to existing thickness plus 1 (+1) or filled with a compactable base material and the final placement a HMA or concrete material or fully intact core (if pre-approved) and grouted.

**12. Reseeding.** Permittee shall reseed, with a seed mix approved by Johnstown Department of Public Works, all areas within the right-of-way in which vegetation was removed or disturbed during the installation of its Project.

**13. Points of Access.** Permittee shall install manholes and other points of access to underground lines within the boundaries of the right-of-way outside the normal wheel path of the roadway so that they do not obstruct maintenance operations within the right-of-way. Permittee shall, at its sole expense, adjust access points, when requested to do so by Johnstown.

**14. Survey Monuments.** Permittee or its Contractor shall preserve or replace all survey monuments or benchmarks at each work site. If such monuments or benchmarks are destroyed, Permittee shall hire a registered land surveyor to replace destroyed monuments or bench marks. If Permittee chooses to preserve such monuments or benchmarks, it shall also hire a registered land surveyor to complete such preservation.

**15. Permittee's Obligations Regarding Surveys.**

- a) All surveying performed within the boundaries of the right-of-way shall be conducted with proper safety equipment and advanced warning signs;
- b) Surveying permit holders can be issued an annual permit.
- c) Any excavation within the boundaries of the right-of-way will be backfilled with the same material or better than what was excavated.

**16. Permittee's Obligations Regarding the Completion of Project.**

- a) Permittee shall complete road restoration including, but not limited to, clean-up (including utility markers), signage, repair of damaged facilities, and trench compaction.
- b) All disturbed portions of the right-of-way or damaged road surfaces are to be returned to their original condition prior to demobilizing. If the right-of-way is not returned to original conditions, Johnstown may perform or contract such remedial work and Permittee shall pay for all work or forfeit its surety bond to pay for all work done.
- c) Permittee shall own, maintain, operate, and repair any line installed or constructed herein in accordance with the regulations, conditions and terms of this permit. No lines installed within Johnstown rights-of-way may be abandoned by the owner at any time. Although the lines may be retired, they may not be abandoned and all responsibility for such lines remains with the owner. Johnstown does not recognize, nor accept, any lines designated by any other source as abandoned, and Johnstown will continue to expect such lines to be maintained or removed by the Permittee.

**17. Line Retirement.** Retirement of lines in Johnstown right-of-way are still required to be located as part of 811. If Johnstown approves a line to be retired, the retirement of an existing line in the right-of-way shall be subject to conditions as determined by the Johnstown Department of Public Works based on the age, condition, material type, and size. Permittee shall cut, cap, and fill Project(s) that are not required to be removed.

**18. Line Abandonment.** If Permittee desires to abandon a line from being located as part of 811 notification, Permittee shall completely remove the line from Johnstown right-of-way, unless otherwise approved by Johnstown.

**19. Drainage Interference.** Permittee shall not obstruct the natural free and clear passage of water along the roadside ditch flow lines or other waterways. If surface drainage is to be affected, Permittee is responsible for the proper disposition of the runoff.

## **PIPELINE PROVISIONS**

### **1. Natural Gas/Crude Oil Pipelines.**

- a) Road crossings for natural gas/crude oil pipelines must be by directional bore, only.
- b) Above-ground appurtenances and/or equipment are not permissible for installation within the Johnstown right-of-way and must comply with setback requirements.

### **2. Permanent Fresh Water (Non-Potable) Pipelines.**

- a) Road crossings for permanent fresh water (non-potable) pipelines must be by directional bore, only.
- b) Permanent fresh water (non-potable) pipelines must extend past future right-of-way prior to daylighting
- c) Above ground appurtenances and/or equipment are not permissible for installation within the Johnstown right-of-way and must comply with setback requirements.
- a. Johnstown approval is required for any change of use or retirement of a permanent fresh water (non-potable) pipeline.

### **3. Temporary Fresh Water Above-Ground Transfer Pipelines.**

- a) Fresh water above-ground transfer pipelines are allowed as a temporary use for a period of 6 months or less for both road crossings and parallel installations. See the limitations and restrictions set forth below depending upon crossing methods.
- b) Fresh water above-ground transfer pipelines may transfer fresh or recycled water, only.
- c) The source of water must be disclosed on the Right-of-Way Use Application.
- d) The use of unmaintained Johnstown right-of-way for temporary fresh water above-ground transfer pipelines shall be negotiated with the landowner(s).
- e) Existing driveway culverts may not be used for water transfers.
- f) All pipelines or lay flat pipes occupying the right-of-way (running parallel to the roadway) must be secured up out of the ditch flowlines and away from the road edges. They may not interfere with normal road maintenance.

#### **Crossing methods for temporary fresh water above-ground transfer pipelines:**

##### **1) Plate/Manifold:**

- a) Applicable for untreated gravel roadways for a transfer duration of 10 days or less.
- b) Must be covered with Class 6 road base with a minimum of 15-foot road base tapers on each side. All forms of traffic must be able to safely cross the plate/manifold.
- c) Traffic control signs required including a speed reduction to 15 mph for the duration of the transfer.
- d) Permittee is required to maintain the crossing which includes 24-hour snow removal in winter.

##### **2) Culvert Sleeve:**

- a) Applicable for longer term transfers crossing untreated gravel roadways only.
- b) Maximum culvert size is 18" outside diameter unless approved by the Johnstown Department of Public Works.
- c) Minimum of 18" of Class 6 road base cover on culvert.
- d) Compaction tests of road base is required after culvert is removed if flowable fill is not used for final restoration of the roadway.

### 3) Existing Culverts:

- i. Requests for use of existing Johnstown culverts (any culvert crossing under a Johnstown maintained roadway or intersection) are subject to special review. Use is for a maximum of 15 days.
- ii. Existing culverts are not available for use from March through October.
- iii. Driveway/access culverts are not available for use.
- iv. If the culvert also serves for irrigation, written permission from the Irrigation or Ditch Company is required.
- v. Culvert must be cleared anytime drainage is impeded due to run-off or flooding.

### 4) HDPE or PVC Pipe:

- a) Applicable for longer term transfers where a paved, hard surface, or treated gravel roadway must be crossed.
- b) Pipeline ends must extend past future right-of-way before daylighting.
- c) Johnstown approval is required for any change of use or retirement of the pipeline.

### 4. Produced Raw Water Pipelines.

- a) No temporary above-ground transfers.
- b) Pipelines will only be considered for approval that are transferring to a Johnstown approved injection or recycling facility.
- c) Casing is required for crossing under Johnstown roadways.
- d) Casing type may be determined by the Permittee or its Contractor.
- e) Casing maximum outside diameter is not to exceed 12".
- f) Casing ends must extend outside of the Johnstown right-of-way.
- g) If Flex Steel Pipe is used, casing requirement will be waived.
- h) Maximum size of the produced water pipeline is not to exceed 8" and not to exceed 10" OD.
- i) Requests for larger diameter pipelines will require special review by the Johnstown Department of Public Works.
- j) Location markers shall be green in color and must list "produced water" and an emergency contact number.

## GENERAL MATTERS

### 1. Terms.

- a) All references herein to "**Right-of-Way**" refer to a portion of land that is dedicated or granted to and accepted by Johnstown for access, transportation and any other lawful purposes, such as a paved or gravel roadway or highway whether maintained or not-maintained by Johnstown. The term is used as both singular and plural.
- b) All references herein to "**Permittee**" are to any persons and/or entities applying for and being issued a Right-of-Way Use Permit granting permission to construct their Project within Johnstown's right-of-way.
- c) All references here to "**Lines**" means all underground and overhead cable, telephone, electric, power, wire, gas and irrigation lines, and/or appurtenances, structures or pipelines.
- d) All references herein to "**Contractor**" are to any persons or business entities retained by Permittee to install the Project in Johnstown right-of-way.
- e) All references herein to "**Permit**" refer to the Right-of-Way Use Permit, including all Permit requirements, provisions, and General Matters. .
- f) All references herein to "**Project**" are to the development project that requires access to the Right-of-Way.

**2. Johnstown's Limited Interest in Right-of-Way.** Johnstown does not, by the issuance of the Permit, warrant ownership of the Right-of-Way. Permittee is responsible for determining the ownership of properties traversed by its lines, the location of all property boundary lines, and the ownership of all right-of-way. Therefore, Permittee



shall obtain from the fee title owner(s) of non right-of-way property authority or rights the Permittee may need, in addition to this Permit, for Permittee's use of the right-of-way. Permittee acknowledges and agrees that the authorization granted herein by Johnstown is subject to Permittee's securing such authority or rights.

**3. Rights Reserved by Johnstown.** Permittee acknowledges and agrees that the Right-of-Way which is the subject of this Permit exists as public right-of-way for the primary benefit of the travelling public, and that the rights granted in this Permit to the Permittee are subject to Johnstown's rights and obligations to preserve and maintain the Right-of-Way and the public's right to continue to travel safely upon the Right-of-Way.

- a) Subject to the rights granted herein to Permittee, Johnstown reserves the right to use the Right-of-Way for existing and future construction, operation, maintenance, repair, replacement relocation and abandonment of its own use and facilities.
- b) Johnstown reserves the right to revoke the Permit at any time if Permittee or its Contractor fails to comply with the requirements of the Permit. Should the Permit be terminated for non-compliance by Permittee or its Contractor, any lines or facilities installed prior to the termination shall remain the responsibility of the Permittee and may be removed or maintained by Permittee at the sole discretion of Johnstown.
- c) The Permit is non-exclusive. Johnstown reserves the right to allow other public and private utilities and entities to utilize the subject Right-of-Way and may impose location requirements and restrictions on Permittee in anticipation of requests by future public and private utilities and entities to occupy the Right-of-Way.
- d) Johnstown reserves the right to reconstruct, widen and/or maintain the Right-of-Way which is the subject of the Permit. In the event the work requires Permittee to incur expenses to preserve, re-locate or maintain its Project, Permittee shall do so upon written notification from Johnstown at its sole cost within 180 calendar days.

**4. Indemnification.** Except for the negligence of Johnstown, Permittee shall indemnify and save harmless Johnstown, its, officers, employees, agents, successors and assigns, from any damage or loss sustained by them or any of them, which arises by reason of Permittee's negligence or willful conduct with respect to the installation, upgrade and/or maintenance of the Project or use of the Right-of-Way or by any other reason associated with the Permit.

**5. Hold Harmless.** Permittee agrees to protect Johnstown and save and hold Johnstown, its, officers, employees, agents, successors and assigns, harmless from any and all third-party claims and/or damages arising directly or indirectly from the installation and/or maintenance of Permittee's Project and related facilities, use of the Right-of-Way or any other reason associated with the Permit. Additionally, Permittee releases Johnstown, its, officers, employees, agents, successors and assigns, from any and all claims and damages to property owned by Permittee resulting from any act, either by or on the part of Johnstown or by or on the part of any third-party acting on behalf of Johnstown, related in any way to the Permit.

**6. No Assignment.** Permittee shall not assign any or all of its rights under the Permit without first obtaining written consent to such assignment from Johnstown, which consent shall not be unreasonably withheld. In the event Permittee contracts with a third-party Contractor to perform the work associated with the installation of the Project, Permittee remains solely responsible for Contractor's compliance with the terms and conditions of the Permit.

**7. Entire Permit Agreement.** The parties hereby agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein, and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party hereto, or its agents or employees. The Permit and the terms contained herein embody all agreements between the parties hereto and there are no promises, terms, conditions, or obligations referring to the subject matter whereof other than as contained herein.

**8. Effect of Invalidity of Provision.** If any term or provision of the Permit, or the application thereof to any person or circumstances, shall, to any extent, be held invalid or unenforceable, the remainder of the Permit, or the application of such terms or provisions, to a person or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of the Permit shall be deemed valid and enforceable to the extent permitted by law.

**9. No Waiver of Immunity.** No term or condition of the Permit shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act §§24-10-101 et seq., as applicable now or hereafter amended, afforded to Johnstown.

**10. No Third Party Beneficiary.** It is expressly understood and agreed that the enforcement of the terms and conditions of the Permit, and all rights of action relating to such enforcement, shall be strictly reserved to Johnstown and nothing in the Permit shall give or allow any claim or right of action whatsoever by any other person not included in the Permit. It is mutually understood and agreed that the Permit and all the terms and conditions hereof shall extend to and be binding upon the Permittee, its successors and assigns.