

**WATER AND SEWER SERVICE AGREEMENT  
(EAST LEDGE ROCK CENTER FILING NO. 3 - SINGLE FAMILY RESIDENTIAL)**

THIS WATER AND SEWER SERVICE AGREEMENT (“Agreement”) is made and entered into this \_\_\_ day of \_\_\_\_\_ 2023, by and between **LEDGE ROCK CENTER, LLC**, a Kansas limited liability company (“Developer”), and **THE TOWN OF JOHNSTOWN**, a Colorado municipal corporation (“Town”), collectively sometimes referred to as the “Parties” and singularly as “Party.”

WITNESSETH:

WHEREAS, Developer owns an interest in land known as East Ledge Rock Subdivision Filing No. 3, located in the Northeast Quarter of Section 11, Township 4 North, Range 68 West of the 6th P.M., Town of Johnstown, County of Weld, State of Colorado (“Subject Property”); and

WHEREAS, Developer is developing the Subject Property as the “East Ledge Rock Center No. 3,” a single-family residential development, which is anticipated to consist of 196 single family detached residential dwelling units containing 13.5 acres of residential irrigated landscape (ave. 3,000 ft<sup>2</sup>/lot), 0.33 acres of common area spray-irrigation, 3.60 acres of common area drip-irrigation and 1.97 acres of common area xeriscape landscaping; and

WHEREAS, Developer and the Town desire to set forth their agreement concerning water rights dedication, preliminary projections of water and sewer demand and a current commitment by the Town for water and sewer service for the Subject Property.

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

**1. Water and Sewer Demand Studies.** In compliance with the Town Water Rights Dedication Ordinance (“Ordinance”), Developer submitted to the Town a preliminary water and sewer demand analysis for the Subject Property dated October 6, 2022. Said analysis is on file with the Town and, as modified by the Town’s Water Engineer by memoranda dated October 12, 2022 and November 4, 2022, is hereby accepted by the Town. The analysis provides that the projected water and sewer demand for the Subject Property is as follows:

<b>Development Component</b>	<b>Demand (AF/YR)</b>	<b>Consumption (AF/YR)</b>
In-building	64.68	3.23
Landscape irrigation	41.51	35.28
<b>Total</b>	<b>106.19</b>	<b>38.51</b>

**2. Water Rights Dedication and Credits.** Developer has dedicated twenty-six (26) shares of the Consolidated Home Supply Ditch & Reservoir Company (“Home Supply”) to the Town totaling 200 acre-feet, consisting of the following: 14 shares, represented by Certificate No. 7113 (112 acre-feet of raw water credit); 1 share, represented by Certificate No. 7114 (8 acre-feet of raw water credit); 5 shares, represented by Certificate No. 7115 (40 acre-feet of raw water credit based on a recorded dry-up covenant); 5 shares, represented by Certificate No. 7145 (32 acre-feet of raw water credit); and 1 share, represented by Certificate No. 7148 (8 acre-feet of raw water credit). Developer has also dedicated 1/3 share of Big Thompson Ditch and Manufacturing (“Big Thompson”) to the Town totaling 19 acre-feet. The Home Supply and Big Thompson water are collectively referred to herein as the “Water Shares.”

**3. Dedication credit.** The dedication of the Water Shares described in Paragraph 2, above, provide sufficient raw water to satisfy the water demands projected for the Subject Property and allow for a surplus raw water credit. The credit is calculated as follows:

Dedication Credit:	219.00 acre-feet
LESS estimated demand:	<u>106.19 acre-feet</u>
<b>Net surplus credit:</b>	<b>112.81 acre-feet</b>

Developer desires to use the surplus credit for the water demand requirements associated with a different phase of the Ledge Rock Center development, known as the “Ledge Rock Center Multifamily North” development. Contemporaneously herewith, the Parties are executing a Water and Sewer Service Agreement related to the Ledge Rock Center Multifamily North development, which contemplates use of the surplus credit. As such, the surplus credit set forth herein shall not be available to offset increased water demands, if any, which are not currently projected for the Subject Property.

**4. Commitment to serve.** Subject to Developer's performance of all the covenants contained herein and payment of all required fees, the Town commits to provide to the Subject Property up to 64.68 acre-feet per year of water supply for residential in-building use together with the corresponding sewer service, and 41.51 acre-feet per year for irrigation, as described above.

**5. Future review of water usage and dedication requirements.** In accordance with the Ordinance, the Town reserves the right to review actual water usage within the Subject Property at a point in time after water usage has been established to confirm the adequacy of the water demand projections made by the Developer, and to require additional water rights dedication and/or cash-in-lieu payments, if necessary, based on actual water usage.

**6. Payment of Water Court Transfer fees.** The Water Shares dedicated to the Town consist of 128 acre-feet of water changed by the Division 1 water court to include municipal use and 91 acre-feet that has not been changed. The total water court transfer fees required by the Ordinance for the Water Shares is Ninety-Three Thousand Dollars (\$93,000.00). Upon execution of this Agreement, Developer shall pay to the Town the sum of **Thirty-One Thousand Eight-**

**Hundred Dollars (\$31,800.00)** as payment for the dedication of 106.19 acre-feet per year of estimated water demand and estimated consumptive use of 38.51 acre-feet per year (212 SFE) for the Subject Property.

**7. Notices.** All notices required or permitted to be given hereunder shall be in writing and shall be deemed given: (a) upon hand delivery, (b) upon deposit with Federal Express, UPS or other nationally recognized overnight courier service, receipt required, or (c) when transmitted via email, provided the sending party receives a read-receipt for the email or the receiving party acknowledge receipt thereof. All notices shall be addressed as follows:

TO DEVELOPER:

Ledge Rock Center, LLC  
Attn: Michael Schlup  
13725 Metcalf Ave #337  
Overland Park, KS 66223  
[mikeschlup@corbinpark.com](mailto:mikeschlup@corbinpark.com)

with a copy to:

Allen D. Schlup, Esq.  
A.D. Schlup Law, LLC  
10950 W. 192<sup>nd</sup> PL  
Spring Hill, KS 66083  
[allen.schlup@adschluplaw.com](mailto:allen.schlup@adschluplaw.com)

TO TOWN:

Town of Johnstown  
Attn: Town Manager  
450 S. Parish Avenue  
P.O. Box 609  
Johnstown, CO 80534  
[MLeCerf@JohnstownCO.gov](mailto:MLeCerf@JohnstownCO.gov)

with a copy to:

Avi S. Rocklin, Esq.  
Law Office of Avi S. Rocklin, LLC  
1437 N. Denver Avenue, #330  
Loveland, CO 80538  
[avi@rocklinlaw.com](mailto:avi@rocklinlaw.com)

Peter Ampe, Esq.  
Hill & Robbins, P.C.  
3401 Quebec St., Suite 3400  
Denver, CO 80207  
[peterampe@hillandrobbs.com](mailto:peterampe@hillandrobbs.com)

The addresses for notices may be changed by written notice given to the other Party in the manner provided above.

**8. Default.** In the event of default by either Party hereunder, the non-defaulting Party shall notify the defaulting Party in writing of such default(s), specifying the nature and extent thereof. If such default is not cured within thirty (30) days, the non-defaulting Party shall be entitled to such remedies as are provided by law, including the Town's ordinances.

**9. Successors and assigns.** The benefits and burdens of this Agreement shall respectively inure to and be binding upon the successors and assigns of the Parties hereto. This agreement shall not be assigned without the prior written consent of the other Party, which shall not be unreasonably withheld.

**10. Amendment or modification.** No amendment or modification of this Agreement shall be of any force or effect unless in writing and executed by the Parties hereto with the same formality as this Agreement.

**11. Attorney's fees and costs.** If any judicial proceedings may hereafter be brought to enforce any of the provisions hereof, including an action for specific performance and/or damages, the Town, if the prevailing party, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

**12. Waiver.** The waiver of any breach of any of the provisions of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by said Party, concerning either the same or any other provision of this Agreement.

**13. Headings for convenience only.** Paragraph headings and titles contained herein are intended for convenience and reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

**14. Non severability.** Each paragraph of this Agreement is intertwined with the others and is not severable unless by mutual consent of the Parties hereto.

**15. Choice of laws and venue.** This Agreement and the rights and obligations of the Parties hereto shall be governed by the laws of the State of Colorado. Venue for any legal action shall be in the County of Weld, State of Colorado.

**16. Entire agreement.** This Agreement constitutes the entire agreement between the Parties related to the subject matter hereof and any prior agreements pertaining thereto whether oral or written have been merged or integrated into this Agreement.

**17. No Presumption.** Each Party acknowledges that it has carefully read and reviewed the terms of this Agreement. Each Party acknowledges that the entry into and execution of this Agreement is of its own free and voluntary act and deed, without compulsion. Each Party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this Agreement and with respect to all matters set forth herein. The Parties agree that this Agreement reflects the joint drafting efforts of all Parties and in the event of any dispute, disagreement or controversy arising from this agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.

**18. Recordation.** This Agreement will be recorded by the Town at Developer's expense in the office of the Clerk and Recorder of Weld County, Colorado, shall run with the Subject Property, will be binding upon the Parties hereto and the permitted successors and assigns of the Developer and will constitute notice of this Agreement to all persons or entities not parties hereto.

*(Signature pages to follow)*

\*IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

**LEDGE ROCK CENTER, LLC**

By: Michel Schlup  
Name: Michel Schlup  
Title: Managing Member

STATE OF KANSAS            )  
  ) ss  
COUNTY OF JOHNSON    )

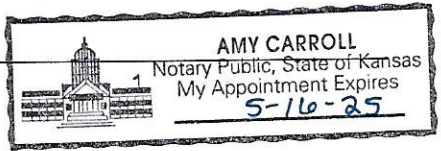
SUBSCRIBED AND SWORN to before me this 19 day of January, 2023 by Michel Schlup as the managing member of Ledge Rock Center, LLC, a Kansas limited liability company.

Witness my hand and official seal.

Amy Carroll

Notary Public  
137 NW 1501 Rd Urich, MO 64788  
Address  
913 499 1926  
Telephone

My Commission Expires:



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

By: \_\_\_\_\_  
Gary Lebsack, Mayor

ATTEST:

By: \_\_\_\_\_  
Hannah Hill, Town Clerk