

WATER AND SEWER SERVICE AGREEMENT

THIS WATER AND SEWER SERVICE AGREEMENT is made and entered into this _____ day of _____, 2023, by and between the **FRONT RANGE FIRE RESCUE FIRE PROTECTION DISTRICT**, a special district organized and existing pursuant to § 32-1-101, CRS, et seq., the successor entity to the **JOHNSTOWN FIRE PROTECTION DISTRICT** (“Developer”), and **THE TOWN OF JOHNSTOWN**, a Colorado municipality corporation (“Town”), collectively sometimes referred to as the “Parties.”

WITNESSETH:

WHEREAS, the Developer owns an interest in land known as Lot 1, Rolling Hills Ranch Phase 5, 100 Telep Avenue, Town of Johnstown, County of Weld, State of Colorado, comprising 1.9 acres, more-or less (“Subject Property”); and

WHEREAS, the Subject Property has been annexed to the Town; and

WHEREAS, a fire station is situated on the Subject Property; and

WHEREAS, the Developer desires to expand the fire station to consist of 21,843 square-foot of indoor use with 21,375 square feet of irrigated area, known as the Front Range Fire Rescue Station #1 (“Project”); and

WHEREAS, the 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 Project.

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, the Developer has provided water records and descriptions of the revised project features and the Town’s Water Engineer has provided a water demand memorandum dated November 17, 2022, which is hereby accepted by the Town. The analysis shows the projected water and sewer demands for the Project as follows:

Development Component	Demand (AF/YR)
In-Building	0.2
Landscape Irrigation	1.95
Total	2.15

2. Water Rights Dedication. The Developer previously dedicated or otherwise provided sufficient raw water to the Town to meet the projected water demands of the Project.

Any future development of the Subject Property or Project may require the dedication of additional raw water.

3. 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 Project up to 0.2 acre-feet per year of potable water to satisfy the in-building water demands together with the corresponding sewer service, and up to 1.95 acre-feet per year of raw water for landscape irrigation.

4. 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 Project 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 based on actual water usage.

5. Notices. All notices, demands, or other documents required or desired to be given, made or sent to either Party under this Agreement shall be made in writing, shall be deemed effective upon receipt and shall be personally delivered, mailed postage prepaid, certified mail, return receipt requested, or sent by electronic mail on the condition that the recipient acknowledges receipt thereof, as follows:

TO DEVELOPER:

Front Range Fire Rescue Fire Protection
District
101 South Irene Avenue
Milliken, CO 80543
Attn: Fire Chief
Email: firechief@frfr.co

TO THE TOWN:

Town of Johnstown
c/o Town Clerk
450 S. Parish Ave.
Johnstown, CO 80534
hhill@johnstownco.gov

WITH A COPY TO
THE TOWN ATTORNEYS:

Avi Rocklin, Esq.
Johnstown Town Attorney
1437 N. Denver Avenue, #330
Loveland, CO 80538
avi@rocklinlaw.com

Peter J. Ampe
Hill & Robbins, P.C.
1660 Lincoln St., Suite 2720
Denver, CO 80264
peterampe@hillandrobbins.com

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

6. 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 and the non-defaulting Party desires to seek recourse, the Parties shall participate in mediation, the costs of which shall be shared equally by both Parties. If mediation is not successful after a ninety-day period, either Party may then commence a legal action, and shall be entitled to such remedies as are provided by law, including the Town's ordinances.

7. 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.

8. 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.

9. 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 prevailing party, to the extent permitted by law, shall be entitled to recover the costs of such proceedings, including reasonable attorney's fees and reasonable expert witness fees.

10. 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.

11. 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.

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

13. Choice of laws. 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 claim, proceeding or action shall be in Weld County, State of Colorado.

14. Entire agreement and Authorization. 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. Each of the undersigned represents to the others that he/she is authorized by his/her respective entity to execute this Agreement on behalf of that entity.

15. 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.

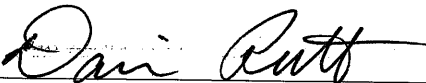
16. Recordation. This Agreement shall be recorded by the Town at Developer's expense in the office of the Clerk and Recorder of Weld County, Colorado. This Agreement shall run with the Subject Property, shall be binding upon the Parties hereto and the permitted successors and assigns of the Developer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

17. Financial Obligations. Any financial obligations of either Party required by this Agreement are expressly made contingent upon annual appropriation and budgeting of specific funds by that party's governing body to discharge such financial obligations.

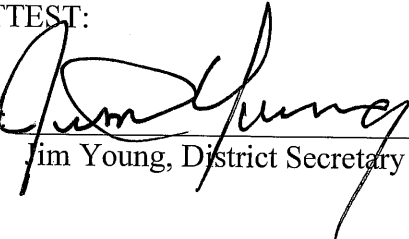
*IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

Signatures follow

FRONT RANGE FIRE RESCUE FIRE PROTECTION DISTRICT

By: 
Name: Darrin Rutt
Title: Board President

ATTEST:

By: 
Jim Young, District Secretary

TOWN OF JOHNSTOWN, COLORADO,
a municipal corporation

By: _____
Gary Lebsack, Mayor

ATTEST:

By: _____
Hannah Hill, Town Clerk

Front Range Fire Rescue Station #1

EXHIBIT A

Legal Description

100 Telep Avenue, Johnstown, CO

PROPERTY DESCRIPTION

A parcel of land situate in the Southeast Quarter of Section Six (6), Township Four North (T.4N.), Range Sixty-seven West (R.67W.) of the Sixth Principal Meridian (6th P.M.), Town of Johnstown, County of Weld, State of Colorado, and being more particularly described as follows:

LOT 1, ROLLING HILLS RANCH PHASE 5, TOWN OF JOHNSTOWN, COUNTY OF WELD, STATE OF COLORADO.

TOGETHER WITH THOSE PORTIONS AS CONVEYED BY DEED RECORDED AUGUST 30, 2005 AT RECEPTION NO. 3318001 AND CORRECTION DEED RECORDED JANUARY 18, 2007 AT RECEPTION NO. 3449443 AND CORRECTION DEED RECORDED MAY 8, 2007 AT RECEPTION NO. 3474369 AND DEED RECORDED DECEMBER 11, 2019 AT RECEPTION NO. 4548956 AND DEED RECORDED OCTOBER 23, 2020 AT RECEPTION NO. 4643684.

EXCEPTING THOSE PORTIONS AS CONVEYED BY DEED RECORDED AUGUST 30, 2005 AT RECEPTION NO. 3318000 AND CORRECTION DEED RECORDED JANUARY 18, 2007 AT RECEPTION NO. 3449444 AND DEED RECORDED DECEMBER 11, 2019 AT RECEPTION NO. 4548957 AND DEED RECORDED OCTOBER 23, 2020 AT RECEPTION NO. 4643683.

Said parcel contains 83,831 Square Feet or 1.924 Acres more or less by this survey.