

**TOWN OF JOHNSTOWN
ANNEXATION AGREEMENT
THE NORTH RIDGE ANNEXATION**

THIS ANNEXATION AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2021, by and between RIDGE II HOLDCO, LLC, a Delaware limited liability company (“Owner”), and the TOWN OF JOHNSTOWN, a home-rule municipal corporation of the State of Colorado (“Town”).

WITNESSETH:

WHEREAS, Owner desires to annex real property into the Town, situated in Northwest Quarter of the Southeast Quarter of Section 22, Township 5 North, Range 68 West of the 6th P.M., County of Larimer, State of Colorado, known by site address as 1016 SE Frontage Road, Johnstown, CO 80534, consisting of approximately 35.32 acres more or less, being more particularly described on Exhibit A, attached hereto and incorporated herein by this reference (“Property”); and

WHEREAS, Owner executed a Petition for Annexation, dated August 25, 2020, a copy of which petition is on file with the Town Clerk; and

WHEREAS, Owner intends to develop the Property as part of a subdivision to be known as North Ridge and has prepared an Outline Development Plan (PUD) identifying and illustrating requested zoning, proposed land uses and intended development; and

WHEREAS, it is to the mutual benefit of the parties hereto to enter into this Agreement regarding annexation of the Property to the Town and other related matters as set forth herein; and

WHEREAS, Owner acknowledges that, upon annexation, the Property will be subject to all ordinances, resolutions and other regulations of the Town, as amended from time to time; and

WHEREAS, Owner acknowledges that, when development proceeds, the need for conveyances and dedication of certain property to the Town, including, but not limited to, property for rights-of-ways and easements, shall be directly related to and generated by the development within the Property.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE PREMISES AND THE COVENANTS AS HEREINAFTER SET FORTH, IT IS AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. ***Incorporation of Recitals.*** The parties confirm and incorporate the foregoing recitals into this Agreement.

2. **Purpose.** The purpose of this Agreement is to set forth the terms and conditions of the annexation of the Property to the Town. Except as expressly provided for herein to the contrary, all terms and conditions herein are in addition to all requirements concerning annexation contained in the Johnstown Municipal Code, the Town's development regulations and Comprehensive Plan, and the Municipal Annexation Act of 1965, as amended, C.R.S. §§31-12-101, *et seq.*

3. **Owner.** As used in this Agreement, the term "Owner" shall include any of the heirs, transferees, successors or assigns of Owner. In addition to the foregoing and to the extent excluded therefrom, this Agreement shall be binding upon all developers of the Property or any part thereof. All such parties shall be subject to the terms of this Agreement as if they were the original parties thereto.

4. **Further Acts.** Owner agrees to execute promptly upon request of the Town any and all surveys and other documents necessary to effect the annexation of the Property and the other provisions of this Agreement. Owner agrees not to sign any other petition for annexation of the Property or any petition for annexation election relating to the Property, except upon request of the Town.

5. **Annexation Documents.** Owner agrees to provide legal documents, surveys, engineering work, newspaper publications, maps, and reports determined by the Town to be necessary to accomplish the annexation.

6. **Zoning and Land Use.** The parties recognize that it is the intent and desire of Owner to develop the Property in a manner generally consistent with the zoning and land uses presented in the Outline Development Plan (PUD) submitted to the Town contemporaneously with the request for annexation and with the zoning and land uses applicable to The Ridge Johnstown subdivision, zoned PUD-MU (Planned Unit Development – Mixed Use), complementing the 255 acres south of Larimer County Road 18 and utilizing the same or similar design review guidelines. Owner shall take all action necessary to permit zoning by Johnstown of the annexed Property within the time prescribed by state statute.

7. **Non-Conforming Use.** The Town agrees to allow existing non-conforming agricultural use, if any, to continue until such time as the Property is platted, but not at a greater level than at its current level of activity and use.

8. **Water Rights Dedication.** Owner owns the water rights and lateral ditch company rights appurtenant to the Property that are described on **Exhibit B** attached hereto and incorporated herein by reference. Owner shall dedicate all such water rights and lateral ditch company rights to the Town no later than the date of approval of the final plat of the first phase of development of the Property. Owner specifically agrees that it has not sold or transferred any water rights appurtenant to the Property within the past year nor will it do so during the pendency of this annexation petition and, once annexed to the Town, will not sell or transfer any water rights appurtenant to the Property without the prior written approval of the Town.

9. ***Municipal Services.*** The Town agrees to make available to the Property all of the usual municipal services provided by the Town in accordance with the ordinances and policies of the Town. Except as otherwise agreed by the Town, Owner shall bear the cost of the delivery of such services.

10. ***Public Improvements.*** Owner agrees to design and construct all required public improvements to Town standards at Owner's expense. Owner shall provide financial guarantees for construction of all required improvements as set forth in each phase or filing of the development and dedicate to the Town any or all of the improvements required by Town ordinances or as otherwise agreed. The public improvements and financial guarantees shall be set forth in a development agreement for each filing between the Town and Owner. All overhead utility lines shall be undergrounded.

11. ***I-25 Frontage Road.***

- a. Owner recognizes that the only current access to the Property is via the Interstate 25 Frontage Road, which is owned, maintained and controlled by the Colorado Department of Transportation ("CDOT"). Because the Town does not have jurisdictional control over the Interstate 25 Frontage Road, Owner shall be required to work with CDOT to obtain approval for subsequent accesses to the Property. The Town agrees to help facilitate such negotiations with CDOT.
- b. Within thirty (30) days of the effective date of the annexation, Owner shall dedicate the right of way to the Town to expand the Interstate 25 Frontage Road to a Town minor arterial standard, as shown and described on **Exhibit C** attached hereto and incorporated herein by reference. If required by the Town, in its discretion, Owner shall dedicate additional right of way to support development of the Property at no cost to the Town, which shall be set forth in a subsequent agreement between the Town and Owner.

12. ***Land Dedication.*** The dedication of parks and open space, flood plains, public easements for utilities, rights-of-way for streets and other public ways and dedications for other public purposes shall be by general warranty deed (to include, except for public easements, mineral interest owned by Owner, if any, at the time of annexation) or another appropriate instrument of conveyance acceptable to the Town. Such dedications shall occur when required by the Town. The Town and Owner agree that such dedications are directly related to and generated by the development intended to occur within the Property and that no taking thereby will occur requiring any compensation.

13. ***Water and Waste Water Utilities.*** Owner agrees to construct all on-site and required off-site water and waste water mains and appurtenances to Town standards at Owner's expense. The Town and Owner hereby agree to cooperate in good faith with respect to 1) determining reasonable oversizing requirements; 2) locating and securing approvals for installation of utility mains and appurtenances within public rights-of-way; and 3) facilitating

installation of off-site infrastructure if Owner and Town determine that such installation is necessary in connection with orderly development of the Property.

14. ***Drainage.*** A drainage study of the entire annexation territory shall be provided by Owner to the Town no later than the date of Owner's filing of a preliminary plat with the Town. Improvements shall be made as required by the Town. Historical irrigation and drainage patterns shall be maintained on the property to the extent feasible including no change in the quality, quantity or point of discharge, except to the extent approved by the Town.

15. ***Limitation on Fee Impositions by the Town.*** The Town agrees that the Property shall be subject to typical development fees similar to those that are imposed on other comparable developments in the Town pursuant to the Town's regulations and ordinances. Owner acknowledges that the Town has adopted impact fees that will apply to this development and may adopt a special fee to be paid prior to the issuance of building permits for the Property to obtain reimbursement for the Town's costs related to improvements to the Interstate 25 and State Highway 402 interchange.

16. ***Conformity with Laws.*** Owner agrees that the design, improvement, construction, development, and use of the Property shall be in conformance with all applicable laws and ordinances and that Owner shall comply with all Town ordinances, resolutions and regulations including, without limitation, ordinances, resolutions, and regulations pertaining to annexation, subdivision, zoning, storm drainage, utilities, access to Town streets, and flood control.

17. ***Disconnection.*** No right or remedy of disconnection of the Property from the Town shall accrue from this Agreement other than that provided by applicable state laws. In the event the Property or any portion thereof is disconnected at Owner's request, the Town shall have no obligation to serve the disconnected Property or portion thereof and this Agreement shall be void and of no further force and effect as to such Property or portion thereof.

18. ***Special Districts.*** Within thirty (30) days after written request by the Town, Owner shall apply for inclusion of the Property within one or more special districts serving the Town and the Town may request Owner to petition to exclude the Property from another special district. All costs, expenses, attorney fees and judgments for exclusion of the property from any special district shall be borne by Owner. Within thirty (30) days after written request by the Town, Owner shall be required to pay sums due owing to the Little Thompson Water District, if any, pursuant to an Intergovernmental Agreement between the Town of Johnstown and the Little Thompson Water District dated January 21, 2009.

- a. Owner may include the Property into one of the Villages at Johnstown Metropolitan District Nos. 1-8 at any time after thirty (30) days following the Town's annexation of the Property, on the condition that the annexation is not subject to a legal challenge. The Town hereby consents to such inclusion, subject to the Consolidated Service Plan for the Villages at Johnstown Metropolitan District Nos. 1-8, approved on March 19, 2018, as amended, the Intergovernmental Agreement between the Town and Villages at Johnstown Metropolitan District Nos. 1-8, dated March 19, 2018, and any other applicable

intergovernmental agreements executed by and between the Town and the Villages at Johnstown Metropolitan District Nos. 1-8.

19. ***Future Cooperation.*** The parties agree that they will cooperate with one another in accomplishing the terms, conditions, and provisions of the Agreement and will execute such additional documents as necessary to effectuate the same.

20. ***No Joint Venture or Partnership/No Assumption of Liability.*** Nothing contained in this Agreement is intended to create a partnership or joint venture between the Town and Owner or between the Town and any one or more of the individual owners that may exist and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not provide for the joint exercise by the parties of any activity, function or service, nor does it create a joint enterprise or an agency relationship. Except as specifically otherwise provided in this Agreement, no party shall in any way assume any of the liability of any other party for any act or obligations of the other party.

21. ***Failure to Annex.*** This Agreement shall be null and void if the Town fails to approve the annexation of the Property.

22. ***No Warranties by the Town.*** The Town is entering into this Agreement in good faith and with the present intention, on the part of the present Town Council, to comply with this Agreement. Because certain of the provisions of this Agreement may involve areas of legal uncertainty or be subject to subsequent revisions to the law, the Town does not intend to provide any warranty.

23. ***Breach.*** In the event of a default or breach by Owner of any term, condition, covenant, or obligation under this Agreement, the Town may take such action as it deems necessary to protect the public health, safety and welfare; to protect lot buyers and builders; and to protect the citizens of the Town from hardship. The Town's remedies include:

- (I) The refusal to issue any development permit, building permit or certificate of occupancy. This remedy shall not affect sales to bona fide purchasers nor be applied to bona fide purchasers;
- (II) A demand that the security given for the completion of the public improvements be paid or honored;
- (III) The refusal to consider further development plans within the Property; and/or
- (IV) Any other remedy available at law.

Unless necessary to protect the immediate public health, safety and welfare, the Town shall provide Owner ten (10) days' written notice of its intent to take any action under this Paragraph during which ten-day period Owner may cure the breach described in said notice and prevent further action by the Town.

24. ***Attorney's Fees.*** If Owner breaches this Agreement, Owner shall pay the Town's reasonable costs and attorney's fees incurred in the enforcement of the terms and conditions of this

Agreement. Should litigation occur by suit of a third party, Owner shall reimburse the Town for the Town's attorney's fees, court costs, and witness fees. Rather than require the Town to defend an action brought by a third party alleging that the Property is not subject to annexation or that the technical requirements of the Municipal Annexation Act of 1965, § 31-12-101, *et seq.*, C.R.S. (the "Act"), were not met, Owner may withdraw the Petition for Annexation. In addition thereto, in the event that any person, corporation, special district, municipal or county government or any other entity asserts a claim against the Town, its officials, or employees pursuant to the provisions of the Act, Owner agrees to reimburse the Town all reasonable costs and attorney's fees incurred by the Town in defense of such claims whether or not such defense is successful; provided, however, that nothing herein shall be interpreted as permitting Owner to act or participate in any manner whatsoever in the defense of such claims, including, but not limited to, selection of legal counsel or settlement of claims. Owner acknowledges and understands that the Town may, in its sole discretion, voluntarily elect not to defend against such an action and may consent to and permit the entry by the court of an order voiding the annexation or reach another means of settlement of claims. In such an event, Owner shall also reimburse to the Town any costs or attorney's fees assessed against the Town by the court, if any.

25. **Assignments.** Within ten days of an assignment, Owner shall provide written notice to the Town of the name, address and telephone number of the assignee.

26. **Town Police Powers.** Nothing contained in the Agreement shall constitute or be interpreted as a repeal of existing codes, ordinances or as a waiver of the Town's legislative, governmental, or police powers to promote and protect the health, safety, and general welfare of the Town or its inhabitants; nor shall this Agreement prohibit the enactment by the Town of any fee which is of uniform or general application.

27. **Design Review Guidelines.** The Town and Owner shall jointly develop and agree to adopt design review guidelines addressing design considerations, including architectural, site planning, landscaping, streetscape, and sign elements for land uses within the Property. The design review guidelines shall be applied to all development projects within the Property. The design review guidelines shall not supersede any uniform code of the Town such as the Uniform Building Code, Uniform Fire Code, or any other like code which is applicable to all properties located within the Town. The Town and Owner anticipate that the performance standards shall be the same or substantially similar to the performance standards applicable to The Ridge at Johnstown subdivision.

28. **Economic Incentives.** Based upon Owner's representation of proposed high-quality commercial development within Property, Owner may be entitled to economic incentives, including sales tax rebates, related to such portion of the development. If Owner desires economic incentives, Owner shall apply for such incentives at or around the time that Owner applies for approval of a final development plat and final development plan or at the time of issuance of a building permit. The Town shall then, in good faith, assess the request for economic incentives and, if approved by the Town in its discretion, the Town and Owner shall enter into a separate agreement regarding the economic incentives.

29. **Notice.** All notices required under this Agreement shall be in writing and shall be; 1) hand-delivered or; 2) sent by registered or certified mail, return receipt requested, postage prepaid, to the addresses of the parties herein set forth; or 3) sent by electronic mail return receipt requested and received. All notices by hand-delivery shall be effective upon receipt. All notices by mail shall be considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below. Either party, by notice to be given, may change the address to which future notices shall be sent.

Notice to Town:

Town of Johnstown
ATTN: Town Manager
450 S. Parish Avenue
P. O. Box 609
Johnstown, CO 80534
Email: mlecerf@townofjohnstown.com

With copy to:

Law Office of Avi S. Rocklin, LLC
Town Attorney
1437 N. Denver Avenue #330
Loveland, CO 80538
Email: avi@rocklinlaw.com

Notice to Owner:

RIDGE II HOLDCO, LLC
Attention: ROY BADE
8901 E. Mountain View Rd, Ste 150
Scottsdale, AZ 85258
Email: Roy.Bade@calibercos.com

With copy to:

Hunter & Goodhue, PLLC
Attention: Mark F. Hunter
4845 Pearl East Circle, Suite 101
Boulder, CO 80301
Email: mark@huntgoodlaw.com

30. **Voluntary Annexation; Election.** Owner agrees that it is voluntarily entering into this Agreement. Owner represents and submits that, to the extent an election would be required pursuant to § 31-12-112, C.R.S., to approve the annexation or to impose terms and conditions upon the Property to be annexed, Owner owns one hundred percent (100%) of the Property, excluding public streets and alleys, and would vote to approve the annexation and all terms and conditions as set forth herein.

31. **Cost Reimbursement to Town.** Developer shall reimburse Town for professional consultants such as engineers, testing companies, planners, and attorneys necessitated by processing and completion of this development.

32. ***No Third Party Rights.*** This Agreement is made solely for the benefit of the parties hereto and is not intended to nor shall it be deemed to confer rights to any persons or entities not named as parties hereto.

33. ***Governing Law.*** The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Larimer or Weld County, Colorado.

34. ***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 at a location that is not more than sixty miles from the Property, the costs of which shall be shared equally by the parties. If mediation is not successful after ninety (90) days, either party may then commence a legal action.

35. ***Headings.*** The paragraph headings in this Agreement shall not be used in the construction or interpretation hereof as they have no substantive effect and are for convenience only.

36. ***No Repeal of Laws.*** Nothing contained in this Agreement shall constitute or be interpreted as a repeal of the Town's ordinances or resolutions, or as a waiver of the Town's legislative, governmental, or police powers to promote and protect the health, safety, and welfare of the Town and its inhabitants, nor shall this Agreement prohibit the enactment or increase by the Town of any tax or fee.

37. ***Amendments to Law.*** As used in this Agreement, unless otherwise specifically provided herein, any reference to any provision of any Town ordinances, resolution, regulations, or policy is intended to refer to any subsequent amendments or revisions to such ordinance, resolution, regulations, or policy, and the parties agree such amendments or revision shall be binding upon Owner.

38. ***No Vested Rights.*** No vested rights shall accrue to Owner by virtue of annexation of the Property or this Annexation Agreement.

39. ***Binding Effect.*** This Agreement shall be binding upon and inure to the benefit of all heirs, transferees, successors and assigns hereof, and shall constitute covenants running with the land. In addition to the foregoing and to the extent excluded therefrom, this Agreement shall be binding upon all developers of the Property or any part thereof. This Agreement shall be recorded with the County Clerk and Recorder of Larimer County, Colorado, at Owner's expense. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.

40. ***Entire Agreement.*** This Agreement embodies the entire agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein; and this

Agreement supersedes all previous communications, representations or agreements, either verbal or written, between the parties related to the subject matter herein.

41. ***Amendment.*** This Agreement may be amended only by mutual agreement of the Town and Owner. Such amendments shall be in writing, shall be recorded with the County Clerk and Recorder of Larimer County, Colorado, shall be covenants running with the land and shall be binding upon all persons or entities having an interest in the Property and/or an interest in water rights referenced in this Agreement.

42. ***Severability.*** The parties agree that if any part, term, portion, or provision of this Agreement is held by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Colorado or any federal law, the validity of the remaining parts, terms, portions, or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, portion, or provision held to be invalid.

[Remainder of page intentionally left blank.]

ATTEST:

**TOWN OF JOHNSTOWN, COLORADO,
A MUNICIPAL CORPORATION**

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

RIDGE II HOLDCO, LLC

By: Ridge II ManageCo, LLC
a Delaware limited liability company
Its: Manager

By: Caliber Services, LLC
an Arizona limited liability company
Its: Manager

By: Caliber Companies, LLC
an Arizona limited liability company
Its: Managing Member

By: CaliberCos Inc.
a Delaware corporation
Its: Manager

By: _____
Name: Jennifer Schrader
Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this ____ day of _____ 2021, by Ridge II HoldCo, LLC, a Delaware limited liability company, by Jennifer Schrader, Director.

Witness my hand and official seal.

My commission expires: _____

Notary Public

My commission expires: _____

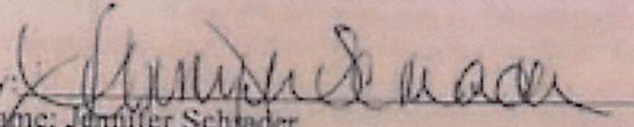
RIDGE II HOLDCO, LLC

By: Ridge II ManageCo, LLC
a Delaware limited liability company
Its: Manager

By: Caliber Services, LLC
an Arizona limited liability company
Its: Manager

By: Caliber Companies, LLC
an Arizona limited liability company
Its: Managing Member

By: CaliberCos Inc.
a Delaware corporation
Its: Manager

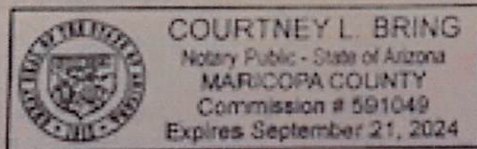
By: 
Name: Jennifer Schrader
Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 14 day of July 2021, by Ridge II HoldCo, LLC, a Delaware limited liability company, by Jennifer Schrader, Director.

Witness my hand and official seal.

My commission expires: 9-21-2024



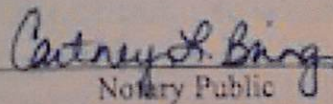

Notary Public

EXHIBIT A
PROPERTY

A portion of the Northwest Quarter of the Southeast Quarter of Section 22, Township 5 North, Range 68 West of the Sixth Principal Meridian, County of Larimer, State of Colorado, more particularly described by metes and bounds as follows;

Considering the West line of said South Quarter as bearing North 00°20'30" East according to a deed recorded in Book 742 at Page 168 of said Larimer County records, between the monuments shown and described hereon, with all bearings contained herein relative thereto;

Commencing at the South Quarter Corner of said Section 22; thence North 00°20'30" East, along the West Line of the Southeast Quarter Section 22, a distance of 2,627.22 feet to the North line of the Northwest Quarter of the Southeast Quarter of Section 22 Township 5 North, Range 68 West of the Sixth Principal Meridian; thence North 89°47'34" East, along said North line, a distance of 75.00 feet to a point on the West line of said parcel as described in Reception No. 20180039395 and Reception No. 20180039394, said point being the POINT OF BEGINNING; thence continuing North 89°47'34" East, along said North line, a distance of 1,245.21 feet to the Northeast corner of the Northwest Quarter of the Southeast Quarter of said Section 22; thence South 00°18'28" East, along the East line of said Northwest Quarter of the Southeast Quarter, a distance of 1,310.93 feet ; thence South 89°45'05" West, along said South line of the Northwest Quarter of the Southeast Quarter of said Section 22 a distance of 884.81 feet to the Easterly right-of-way of Interstate Highway 25 Frontage Road; thence along right-of-way North 42°26'48" West, 88.01 feet to a point on a tangent curve concave to the Northeast, havening a central angle of 35°19'59" an radius 1,145.00 feet and the chord of which bears North 24°47'53" West a distance of 694.96 feet; thence along the arc of said curve 706.10 feet; thence North 22°48'11" West 51.45 feet to the East line of that parcel of land described in Book 742 at Page 168 of said Larimer County records; thence North 00°20'30" East, along said East line, and along the East line of said Parcel as described in Book 742 at Page 168, a distance of 567.00 feet to the POINT OF BEGINNING.

Containing 1,538,721 square feet or 35.32 acres, more or less.

EXHIBIT B

WATER RIGHTS

No 6998

Incorporated Under the
Laws of the State of Colorado

— 6 —
Shares

The Consolidated Home Supply Ditch and Reservoir Co.

CAPITAL STOCK
\$100,000

2,000 SHARES
\$50 EACH



This is to Certify that
Ridge II Hold Co.

Scorset Resources Corporation - Lien Holder;
LLC - Owner

is the owner of — Six — Shares of Capital Stock of
The Consolidated Home Supply Ditch and Reservoir Company, full paid
transferable only on the books of the Company, in person, or by attorney,
on surrender of this certificate.

Witness the Seal of the Company and the Signatures of the President
and Secretary at Loveland, Colorado, this 19th day of March

2020

President
Secretary

DRY-UP COVENANT

THIS DRY-UP COVENANT is made and given this 18 day of March 2021, by Ridge II HoldCo, LLC, a Delaware limited liability company ("Grantor").

RECITALS

WHEREAS, Grantor owns a parcel of property consisting of approximately 36 acres, which is described as Exhibit A, and illustrated on Exhibit B attached hereto and incorporated herein by this reference ("Property"), and the water rights historically used to irrigate approximately 36 acres of the Property, which include six shares of capital stock of The Consolidated Home Supply Ditch and Reservoir Company represented by stock certificate number 6998, a copy of which is attached hereto and incorporated herein by reference as Exhibit C ("Water Rights");

WHEREAS, Grantor desires to dedicate the Water Rights in connection with its annexation of the Property in to the Town of Johnstown, Colorado, a municipal corporation ("Johnstown"); and that Johnstown intends to utilize the Water Rights for municipal water uses and other related uses once it obtains a decree from the Water Court changing the Water Rights from irrigation to municipal, or other beneficial, use;

WHEREAS, Grantor understands that the Water Court or State Engineer may require, as a term and condition of such change, that the Property must be dried up and not further irrigated with the Water Rights as a term and condition of allowing such change;

WHEREAS, Grantor desires to execute this Agreement affirming the permanent removal from irrigation of the Property, and cessation of all other consumptive uses of the Water Rights on the Property, as well as certain other covenants with respect to the Property under the terms of this Agreement, a covenant running with and burdening the Property; and

WHEREAS, Grantor executes this Dry-Up Covenant to ensure that the historical consumptive use on the Property attributable to the Water Rights ceases, except as otherwise provided herein.

COVENANT

THEREFORE, Grantor covenants and agrees as follows:

1. The Recitals are incorporated herein and made a part hereof.
2. From and after the date hereof, Grantor, for itself and all subsequent owners, covenants and agrees to cease using the Water Rights to irrigate the Property and to otherwise cease all consumptive use of the water attributable to the Water Rights, except as otherwise permitted herein.

3. Grantor hereby grants to Johnstown, or to successors or assigns of the Water Rights ("Grantee"), a non-exclusive perpetual easement for the purpose of access to and over the Property as may be necessary to take actions to effectuate and enforce this Dry-Up Covenant, including but not limited to the conducting of any monitoring or testing activity that may be required by the State Engineer or by any court or tribunal of competent jurisdiction to enforce this Dry-Up Covenant or that may be a pre-condition for changing the Water Rights. The non-exclusive easement provided by Grantor to Grantee in this Section 3 shall be subject to the following conditions: (a) Grantee shall use its best efforts to minimize any interference with the use of the Property by the Property owner except as reasonably required to exercise the Grantee's rights hereunder; (b) Grantee shall at all times comply with all applicable laws and ordinances and shall hold the Property owner harmless from any and all liability and liens on account of Grantee's activities; (c) Grantee shall not engage in activities that cause any permanent harm or damage (other than permanent dry up caused by the cessation of irrigation by the Water Rights) to the Property or to the Property owner's easements or personal property except as reasonably required to exercise Grantee's rights hereunder; and (d) Grantee shall leave the Property and the Property owner's easements and personal property in the same condition as they were in prior to any activities of Grantee except as reasonably required to exercise Grantee's rights hereunder.

4. This Dry-Up Covenant shall entitle Johnstown to the first and prior right to claim credit for the dry-up or non-irrigation of the Property, and the purpose of this Dry-Up Covenant is to ensure that the amount of consumptive use attributable to the Water Rights is not impaired. Grantor agrees to provide Johnstown with all assistance Johnstown may reasonably require in regard to the anticipated change of the Water Rights, provided that Grantor shall not be required to incur out-of-pocket costs in connection therewith.

5. This Dry-Up Covenant shall burden, attach to and run with the Property, and shall be binding upon Grantor, Grantor's heirs, successors and assigns and any other persons or entities which may acquire an ownership or leasehold interest in all or any portion of the Property. This Dry-Up Covenant shall also run with and benefit the Water Rights.

6. The terms and provisions of this Dry-Up Covenant shall not expire and shall be perpetual unless specifically released in writing by Johnstown or its successors and assigns.

7. This Dry-Up Covenant may be enforced by Johnstown or by any party having any right, title or interest in the Water Rights or by the State Engineer of the State of Colorado, at any time in any action at law or in equity.

8. Grantor agrees to comply with or assist in the compliance with the terms of any valid law or regulation, requiring the lands to be dried up pursuant to this Agreement, to be revegetated using accepted best management practices. Grantor, however, will be responsible to revegetate such lands at its sole cost and expenses.

9. Grantor is entitled to use the Property for any purposes not inconsistent with this Agreement, including but not limited to, dry-land grazing, agriculture except irrigated agriculture using water from the Consolidated Home Supply Ditch and Reservoir Company, recreational,

residential, commercial, and industrial purposes. The Grantor intends to develop the project within the Town of Johnstown and will receive municipal water service from Johnstown. Delivery of water from Johnstown's municipal water system is not inconsistent with this Agreement.

10. Upon execution, Grantor agrees to promptly record this Dry-Up Covenant with the Clerk and Recorder for Larimer County, State of Colorado.

[REMAINDER INTENTIONALLY BLANK – SIGNATURE PAGES FOLLOW]

GRANTOR:

EXECUTED this 18th day of March 2021.

Ridge II HoldCo, LLC
a Delaware limited liability company

By: Ridge II ManageCo, LLC
a Delaware limited liability company
Its: Manager

By: Caliber Services, LLC
an Arizona limited liability company
Its: Manager

By: Caliber Companies, LLC
an Arizona limited liability company
Its: Managing Member

By: CaliberCos Inc.
a Delaware corporation
Its: Manager

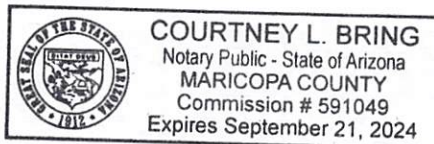
By: Jennifer Schrader
Name: Jennifer Schrader
Its: President

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 18 day of March 2021, by Ridge II HoldCo, LLC, a Delaware limited liability company, by Jennifer Schrader, Director.

Witness my hand and official seal.

My commission expires: 9-21-2024



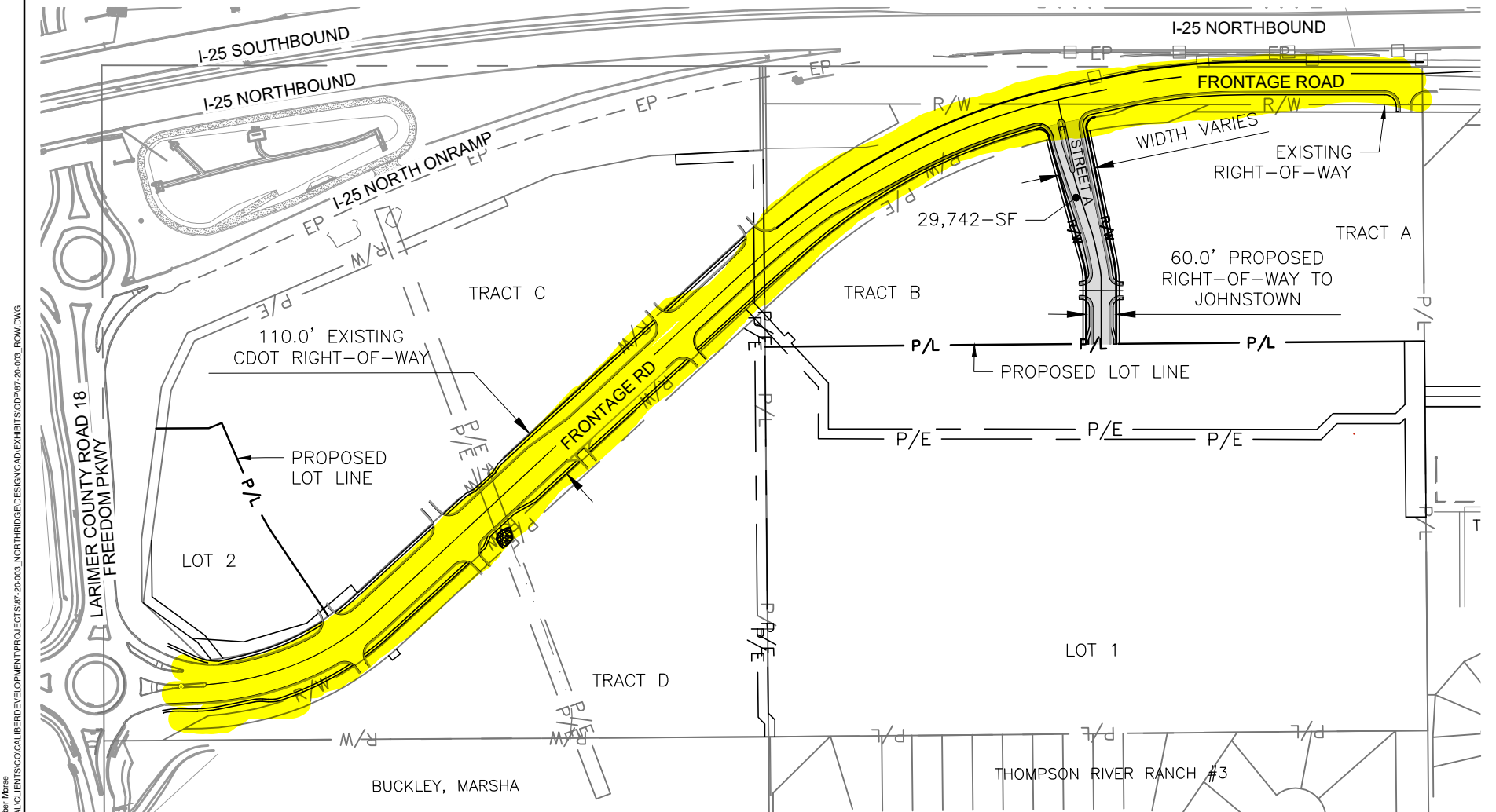
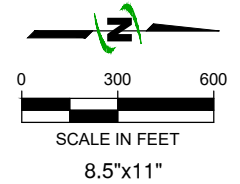
Courtney L. Bring
Notary Public

EXHIBIT C

INTERSTATE 25 FRONTAGE ROAD RIGHT OF WAY DEDICATION

NORTH RIDGE DEVELOPMENT

LOCATED ON THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 5 NORTH,
RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF LARIMER, AND STATE OF COLORADO



J-U-B ENGINEERS, INC.

North Ridge Development
Johnstown, Colorado
Preliminary Proposed Right-of-Way
July, 8 2021

Plot Date: 7/8/2021 2:41 PM Plotted By: Amber Morse
Date Created: 7/8/2021 U:\JUB\CENTRAL\CLIENTS\CO\ALBERDEVELOPMENT\PROJECTS\87-20-003_NORTH RIDGE\DESIGN\CAD\EXHIBITS\ODP\87-20-003_ROW.DWG
FILE: 87-20-003_ROW

LAST UPDATE: 7/8/2021
PLOT DATE: 7/8/2021
FILE: 87-20-003_ROW