

**TOWN OF JOHNSTOWN
SITE DEVELOPMENT PLAN AGREEMENT
(The Ridge at Johnstown, Filing No. 3, Lot 1)**

This Site Development Plan Agreement (“Agreement”), is made and entered into on this ____ day of _____, 2024, by and between the **Town of Johnstown, Colorado**, a Colorado home-rule municipality (the “Town”) and **Journey Homes, LLC**, a Colorado limited liability company (“Developer”).

RECITALS

WHEREAS, Developer is the owner of a parcel of land situated in the Town of Johnstown, County of Larimer, State of Colorado, the description of which is set forth on **Exhibit A** attached hereto and incorporated herein by this reference (the “Property”); and

WHEREAS, the Property is subject to that certain Subdivision Development and Improvement Agreement dated on or about August 17, 2023, by and among the Town, J-25 Land Holdings, LLC, a Delaware limited liability company and the Villages at Johnstown Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado, recorded in the Office of the Larimer County Clerk and Recorder on October 13, 2023 at Reception No. 20230044232 (“SDIA”); and

WHEREAS, Developer seeks to develop the Property and to designate such development as The Ridge Multifamily (“Development”); and

WHEREAS, Developer has submitted a Site Development Plan to the Town for administrative review and approval; and

WHEREAS, Developer understands and agrees that, as a condition of approval of the Site Development Plan, in addition to Developer’s obligation to comply with the SDIA, Developer is required to construct certain Public Improvements, Developer is responsible for the costs and expenses of those Public Improvements unless otherwise provided herein, and the Public Improvements contemplated herein are reasonable, necessary, appropriate, and directly benefit the Development; and

WHEREAS, Developer agrees to undertake and complete the Public Improvements in accordance with this Agreement, the Town’s ordinances, resolutions and regulations and all other applicable laws and regulations.

AGREEMENT

NOW, THEREFORE, in consideration of the premises cited above and the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the Town and Developer agree as follows:

RECITALS

The Recitals are incorporated as if fully set forth herein.

DEFINITIONS

For the purposes of this Agreement, the following words and terms shall be defined as follows:

1.1 “**Civil Engineering Construction Plans**” shall mean the approved engineering plans for construction, installation and improvement of the Public Improvements.

1.2 “**Code**” shall mean the Johnstown Municipal Code, as amended from time to time.

1.3 “**Developer**” shall mean the owner(s) of the Property described in **Exhibit A** and any heirs, successors, assigns or transferees of any of the Property described in **Exhibit A**.

1.4 “**Development**” shall include all the Property, property rights and Public Improvements within or associated with the legal description in **Exhibit A**.

1.5 “**Maintenance Guarantee**” shall mean a guarantee that the Public Improvements constructed shall be free from defects and failures as more fully described herein.

1.6 “**Notice of Construction Acceptance**” shall mean the written certification that the Public Improvements are accepted, which starts the two-year warranty period as provided herein.

1.7 “**Notice of Final Acceptance**” or “**Final Acceptance**” shall mean the written certification of final acceptance of the Public Improvements and, except as otherwise provided herein, the transfer of maintenance of the Public Improvements to the Town.

1.8 “**Public Improvements**” shall mean, without limitation, the construction, installation, improvement and dedication of public improvements, including, but not limited to public thoroughfares and streets, sanitary sewer facilities, water line facilities, drainage facilities in the public right of way, irrigation structures, if any, that are not exclusively for the benefit of the Development, right-of-way landscaping and irrigation structures, street lighting and signage, and other public facilities and improvements to serve the Development. The Public Improvements include, but are not limited to, the improvements listed on **Exhibit B**, in whatever form they are referenced, that will be dedicated to the Town and the improvements listed on **Exhibit C**.

1.9 “**Performance Guarantee**” shall mean a guarantee that the Public Improvements will be constructed in conformance with the Civil Engineering Construction Plans.

1.10 “**Site Development Plan**” means the Town-approved architectural drawing depicting the general layout and configuration of the Development in compliance with the Town of Johnstown Land Use Development Code, as amended from time to time, including, among other elements, building footprints, parking and street layout, conceptual landscaping and lighting, site cross section drawings and building elevations.

CONSTRUCTION OF PUBLIC IMPROVEMENTS

2.1 *Pre-Construction*

a. **Engineering Services:** Developer shall furnish, at its own expense, all engineering services in connection with design, construction, installation and improvement of the Public Improvements. Engineering services shall be performed by a professional engineer registered in the State of Colorado. Engineering services shall consist of, but not be limited to, survey, designs, plans and profiles, specifications, drawings, estimates, construction administration, and the furnishing of necessary documents in connection therewith, including but not limited to final engineering drawings, final sewer and water design plans and final drainage plans (the “Civil Engineering Construction Plans”).

b. **Civil Engineering Construction Plans:** Prior to commencing construction of the Public Improvements for the Development, Developer shall submit the Civil Engineering Construction Plans to the Town for review. Construction of the Public Improvements shall not commence until the Town provides written notice of approval of the Civil Engineering Construction Plans. Developer shall not thereafter modify the approved Civil Engineering Construction Plans without the written approval of the Town. The Town’s review and approval of the Civil Engineering Construction Plans shall not limit or affect Developer’s responsibility or liability for design, construction and installation of the Public Improvements, and Developer agrees to save and hold the Town harmless from any claims, fault or negligence attributable to such design, construction and installation, other than negligent designs which are required by the Town over Developer’s written objection.

c. **Pre-Construction Meeting.** Subsequent to the Town’s approval of the Civil Engineering Construction Plans and prior to the commencement of construction, the Developer and its contractors shall participate in a pre-construction meeting with the Town’s Public Works Department. Among other matters, as determined by the Town, the purpose of the meeting shall be to review: (i) the Civil Engineering Construction Plans; (ii) permits needed for construction; (iii) relevant provisions of the Code and the Town’s construction standards and specifications; and (iv) the construction inspection process and requirements for construction acceptance.

d. **Rights-of-Way, Easements and Permits:** Prior to commencing construction of the Public Improvements, Developer shall acquire, at its own expense, good and sufficient rights-of-way or easements, clear of any encumbrances, on all lands and facilities, if any, traversed by the proposed Public Improvements. All such rights-of-way and easements shall be conveyed to the Town and the documents of conveyance shall be furnished to the Town for recording. At the

Town's request, Developer shall provide at its sole expense a policy of title insurance insuring title in the Town, free and clear of all liens and encumbrances, for all land, property and easements dedicated or conveyed to the Town or for public use. Any agreements or easements to which the Town may effectively become a party upon dedication or acceptance of the improvements shall be provided to the Town for review prior to execution of such agreement or easement and prior to issuance of building permits. In addition, Developer shall obtain all the requisite permits and licenses necessary for construction of the Public Improvements.

2.2 *Construction of Public Improvements*

a. **Construction Standard:** Upon satisfaction of the conditions set forth in Paragraph 2.1 and the notice requirement set forth below, Developer shall construct the Public Improvements at its own expense in accordance with this Agreement, the Civil Engineering Construction Plans, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations. All Public Improvements shall be installed and constructed within the rights-of-way or easements dedicated to the Town. Unless otherwise approved by the Town in writing, all materials used for constructing the Public Improvements shall be materials set forth on the Town's approved material list. Workmanship and materials shall be of good quality.

b. **Notice to Property Owners:** At least seven (7) days prior to the commencement of construction, Developer shall provide written notice to all impacted property owners (as determined by the Town) along with contact information for the Developer. Prior to the commencement of the construction, such contact list shall be provided to the Town with a copy of the notification. Notification may be by U.S. mail or by delivering a printed flyer left at each affected home or business location.

2.3 ***Engineer's Opinion of Cost and Construction Schedule:*** Developer estimates the cost of the Public Improvements as set forth on the Engineer's Opinion of Cost, attached hereto and incorporated herein by reference as **Exhibit C**. Once construction begins, Developer shall keep the Town informed by periodic status reports of the progress of the work and a projection of when the Public Improvements will be completed as well as the cost of such Public Improvements.

2.4 ***Testing:*** Developer shall employ, at its own expense, a qualified independent testing company, approved by the Town, to perform all testing of materials or construction that may be reasonably required by the Town. Developer shall furnish certified copies of test results to the Town.

2.5 ***Inspection:*** At all times during construction of the Public Improvements, the Town shall have the right, but not the duty, to inspect materials and workmanship, at Developer's cost. All materials and work must conform to the Civil Engineering Construction Plans. Any material or work not conforming to the Civil Engineering Construction Plans shall be promptly removed, repaired or replaced, at Developer's expense and to the satisfaction of the Town.

2.6 **Completion of Construction:** Developer shall complete construction of the Public Improvements no later than eighteen (18) months from the commencement of the construction, unless such completion date is extended for reasons beyond the reasonable control of Developer and Developer has obtained the Town's written consent to the extension.

2.7 **Performance Guarantee:** To secure the construction, installation, improvement and completion of the Public Improvements, Developer shall furnish to the Town a cash escrow deposited with the Town, a bond in the form approved by the Town or an irrevocable letter of credit in the form approved by the Town in an amount equal to 110% of the cost of the improvements ("Performance Guarantee"), which cost shall be certified by Developer's professional engineer licensed in the State of Colorado and approved by the Town. The Performance Guarantee shall be released after the Notice of Construction Acceptance has been provided for the Public Improvements.

ACCEPTANCE OF PUBLIC IMPROVEMENTS

3.1 **Notice of Construction Acceptance:** Developer shall make written application to the Town for acceptance of the Public Improvements, within thirty (30) days of the completion date of the Public Improvements, with the exception of the improvements for which the Town has authorized an extension of time to complete. Among other documents that may be required by the Town, the written application shall include one set of reproducible "as built" drawings and an affidavit executed by Developer affirming that the Public Improvements have been paid in full, certifying the final construction costs and including documentary evidence of the construction costs. If the Town requests, Developer shall provide lien waivers, or other acceptable assurance, from all subcontractors, suppliers and materialmen who have furnished labor, material or services for the design, construction or installation of the Public Improvements. The affidavit and lien waivers may be reviewed by the Town, but the Town assumes no responsibility or liability to or for anyone regarding the veracity of the information so provided.

After the receipt of the written application, the Town shall use reasonable efforts to promptly inspect the Public Improvements. If the Public Improvements are satisfactory, Developer shall be entitled to a Notice of Construction Acceptance of the Public Improvements upon receipt of the Maintenance Guarantee. If the Public Improvements are not satisfactory, the Town, upon coordination with Developer, shall prepare a punch list of all Public Improvements that are not in compliance with the Civil Engineering Construction Plans, subject to any changes that have been approved or required by the Town. After curing the defects and matters set forth on the punch list, Developer shall make a renewed written application to the Town for re-inspection of the Public Improvements, which written application shall contain the items set forth above. The Town shall thereafter use reasonable efforts to promptly re-inspect the Public Improvements. If the Public Improvements are satisfactory, Developer shall be entitled to the issuance of a Notice of Construction Acceptance for the Public Improvements upon receipt of the Maintenance Guarantee.

3.2 **Maintenance Guarantee.** Prior to the issuance of the Notice of Construction Acceptance of the Public Improvements, Developer shall provide the Town with a maintenance

guarantee in the form of a cash escrow deposited with the Town, a bond in the form approved by the Town or an irrevocable letter of credit in the form approved by the Town (“Maintenance Guarantee”). The Maintenance Guarantee shall equal fifteen percent (15%) of the total cost of the Public Improvements. The Maintenance Guarantee shall warrant and guarantee all expenses and costs for maintenance, repairs and replacements of the Public Improvements until Final Acceptance. The Maintenance Guarantee shall be released after Final Acceptance of all of the Public Improvements.

3.3 ***Delivery of Notice of Construction Acceptance.*** Upon satisfaction of the conditions set forth above in Paragraphs 3.1 and 3.2, the Town shall provide written Notice of Construction Acceptance of the Public Improvements. At its discretion, the Town may issue a written Notice of Construction Acceptance of the Public Improvements prior to completion of all the Public Improvements as long as the Performance Guarantee remains in effect for such uncompleted Public Improvements. In which case, at the Town’s discretion, Developer may be entitled to obtain building permits prior to completion of all the Public Improvements, assuming satisfaction of the remaining terms of this Agreement and based on conditions otherwise set forth herein.

3.4 ***Maintenance, Repair and Replacement:*** Until Final Acceptance, Developer shall warrant the Public Improvements for a period of two (2) years. Developer shall promptly perform all maintenance and make all repairs and replacements of all defects or failures of the Public Improvements at Developer’s expense. If, within ten (10) days after Developer’s receipt of written notice from the Town requesting such maintenance, repairs or replacements, Developer shall not have undertaken with due diligence to make the same, the Town may make such maintenance, repairs or replacements at Developer’s expense and shall be entitled to draw upon the Maintenance Guarantee, either before undertaking to make such repairs or at any time thereafter, or the Town may charge Developer for the costs thereof. In case of emergency, as determined by the Town, such written notice shall be deemed waived and the Town may proceed as it deems necessary at the expense of Developer or the issuers of the Maintenance Guarantee. Notwithstanding the foregoing, the Town may, at its discretion and upon written advisement to Developer, be responsible for routine maintenance of the Public Improvements (street sweeping, snow removal, etc.).

3.5 ***Final Acceptance:*** Two (2) years after the Town’s issuance of the Notice of Construction Acceptance, which time period may be extended at the Town’s discretion due to remedial or repair work that may be required by the Town during the first two (2) years, Developer shall make a written request to the Town for final inspection of the Public Improvements. If the Town determines that the Public Improvements are free of defects in materials and workmanship and have been repaired and maintained to the extent required, the Town shall provide certification of completion by issuance of a Notice of Final Acceptance of the Public Improvements. If the Town determines that the Public Improvements are not free of defects in materials and workmanship and have not been repaired and maintained to the extent required, the Town shall issue a written notice of non-compliance specifying the defects. Developer shall take such action as is necessary to cure the noncompliance and, upon curing the same, provide a new written request to the Town for a final inspection of the Public Improvements. Failure of the Developer to make a timely request for the

issuance of a Notice of Final Acceptance shall not limit the Town's rights hereunder nor shall it limit the Town's right to utilize the Public Improvements as the Town deems appropriate.

Upon issuance of the Notice of Final Acceptance, the Maintenance Guarantee shall be released to Developer, and the Town shall thereafter maintain the Public Improvements dedicated to the Town.

WATER AND SEWER SERVICE

4.1 Prior to issuance of any building permits, if not already executed with respect to the Development, the Town and Developer shall enter into a Water and Sewer Service Agreement setting forth its agreement concerning water rights dedication, preliminary projections of water and sewer demand and a commitment by the Town for water and sewer service to the Development. The Water and Sewer Service Agreement shall be incorporated into this Agreement and made a part hereof.

BUILDING PERMITS

5.1 The Town shall not issue building permits for the Development until: (1) the Site Development Plan has been approved by the Town; (2) Developer has paid all applicable use tax due and owing to the Town and all other fees required by the Town, including but not limited to water and tap fees, impact fees, storm drainage fees and cash-in-lieu payments due, if any, to the Thompson School District R2-J; (3) Developer has received written notice of Notice of Construction Acceptance of the Public Improvements, with the exception of the improvements for which the Town has authorized an extension of time to complete; (4) Developer has provided the Maintenance Guarantee; (5) unless previously executed, the parties have entered into a Water and Sewer Service Agreement; and (6) all terms of this Agreement have been faithfully kept by Developer.

5.2 If at any time the Town determines that Developer is not in compliance with this Agreement, the Site Development Plan, or the Civil Engineering Construction Plans, among any other available remedy, the Town may withhold the issuance of building permits, if applicable, or the issuance of a certificate of occupancy.

OPERATION STANDARDS

6.1 Construction activity shall occur only during the times set forth in the Code.

6.2 Developer shall control all weeds growing within the Development. Prior to the commencement of construction, Developer shall provide a weed management plan to the Town, outlining the manner and frequency in which the weeds shall be controlled. The Town shall have the right to object to the weed management plan. Developer further agrees to use the appropriate herbicide and undertake mowing of the property within the Development. If, at the Town's sole determination, Developer does not control the weeds in or properly mow the Property, the Town may provide Developer with three (3) days written notice to cure the breach, which time period may

be extended in writing by the Town Manager for good cause. If the breach is not cured, at the Town's sole determination, the Town shall issue a stop work order on all construction in the Development. The Town or Developer shall thereafter mitigate the nuisance by taking measures to control the weeds or mow the Property. If the Town mitigates the nuisance, upon fifteen (15) days of receipt of an invoice from the Town, Developer shall pay the invoice for services rendered, which will include the actual costs and a ten percent (10%) administrative fee. The stop order will be released, if one had been issued, upon Developer's payment of the invoice. If the Developer mitigates the nuisance, the stop order will be released upon a Town inspection and determination the nuisance has been mitigated.

6.3 Developer shall, at all times, keep the public right-of-way free from accumulation of waste material, rubbish, dirt and mud caused by Developer's operation. Developer shall remove such waste material, rubbish, dirt and mud no less than weekly and, at the completion of the work, shall promptly remove all debris waste materials, rubbish, dirt, mud, tools, construction equipment, machinery, building materials, trash containers, and portable toilets from the public right-of-way.

6.4 Whenever the Town determines that any activity is occurring which is not in compliance with the requirements of any federal or state regulations applicable to water quality or stormwater control, the Town may order all construction activity stopped upon service of written notice. Developer, or its contractors, shall immediately stop all activity until authorized in writing by the Town to proceed. If Developer or a responsible party is not on the site or cannot be located, the notice to stop work shall be posted in a conspicuous place upon the area where the activity is occurring and shall state the nature of the violation. It shall be unlawful for any person to fail to comply with a stop work order.

6.5 In the event that Developer fails to perform the work specified in Paragraphs 6.2, 6.3 or 6.4 within a reasonable time period after receiving written notice from the Town, as determined by the Town, the Town may, in addition to other remedies, perform the work required and charge Developer for said cost. Developer shall pay the Town for all costs incurred by the Town in the performance of the above said service within ten (10) days of the Town submitting an invoice for said services. If Developer does not remit the costs, in addition to other remedies, the Town may draw on the Performance Guarantee or Maintenance Guarantee.

6.6 Developer shall ensure that Developer's subcontractors cooperate with the Town's construction inspectors in all manners. Developer shall take all steps necessary to prevent its construction activities from damaging adjacent properties.

6.7 Developer shall take all necessary steps to prevent its construction activities from harming water quality, water bodies and wetlands. All drainage and holding ponds shall be kept free of standing water by whatever means possible including, but not limited to, pumping water out of any holding ponds.

LIABILITY, INSURANCE AND COST REIMBURSEMENT

7.1 **Indemnification:** Developer hereby agrees to indemnify and hold the Town, its employees, agents, representatives, insurers and self insurance pool harmless from and against any and all suits, demands, actions, damages, liability, losses, claims, fees and expenses, including attorney's fees, resulting or arising in any way from any breach or default of this Agreement or any acts or omissions of Developer, its employees, agents, consultants, representatives or subcontractors, except to the extent caused by gross negligence or willful misconduct of the Town. Developer shall promptly investigate, handle, respond to, and provide defense for and defend against any such liability, claims or demands at the sole expense of Developer. Developer also agrees to bear all costs, expenses and attorney's fees related thereto whether or not such liability, claims or demands are groundless, false or fraudulent.

7.2 **Insurance:** Developer shall for itself and for its contractors, subcontractors, representatives and agents engaged in the design, construction or installation of the Public Improvements maintain such liability insurance including general liability, contractors liability, professional liability, comprehensive automobile liability and sufficient public liability insurance as will protect the Town, its employees, agents and representatives against any and all potential liability, claims, damage, demands, losses, and expenses which may be incurred or asserted pursuant to Paragraph 7.1 above. Liability insurance shall be in the minimum amount of One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate, or such greater amounts as may be established by the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as may be amended. Developer shall list the Town, its officers, employees, agents and representatives, as additional insureds on such liability policies. Whenever requested by the Town, Developer agrees to promptly submit certificates of insurance evidencing sufficient amounts, types and duration of insurance and showing the Town, its officers, employees, agents and representatives, as additional insureds. Developer shall not be relieved of any liability, claims, demands or other obligations assumed or set forth in this Agreement by reason of its failure to procure or maintain such insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations or types. In addition to the insurance specified above, Developer shall maintain workers compensation insurance, if so required by law, and shall require its contractors, subcontractors, representatives and agents engaged in the design, construction or installation of improvements to maintain workers compensation insurance in the amount required by law.

7.3 **Drainage Liability:** Developer shall indemnify and hold the Town harmless from any liability the Town may have on account of any change in the nature, direction, quantity, or quality of drainage flow resulting from the Development. In addition, Developer shall reimburse the Town for any and all costs, fees, and expenses, including attorney's fees, which the Town incurs in acquiring any rights-of-way or easements which the Town is required to acquire or condemn or which the Town is held to have acquired or condemned for drainage as a result of this Development. This provision shall survive Final Acceptance and the termination of this Agreement.

7.4 **Tax Liability:** Developer shall pay all outstanding taxes, encumbrances or obligations on any property dedicated or conveyed to the Town prior to or at the time of such dedication or conveyance, and shall indemnify and hold the Town harmless from any and all

encumbrances, obligations or tax liability incurred prior to the dedication or conveyance to the Town.

7.5 **Cost Reimbursement to Town:** Developer shall reimburse the Town for professional consultants, including, but not limited to engineers, testing and inspection companies and attorneys, engaged by the Town to process and complete the Development.

7.6 **Colorado Governmental Immunity Act:** Nothing in this Agreement shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the Town, its employees, or agents, or any other person acting on behalf of the Town and, in particular, the governmental immunity afforded pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101 *et seq.*, C.R.S., as amended.

DEFAULTS AND REMEDIES

8.1 A default by Developer shall exist if Developer fails to fulfill or perform any material obligation contained in this Agreement or the Civil Engineering Construction Plans, or Developer fails to comply with the Town's ordinances, resolutions and regulations and all other applicable laws and regulations. In the event of a default, the Town shall deliver written notice to Developer of such default and Developer shall have ten (10) days from receipt of such notice to cure the default. If the default is not of a type that may be cured within such ten (10) day period, Developer may provide written notice to the Town within such period that it is actively and diligently pursuing such cure and Developer shall thereafter have a reasonable time to cure the default, provided that Developer is at all times within that extended period actively and diligently pursuing a cure. In case of emergency, as determined by the Town, such written notice shall be deemed waived and the Town may proceed as it deems necessary at the expense of Developer or the issuers of the Performance Guarantee or Maintenance Guarantee.

8.2 If the default relates to the improvement secured by the Performance Guarantee and the default is not timely cured, the Town may draw on the Performance Guarantee. If the default arises subsequent to the issuance of the Notice of Construction Acceptance and the default is not timely cured, the Town may draw on the Maintenance Guarantee. In addition, and without limitation, if the default is not timely cured, the Town may withhold approval of any or all building permits, certificates of occupancy, water meters or tap hook-ups for any area within the Development. Notwithstanding these rights and remedies, the Town may pursue whatever additional remedies it may have against Developer or anyone, either at law, equity or pursuant to this Agreement. The Town's remedies shall be cumulative.

8.3 Should Developer default in any obligation under this Agreement, the Town may, at its discretion, complete or remove such Public Improvements at Developer's expense. The Town shall estimate the cost of undertaking such work and give notice to Developer to pay such cost estimate. The Town shall use such payment for construction or removal of said improvements and refund any money collected in excess of the actual cost of said improvements. Should payment not be made within thirty (30) days of such notice, the Town may assess the amount of the cost estimate,

plus ten percent (10%) to defray the cost of collection as provided by state law, to the Property and file a lien against the Property, such lien to have priority over all liens except general taxes and prior special assessments and be placed upon the tax list for the current year to be collected in the same manner as taxes are collected. The Town may file such lien at any time after said thirty (30) days while Developer is in default of this Agreement.

MISCELLANEOUS

9.1 ***Additional Terms and Conditions.*** In addition to the Public Improvements, **Exhibit B** also includes additional required terms and conditions, if any, related to the Development.

9.2 ***Warranty of Developer:*** Developer warrants that the Public Improvements shall be installed in a good and workmanlike manner and in compliance with the Civil Engineering Construction Plans, this Agreement, the Town's ordinances, resolutions and regulations and all other applicable laws and regulations and shall be substantially free of any defects in materials and workmanship.

9.3 ***Recording of Agreement:*** This Agreement shall be recorded and shall be a covenant running with and against all the Property, property rights and improvements contained within the Development described in **Exhibit A** in order to put prospective owners, purchasers, successors, assigns, and others acquiring any interest in the property on notice as to the terms and obligations herein.

9.4 ***Binding Effect:*** Unless otherwise provided herein, this Agreement shall be binding upon Developer's heirs, successors, assigns, transferees and any other person or entity acquiring or purchasing any interest in any of the Property described in the attached **Exhibit A**, with the exception of a bona fide end user of the Property.

9.5 ***Assignments:*** Developer shall not assign this Agreement the written consent of the Town.

9.6 ***Title and Authority:*** Developer expressly warrants and represents to the Town that it is the record owner of the Property and further represents and warrants that the undersigned has full power and authority to enter into this Agreement. Developer understands that the Town is relying on the representations and warranties contained herein in approving in entering into this Agreement.

9.7 ***Notice:*** All notices, consents, applications or other instruments provided for under this Agreement shall be deemed properly given and received: (1) when personally delivered and received, when sent by messenger service, or when forwarded by electronic mail delivery, but only upon confirmation of receipt of such electronic mail; (2) on the next day after deposit for delivery with a nationally-recognized overnight courier service; or (3) three business days after deposit in the United States mail, by certified mail with return receipt requested, postage prepaid and addressed as follows:

TO DEVELOPER:

JOURNEY HOMES, LLC

Attention: Larry S. Buckendorf
7251 W. 20th Street, L-200
Greeley, CO 80634
Email: Larry@JourneyHomes.com

TO TOWN:

TOWN OF JOHNSTOWN

Attention: TOWN MANAGER
450 South Parish Avenue
P. O. Box 609
Johnstown, CO 80534
Email: MLeCerf@JohnstownCO.gov

9.8 ***Costs and Attorney Fees.*** If any judicial proceedings may hereafter be brought related to this Agreement, 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.

9.9 ***Vested Right.*** The Site Development Plan shall have vested rights for a period of three (3) years from the date of this Agreement. If, after such time, no reasonable and substantial efforts have commenced to construct the Public Improvements, as determined by the Town at its sole discretion, said Site Development Plan may be vacated by action of the Town.

9.10 ***Severability:*** If any provisions or parts of this Agreement are judged to be unenforceable or invalid, to the extent practicable, such judgment shall not affect, impair or invalidate the remaining parts of this Agreement, the intention being that the various parts and provisions hereof are severable.

9.11 ***Governing Law and Venue.*** This Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado and the Code. Venue for any claim, proceeding or action arising out of this Agreement shall be in the County of Weld, State of Colorado.

9.12 ***No Presumption.*** 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. 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.

9.13 ***Entire Agreement; Controlling Agreement.*** Except for the SDIA, this Agreement constitutes the entire agreement and understanding between the parties and supersedes all prior agreements or understandings. Any amendment to this Agreement must be in writing and signed by the parties. The SDIA remains binding and, except for a conflict, this Agreement shall not supersede or replace the SDIA. To the extent of a conflict between this Agreement and the SDIA, this Agreement shall control.

9.14 ***Compliance with the Law.*** Developer shall comply with all federal, state and local laws and regulations in the performance of the obligations under this Agreement.

TOWN OF JOHNSTOWN, COLORADO
a municipal corporation

By: _____
_____, Mayor

ATTEST:

By: _____
Hannah Hill, Town Clerk

**SITE DEVELOPMENT PLAN AGREEMENT
(The Ridge at Johnstown, Filing No. 3, Lot 1)**

EXHIBITS

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EXHIBIT B:	Public Improvements and Additional Terms and Conditions
EXHIBIT C:	Engineer's Opinion of Cost

EXHIBIT A
LEGAL DESCRIPTION
(Property)

Lot 1 of The Ridge at Johnstown Filing No. 3 Subdivision, Town of Johnstown, County of Larimer, State of Colorado.

EXHIBIT B

PUBLIC IMPROVEMENTS AND ADDITIONAL TERMS AND CONDITIONS

1. **Prior to issuance of any Building Permits**, the Developer and Town shall execute a Water and Sewer Service Agreement for Phase I of the Development, which shall include, in addition to the other requirements associated with Phase I, the agreed-upon allotment and dedication of water for the landscape irrigation for the common areas of the Development and the perimeter of the Property.
2. **Prior to issuance of any Building Permits for Phase II of the Development**, the Developer and Town shall execute a Water and Sewer Service Agreement.
3. **Prior to the issuance of a Certificates of Occupancy**, an offsite water main connection from Elsie Avenue through the South Ridge development connecting to the Town's water main in Larimer County Road 3e shall be constructed. This extension is currently being proposed by the developer of the South Ridge development. The connection must either be made by Developer or the developer of the South Ridge development.
4. **Prior to the issuance of a Certificates of Occupancy**, the Town shall have issued a notice of construction acceptance for the streets shown on The Ridge at Johnstown Subdivision Filing No. 3 Plat as Elsie Avenue, Bade Drive, Caliber Parkway, Bearberry Lane, and the Interstate 25 Frontage Road as well as for all required Town utility and stormwater infrastructure in, along, or serving such streets.
5. **Prior to the issuance of Notice of Construction Acceptance**,
 - a. For Phase 1, Developer shall pay to the Town a cash-in-lieu amount for a proportional share of the planned West Johnstown Water Tank at a calculated pro rata cost of \$970.00 per single family equivalent ("SFE"), multiplied by the Development's estimated SFE of 213.91 SFEs (including irrigation), for a total of \$207,492.70; and
 - b. For Phase 2, Developer shall pay to the Town a cash-in-lieu amount for a proportional share of the planned West Johnstown Water Tank at a calculated pro rata cost of \$970.00 per single family equivalent ("SFE"), multiplied by the Development's estimated SFE of 112.96 SFEs, for a total of \$109,571.20.
6. **Phasing**. The Development may be phased as set forth on the map shown below. The following conditions relate to the phasing:
 - a. Phase I shall include all utilities, all grading, a clubhouse and pool, and ten (10) buildings consisting of two hundred ten (210) units and eight (8) garages; and
 - b. Phase II shall include eight (8) buildings consisting of one hundred sixty eight (168) units and five (5) garages.

Phasing Map for The Ridge Multifamily

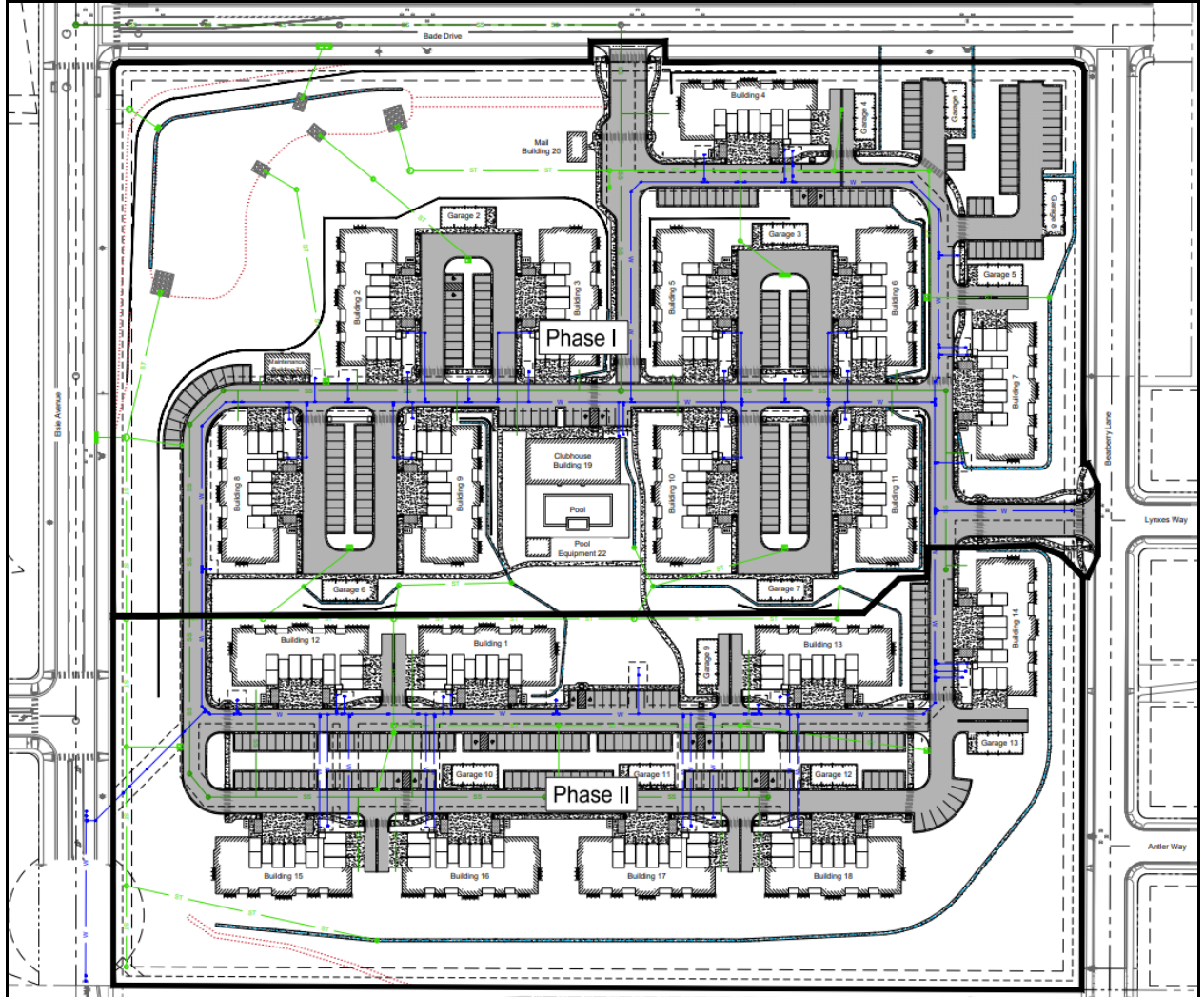


EXHIBIT C
ENGINEER'S OPINION OF COST
(ATTACHED)

January 3, 2024

Doug Gosset
Town Engineer
Town of Johnstown
450 S. Parish Avenue
Johnstown, CO 80534

Re: **Opinion of Cost Certification**
The Ridge Multifamily
Lot 1, Block 1 of The Ridge at Johnstown Subdivision Filing 3
Town of Johnstown, Colorado

Mr. Gosset:

I am writing to provide a certification of the projected costs associated with The Ridge Multifamily project. See Exhibit A. I have thoroughly analyzed the estimated costs submitted by Crow Creek Construction. These projections have been examined for their accuracy, feasibility, and alignment with the project and current market rates. I believe that the estimated costs are reflective of the project's scope and complexity and are aligned with our expectations for a development of this magnitude.

Please do not hesitate to contact me if you need any further information or have any questions.

Sincerely,
LandOne Engineering, LLC



Daniel Hull  Digitally signed
by Daniel Hull
Date: 2024.01.03
10:19:47-07'00'

Daniel Hull, PE
Principal/Owner

Enclosures

Exhibit A

 <p style="text-align: center; margin-top: 20px;">7251 W. 20th St., Bldg. L, Suite 101B Greeley, Colorado 80634 Phone: (970) 330-5070 Fax: (970) 330-6044</p>	<p style="text-align: center;">Johnstown, Colorado</p> <p style="text-align: center;"><i>The Ridge Multifamily</i></p> <p style="text-align: center;">Public Improvements 18 Buildings - (378 Units)</p> <p>To: SR Johnstown Holdings, LLC Attention: Larry Buckendorf 7251 W. 20th Street, L-200 Greeley, CO 80634 (970) 352-7072</p> <p>From: Joe Schumacher (cell) 970.397.9880 Justin Marshall (cell) 970.397.9875 Joel Hemesath (cell) 970.397.9282</p> <p>Estimate Date: <i>August 30, 2023</i></p>
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The Ridge Multifamily	Project Total
Item	Total
EROSION CONTROL	\$13,516.25
EARTHWORK	\$427,017.60
SEWER MAIN	\$136,290.00
WATER MAIN	\$528,860.00
STORMWATER MAIN	\$373,044.84
Total:	\$1,478,728.69

Total Construction Costs:	\$1,478,728.69
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Total Construction Costs Per Unit (378 Units):	\$3,911.98
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EROSION CONTROL	UNIT	QUANTITY	UNIT COST	EXTENDED
Silt Fence	LF	4,061.0	\$1.25	\$5,076.25
Concrete Wash Out	EA	3.0	\$1,150.00	\$3,450.00
Vehicle Tracking Control Pads	EA	2.0	\$1,520.00	\$3,040.00
Gravel Inlet Protection	EA	12.0	\$150.00	\$1,800.00
Straw Bale Outlet Protection	EA	1.0	\$150.00	\$150.00
Subtotal:				\$13,516.25

EARTHWORK	UNIT	QUANTITY	UNIT COST	EXTENDED
Strip site 4" Place on Non-Structural Areas	CY	13,414.0	\$2.40	\$32,193.60
Onsite Cut & Fill including buildings and parking lots (Leave 15" low)	CY	164,510.0	\$2.40	\$394,824.00
Subtotal:				\$427,017.60

SEWER MAIN	UNIT	QUANTITY	UNIT COST	EXTENDED
8" Sewer Main	LF	2,194.0	\$35.00	\$76,790.00
48" Sewer Manhole	EA	6.0	\$3,000.00	\$18,000.00
60" Sewer Manhole (Inside Drop)	EA	3.0	\$3,200.00	\$9,600.00
6" Sewer Service	EA	19.0	\$1,600.00	\$30,400.00
4" Sewer Service - Maintenance Bldg	EA	1.0	\$1,500.00	\$1,500.00
Subtotal:				\$136,290.00

WATER MAIN	UNIT	QUANTITY	UNIT COST	EXTENDED
8" Water Main	LF	3,600.0	\$45.00	\$162,000.00
8" Water Valves & Fittings	EA	36.0	\$2,500.00	\$90,000.00
8" Water Line Lowering	EA	4.0	\$2,500.00	\$10,000.00
8" Horizontal Bends	EA	5.0	\$500.00	\$2,500.00
Fire Hydrant Assembly	EA	13.0	\$6,500.00	\$84,500.00
Fire Line Blowoff	EA	19.0	\$2,000.00	\$38,000.00
3/4" Water Service - Club House & Maintenance Bldg	EA	2.0	\$1,250.00	\$2,500.00
1-1/2" Water Service	EA	18.0	\$3,520.00	\$63,360.00
2" Fire Service	EA	19.0	\$4,000.00	\$76,000.00
Subtotal:				\$528,860.00

Exhibit A

STORMWATER MAIN	UNIT	QUANTITY	UNIT COST	EXTENDED
18" RCP	LF	420.0	\$55.00	\$23,100.00
18" HDPE	LF	442.0	\$52.00	\$22,984.00
18" FES - RCP	EA	1.0	\$1,500.00	\$1,500.00
24" RCP	LF	516.0	\$60.00	\$30,960.00
24" HDPE	LF	943.0	\$59.00	\$55,637.00
30" RCP	LF	120.0	\$63.00	\$7,560.00
36" RCP	LF	112.0	\$60.00	\$6,720.00
36" HDPE	LF	340.0	\$95.00	\$32,300.00
36" FES - HDPE	EA	1.0	\$1,850.00	\$1,850.00
48" RCP	LF	120.0	\$150.00	\$18,000.00
48" FES - RCP	EA	1.0	\$2,850.00	\$2,850.00
4' Dia Manhole	EA	7.0	\$3,000.00	\$21,000.00
5' Dia Manhole	EA	4.0	\$3,200.00	\$12,800.00
6' Dia Manhole	EA	1.0	\$4,000.00	\$4,000.00
10' Type R Inlet	EA	5.0	\$8,500.00	\$42,500.00
Double Type C Inlet	EA	3.0	\$3,000.00	\$9,000.00
Double Type C Inlet - 19' Deep	EA	1.0	\$14,000.00	\$14,000.00
Triple Type C Inlet	EA	1.0	\$12,350.00	\$12,350.00
Quadruple Type C Inlet	EA	2.0	\$8,000.00	\$16,000.00
Quadruple Type C Inlet - Deep	EA	1.0	\$15,250.00	\$15,250.00
Riprap	CY	18.1	\$125.00	\$2,263.89
Pond Spillway Weir	EA	1.0	\$6,000.00	\$6,000.00
Outlet Structure	EA	1.0	\$12,520.00	\$12,520.00
			Subtotal:	\$373,044.84