

WATER AND SEWER SERVICE AGREEMENT
(The Ridge Apartments Phase 1)

THIS WATER AND SEWER SERVICE AGREEMENT (“Agreement”) is made and entered into this ____ day of _____, 2024, by and between **JOURNEY HOMES, LLC**, a Colorado limited liability company (“Developer”), the **TOWN OF JOHNSTOWN**, a Colorado municipal corporation (“Town”), collectively sometimes referred to as the “Parties.”

WITNESSETH:

WHEREAS, the Developer is the owner of land situated in Lot 1, Block 1 of The Ridge at Johnstown Subdivision Filing 3, Town of Johnstown, County of Larimer, State of Colorado, known as The Ridge Apartments Phase 1, more specifically described on Exhibit A, attached hereto and incorporated herein by reference (“Subject Property”); and

WHEREAS, the Town and Developer, among others, established the Journey Homes Water Bank pursuant to the Assignment and Allocation of Raw Water Credit from the Caliber Water Bank, providing Developer with the right to allocate raw water from the Journey Homes Water Bank to uses within the Town; and

WHEREAS, the Developer is developing the Subject Property to contain 210 multi-family attached units, a clubhouse, maintenance building, pool, and irrigated landscape including 2.27 acres of sod, 2.43 acres of shrub beds, and 5.79 acres of native grasses (“Project”); and

WHEREAS, the Developer seeks to use raw water from the Journey Homes Water Bank for the Project; and

WHEREAS, the Developer and the Town desire to set forth their agreement concerning the use of the Journey Homes Water Bank, preliminary projections of water demand and a 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 Demand Study. In compliance with the Town Water Rights Dedication Ordinance, Chapter 13, Sections 13-61 through 13-72, inclusive, of the Johnstown Municipal Code, as amended, (“Ordinance”), the Developer has submitted to the Town a preliminary water demand analysis for the Project dated January 4, 2024. Said analysis was received by the Town and is on file with the Town and as modified by the Town’s Water Engineer by Memorandum dated January 5, 2024, is hereby accepted by the Town as to the irrigation water demands. The analysis sets forth the projected water demands for the Project as follows:

Development Component	Demand (AF/YR)	Consumption (AF/YR)
In-building	62.12	3.11
Irrigation	15.11	12.84
Total water use	77.23	15.95

2. Water Rights Dedication. Developer and the Town agree that the required 77.23 acre-feet of raw water credit for the Project will be allocated from the water stock contained in the Journey Homes Water Bank.

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 62.12 acre-feet per year for in-building use for the Project with the corresponding sewer service and up to 15.11 acre-feet per year of water supply for the irrigation of approximately 2.27 acres of sod, 2.43 acres of shrub beds, and 5.79 acres of native grasses.

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 Subject Property at a point in time after water usage has been established to confirm the adequacy of the water demand projections made by Developer, and to require additional water rights dedication and/or cash-in-lieu payments, if necessary, based on actual water usage. The additional water rights shall be dedicated by Developer, a metropolitan district providing covenant enforcement or the operative homeowners' association.

5. Payment of Water Court Transfer fees. Upon execution of this Agreement, the Developer shall pay to the Town the sum of Forty-Six Thousand Three Hundred and Fifty Dollars (\$46,350.00) as payment of the water court transfer fees required by the Ordinance. This payment is only for the dedication of 77.23 acre-feet per year of estimated water demand and estimated consumptive use of 15.95 acre-feet per year (154.5 SFE) for the Project. Pursuant to Paragraph 4, above, if future review requires additional dedication of water, additional water court transfer fees will be required at the time of dedication.

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

TO DEVELOPER:
 Journey Homes, LLC
 Larry S. Buckendorf
 7251 W. 20th St., L-200
 Greeley, CO 6034
 Email: Larry@journeyhomes.com

TO THE TOWN:
 Town of Johnstown
 c/o Town Clerk
 450 S. Parish Ave.
 Johnstown, CO 80534
 Email: HHill@johnstownco.gov

WITH A COPY TO
THE TOWN ATTORNEYS:
Avi Rocklin, Esq.
Johnstown Town Attorney
1437 N. Denver Avenue, #330
Loveland, CO 80538
Email: avi@rocklinlaw.com

Peter J. Ampe, Esq.
Hill & Robbins, P.C.
3401 Quebec Street, Suite 3400
Denver, CO 80207
Email: peterampe@hillandrobbsins.com

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

7. 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 an action in a court of competent jurisdiction and shall be entitled to such remedies as are provided by law, including the Town's ordinances.

8. 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.

9. 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.

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

11. 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.

12. 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.

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

14. 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 Larimer or Weld County, State of Colorado.

15. 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.

16. 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

17. Recordation. This Agreement may be recorded by the Town at the Developer's expense in the office of the Clerk and Recorder of Larimer County, Colorado, and, effective as of the date of such recordation, 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.

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

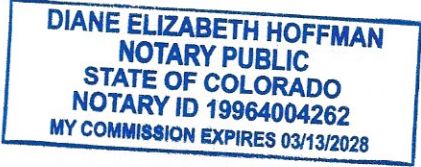
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JOURNEY HOMES, LLC



Adam Bliven, Chief Financial Officer

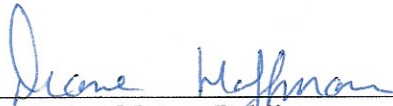
STATE OF COLORADO)
COUNTY OF Weld) ss.



The foregoing instrument was acknowledged before me this 24th day of May 2024, by Adam Bliven, as Chief Financial Officer, Journey Homes, LLC.

Witness my hand and official seal.

My commission expires: 3/13/2028



Notary Public

TOWN OF JOHNSTOWN, COLORADO
a municipal corporation

By: _____
Michael P. Duncan, Mayor

ATTEST:

By: _____
Hannah Hill, Town Clerk

EXHIBIT A
Subject Property

LEGAL DESCRIPTION – RIDGE FILING 3

A PARCEL OF LAND IN THE TON OF JOHNSTOWN, COUNTY OF LARIMER, STATE OF COLORADO, SITUATE IN THE NORTHWEST QUARTER OF SECTION 26 AND THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 5 NORTH, RANGE 68 WEST OF THE 6TH PRINCIPAL MERIDIAN; AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SECTION 26, TOWNSHIP 5 NORTH, RANGE 68 WEST AND THE POINT OF BEGINNING;

THENCE N 89°38'50" W A DISTANCE OF 1436.14 FEET;

THENCE N 23°25'56" W A DISTANCE OF 766.39 FEET;

THENCE N 44°41'20" W A DISTANCE OF 107.73 FEET;

THENCE N 23°23'12" W A DISTANCE OF 82.89 FEET;

THENCE N 23°23'12" W A DISTANCE OF 293.61 FEET;

THENCE N 23°23'12" W A DISTANCE OF 75.69 FEET;

THENCE ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE RADIUS POINT BEARS

N 76°33'10" E, HAVING A RADIUS OF 4475.00 FEET, A CENTRAL ANGLE OF

08°43'04" AND AN ARC LENGTH OF 680.89 FEET;

THENCE N 04°43'46" W A DISTANCE OF 344.17 FEET;

THENCE N 03°01'06" E A DISTANCE OF 222.40 FEET;

THENCE N 69°19'02" E A DISTANCE OF 237.57 FEET;

THENCE N 86°30'13" E A DISTANCE OF 318.75 FEET;

THENCE N 85°31'12" E A DISTANCE OF 318.09 FEET;

THENCE S 89°28'22" E A DISTANCE OF 194.24 FEET;

THENCE S 00°24'20" W A DISTANCE OF 537.40 FEET;

THENCE S 89°36'10" E A DISTANCE OF 1012.07 FEET;

THENCE N 00°00'24" W A DISTANCE OF 580.13 FEET;

THENCE S 89°28'26" E A DISTANCE OF 60.00 FEET;

THENCE N 89°52'50" E A DISTANCE OF 599.92 FEET;

THENCE S 00°07'10" E A DISTANCE OF 20.00 FEET;

THENCE N 89°52'50" E A DISTANCE OF 423.32 FEET;

THENCE S 00°05'58" E A DISTANCE OF 433.47 FEET;

THENCE S 89°54'09" W A DISTANCE OF 243.32 FEET;

THENCE S 00°07'47" E A DISTANCE OF 732.92 FEET;

THENCE S 62°08'02" E A DISTANCE OF 244.73 FEET;
THENCE N 89°53'44" E A DISTANCE OF 200.92 FEET;
THENCE S 00°08'56" W A DISTANCE OF 649.00 FEET;
THENCE N 89°56'13" W A DISTANCE OF 115.28 FEET;
THENCE S 00°10'22" W A DISTANCE OF 659.60 FEET;
THENCE N 89°43'40" W A DISTANCE OF 1080.39 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 6,940,571.66 SQUARE FEET OR 159.33 ACRES AND IS SUBJECT TO ALL RIGHTS-OF-WAY, EASEMENTS, AND RESTRICTIONS NOW OR IN USE OR OF RECORD.