

RESOLUTION NO. 12
(Series of 2014)

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO, APPROVING AN ANNEXATION AND DEVELOPMENT AGREEMENT FOR THE HAYMEADOW PLANNED UNIT DEVELOPMENT BY AND BETWEEN ABRIKA PROPERTIES, LLC AND THE TOWN OF EAGLE, COLORADO.

WHEREAS, Abrika Properties, LLC, a Florida limited liability company, (“Developer”) is the owner of certain real property known as the Haymeadow Planned Unit Development (the “Property”); and

WHEREAS, the Property is intended to be annexed into the Town of Eagle, Colorado, pursuant to three (3) Annexation Petitions submitted to the Town; and

WHEREAS, on March 25, 2014, the Board of Trustees of the Town of Eagle intends to adopt Ordinance No. 11, Series of 2014, an ordinance amending the zone district map of the Town of Eagle by approving a planned unit development within the Town of Eagle to be known as the Haymeadow Planned Unit Development and approving a site specific development plan establishing a vested property right pursuant to Article 68 of Title 24, C.R.S., and Chapter 4.17 of the Eagle Municipal Code (“PUD Zoning Ordinance”); and

WHEREAS, development of the Property in accordance with the requirements contained in the approved PUD Development Plan for the Property and the PUD Zoning Ordinance will require large investments in infrastructure improvements and certain public facilities (including off-site improvements), including, without limitation, new streets, drainage facilities, waterlines and water storage tank, wastewater collection lines, and parks and recreation facilities to serve the needs of the Haymeadow Planned Unit Development and the Town. Completion of these improvements and facilities will require substantial investments by the Developer and the Town; and

WHEREAS, the Developer and the Town have negotiated an agreement entitled “Agreement Relating to the Annexation and Development of Property Known as the Haymeadow Parcel A, Parcel B and Parcel C Additions to the Town of Eagle, Colorado, also known as the Haymeadow PUD”, “Town of Eagle, Colorado” (“Annexation and Development Agreement”) by and between Abrika Properties, LLC and the Town of Eagle, Colorado, attached hereto as Exhibit “A” and incorporated herein by this reference, to address the financing, procedures, limitations and standards applicable to the construction of public improvements and other required improvements required by the PUD Development Plan for the Property and the PUD Zoning Ordinance; the timing of construction of such improvements; performance guarantees necessary to secure the construction and installation of street improvements, access improvements, parking improvements, utility improvements, landscaping improvements, park improvements, trail improvements, water system improvements and other improvements required by the approved Haymeadow PUD Development Plan and the PUD Zoning Ordinance; the dedication of water rights and land to the Town; the responsibility of the parties for various costs, fees and charges; and other matters related to the development of the Haymeadow Planned Unit Development; and

WHEREAS, the Board of Trustees of the Town of Eagle hereby finds and determines that the Annexation and Development Agreement is in conformance with the provisions of the Eagle Municipal Code, including Section 4.06.010(F), as well as the Town’s goals, policies, and plans, as well as with Article 23 of Title 31, C.R.S.; and

WHEREAS, the Board of Trustees finds and determines that the Annexation and Development Agreement attached hereto will protect and promote the public health, safety, and general welfare of the residents of the Town of Eagle.

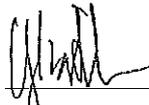
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE, COLORADO:

Section 1. The Annexation and Development Agreement, attached hereto as Exhibit "A" and incorporated herein by reference, is hereby approved, subject to minor changes that are approved by the Eagle Town Manager and Eagle Town Attorney.

Section 2. The Mayor of the Town of Eagle is hereby authorized and directed to execute and deliver the Annexation and Development Agreement on behalf of the Town of Eagle.

INTRODUCED, READ, PASSED AND ADOPTED at a regular meeting of the Board of Trustees of the Town of Eagle, Colorado held on March 25, 2014.

TOWN OF EAGLE, COLORADO

By: 
Yuri Kostick, Mayor

ATTEST:


Sarah Braucht, Town Clerk

**HAYMEADOW PUD
EAGLE, COLORADO**

**APPROVAL OF THIS PLAN CREATES
A VESTED PROPERTY RIGHT
PURSUANT TO SECTION 24 -68 -103,
C.R.S., AS AMENDED**

AGREEMENT RELATING TO THE ANNEXATION AND DEVELOPMENT OF PROPERTY KNOWN AS THE HAYMEADOW PARCEL A, PARCEL B AND PARCEL C ADDITIONS TO THE TOWN OF EAGLE, COLORADO, ALSO KNOWN AS THE HAYMEADOW PUD,

THIS ANNEXATION AND DEVELOPMENT AGREEMENT is made and entered into this ____ day of _____, 2014, by and between the TOWN OF EAGLE, COLORADO, a Colorado municipal corporation (the "Town") whose address is P.O. Box 609, Eagle, CO 81631, and ABRIKA PROPERTIES, LLC a Florida limited liability company, ("Developer") whose address is 3085 Waterside Circle, Boynton Beach, FL 33435.

RECITALS

- A. Abrika Properties LLC, owns one hundred percent (100%) of the real property described in Exhibit A, attached hereto and incorporated herein (the "Property"); and
- B. On or about May 24, 2011, Developer submitted three (3) Petitions for Annexation of the Property to the Town Clerk of the Town of Eagle, Colorado (the "Annexation Petitions"); and
- C. On May 24, 2011 the Board of Trustees of the Town (the "Board") adopted Resolutions No. 7, No. 8, and No. 9., wherein it determined that the petitions for the proposed annexations complied with Section 31 -12 -107, C.R.S., as amended; and
- D. On June 28, 2011, December 13, 2011; February 28, 2012; December 11, 2012; October 22, 2013; January 14, 2014; January 28, 2014; February 11, 2014; February 25; March 5, 2014; and March 11, 2014, the Board conducted public hearings on the Annexation Petitions, and on March 25, 2014, the Board adopted Resolutions No. 11, No. 12 and No. 13, wherein it determined the proposed annexations comply with Sections 31-12-104 and 31-12 -105, C.R.S., as amended, or such parts thereof as may be required to establish eligibility under the terms of the Municipal Annexation Act of 1965, as amended, Sections 31-12-101, C.R.S., *et seq.*, and the Colorado Constitution and
- E. The Property is presently zoned Resource in Eagle County; and
- F. The Town and Developer desire to enter into an agreement setting forth more fully the terms of the annexation and development of the Property; and
- G. Developer has submitted to the Town a proposed Subdivision Sketch Plan, Subdivision Preliminary Plan, PUD Zoning Plan and PUD Development Plan; and

H. Developer desires to develop the Property as a Planned Unit Development ("PUD") to be known as Haymeadow PUD, which shall be entitled to a total of 837 dwelling units together with accessory dwelling units ("ADUs") as permitted by the Municipal Code and as more specifically set forth in the Subdivision Sketch Plan, Subdivision Preliminary Plan, PUD Zoning Plan, and PUD Development Plan, and this Agreement (collectively referred to as the "Development Plan"); and

I. If the Property is annexed to the Town, the Town will have the authority to zone the Property and approve the subdivision of the Property in accordance with this Agreement, the Town's Master Plan, the PUD Development Plan, the Subdivision Preliminary Plan, and the applicable Town requirements and policies; and the Town will have the authority to govern development of Haymeadow in accordance with applicable State law, the Municipal Code, this Agreement, the Development Plan, and other applicable Town requirements and policies; and

J. Development of Haymeadow will require large investments in infrastructure improvements and public facilities (including off-site improvements), including, without limitation, roads, drainage facilities, water lines, wastewater lines, parks, open space, recreation facilities and municipal facilities to serve the needs of the Development(as defined in subsection 1.1) and the Town. Completion of these improvements and facilities will require substantial investments by Developer and/or the Metropolitan District (as defined in subsection 1.1) and the Town. Such investments can be supported only if there are assurances that the development of Haymeadow, once approved by the Town, will be allowed to proceed to ultimate completion as provided in this Agreement; and

K. The proposed PUD fulfills the purposes of a planned unit development as set forth in Section 4.11.020 of the Municipal Code and is in conformance with the Municipal Code and the Town's goals, policies and Master Plan, including the Eagle Area Community Plan (2010). The Town desires to annex the Property in order to provide for orderly growth in and around the Town; and

L. The legislature of the State of Colorado adopted Sections 24-68-101, *et. seq.* of the Colorado Revised Statutes (the "Vested Property Rights Statute") to provide for the establishment of vested property rights in order to ensure reasonable certainty, stability and fairness in the land use planning process and in order to stimulate economic growth, secure the reasonable investment backed expectations of landowners, and foster cooperation between the public and private sectors in the area of land use planning. The Vested Property Rights Statute authorizes the Town to enter into development agreements with landowners providing for vesting of certain property development rights or limiting the vesting of these rights; and

M. Consistent with the Vested Property Rights Statute, Chapter 4.17 of the Municipal Code (the "Vested Property Rights Regulations") authorizes the Town to enter into development

agreements with landowners and other qualified applicants providing for the vesting of property development rights or limiting the vesting of such rights; and

N. Development of the Property in accordance with this Agreement will provide for orderly growth in accordance with the policies and goals set forth in the Town's Master Plan, including the Eagle Area Community Plan (2010), ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic growth, secure the reasonable investment backed expectations of Developer, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes for which the Vested Property Rights Statute and the Vested Property Rights Regulations were enacted. In exchange for these benefits and the other benefits to the Town contemplated by this Agreement, together with the public benefits served by the orderly development of the Property, Developer desires to receive the assurance that it may proceed with development of the Property pursuant to the terms and conditions contained in this Agreement, and

O. The Town has enacted Chapter 4.14 of the Municipal Code, Assurance of Adequate Public Facilities ("APF Regulations" as defined in subsection 1.1), for the purpose of adopting a program to ensure that public facilities needed to support new development meet or exceed adopted level of service ("LOS" as defined in subsection 1.1) standards; to ensure that no development approval is granted or issued which would cause a reduction in the LOS for any public facilities below the adopted LOS standards approved by the Town, to ensure that adequate public facilities needed to support new development are available concurrent with the impact of such development or use, and to establish uniform procedures for the review of the adequacy of public facilities needed to service new development; and

P. The Town and Developer mutually agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town upon Developer and its successors in connection with the acceptance and favorable action on Developer's Annexation Petitions; the Town recognizing and reciting that such matters are necessary to protect, promote and enhance the public welfare; and

Q. The Parties agree that it is desirable for Developer to annex the Property to the Town.

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

SECTION 1
DEFINITIONS AND GENERAL PROVISIONS

1.1. Definitions.

1.1.1. "Agreement". This Annexation and Development Agreement between Developer and the Town.

1.1.2. "Annexation Petitions". As defined in Recital B above.

1.1.3. "APF Regulations". The Town's regulations regarding assurance of adequate public facilities, as set forth in Chapter 4.14 of the Municipal Code in effect as of the Effective Date and any amendments thereto, unless otherwise provided in this Agreement.

1.1.4 "Completion of Construction" or "Complete Construction". Means the installation and completion of all public improvements and other required Development improvements and approved by the Town's Engineer in accordance with subsection 11.5 of this Agreement required for the entire Haymeadow Planned Unit Development.

1.1.5. "Board". The Board of Trustees of the Town of Eagle, Colorado.

1.1.6. "Declaration". Any recorded instruments, however denominated, that create a common interest community for the entirety of the Development (but not any such documents that create any condominium or townhome project within the Development) in accordance with the Colorado Common Interest Ownership Act, including any amendments to those instruments and also including, but not limited to, plats and maps.

1.1.7. "Design Review Board". As defined in subsection 1.9 below.

1.1.8. "Design Guidelines". The design guidelines to be prepared by Developer pursuant to the Declaration and approved by the Town, which shall establish architectural design, landscape design and site design standards for the Development.

1.1.9. "Determination of Adequacy". The determination by the Town pursuant to the APF Regulations that each Public Facility will be available concurrent with the impacts of the proposed Development at the Existing LOS Standards as determined by the Town in connection with the approval of the PUD Development Plan and the PUD Zoning Plan, and which shall apply to all future development approvals within Haymeadow, as set forth in Section 6 of this Agreement.

1.1.10. “Developer”. Abrika Properties, LLC, a Florida limited liability company, and its successors and assigns.

1.1.11. “Development” or “Haymeadow” or “Haymeadow PUD”. The Residential Planned Unit Development project to be developed on the Property as generally described in subsection 5.1 below.

1.1.12. “Development Permit”. A permit processed in accordance with Chapter 4.06 of the Municipal Code in regard to multi-family developments within Haymeadow.

1.1.13. “Development Plan”. Collectively, the Subdivision Sketch Plan, dated June 6, 2011 (aka Haymeadow Conceptual Master Plan Drawing); Subdivision Preliminary Plan, dated March 25, 2014; PUD Zoning Plan, dated March 25, 2014; and PUD Development Plan, dated March 25, 2014, as finally approved by the Town Board for the Property, which together with this Agreement shall constitute "site specific development plans" establishing vested property rights in accordance with the Vested Property Rights Statute, the Vested Property Rights Regulations, and as limited by this Agreement.

1.1.14. “Effective Date”. As defined in subsection 1.3 below.

1.1.15. “Existing LOS Standards”. The Level of Service standards for particular Public Facilities adopted by the Town as part of its APF Regulations and in effect as of the Final Approval.

1.1.16. “Final Approval”. As defined in subsection 1.4 below.

1.1.17. “Haymaker Trail”. As defined in subsection 14.4 below.

1.1.18. “Haymeadow LERP Housing Plan”. The plan submitted by Developer as approved by the Town Board pursuant to Section 4.04.120 of the Municipal Code, attached hereto as Exhibit G, and incorporated herein by this reference.

1.1.19. “Legal Challenge Period”. As defined in subsection 1.4 below.

1.1.20. "LERP". The Local Employee Residency Program adopted by the Town for local employee housing pursuant to Section 4.04.120 of the Municipal Code in effect as of the Effective Date, as adjusted by the Town from time to time.

1.1.21. "LOS" or "Level of Service". An indicator of the extent or degree of service provided by, or proposed to be provided by, a Public Facility based upon and related to the operational characteristics of the Public Facility or the capacity per unit of demand for each Public Facility.

1.1.22. "Metropolitan District". The Haymeadow Metropolitan District to be created as set forth in Section 2 below. The parties acknowledge that there may be other metropolitan districts formed within Haymeadow for purposes of financing, but that the reference herein to Metropolitan District refers only to the Haymeadow Metropolitan District, which shall be the operating district for Haymeadow.

1.1.23. "Municipal Code". The Eagle Municipal Code, the Town's codification of its ordinances as in effect from time to time.

1.1.24. "Party" or "Parties". Developer or the Town, and their respective successors and assigns, singularly or in combination.

1.1.25. "Property". As defined in Recital A above.

1.1.26. "Public Facility" or "Public Facilities". Capital improvements provided by the Town, another governmental entity, or provided by Developer and dedicated or conveyed to the Town or another governmental entity, including, but not limited to, facilities for providing water, wastewater, fire protection, emergency services, public schools, parks and transportation facilities which are required by the APF Regulations to be adequate and available as a condition of approval by the Town of applications for Subdivision Final Plats within the Development during the Term.

1.1.27. "Public School Dedication". The dedication of land, or cash in lieu thereof, required by the Town to be made by a developer of land proposed for residential development as further described in Section 4.16.065 of the Municipal Code, pursuant to and in accordance with the formula set forth in Section 4.13.065 of the Municipal Code in effect as of the Effective Date.

1.1.28. "PUD Zoning Plan". The first step in the Town's review of the application for PUD zoning for the Property establishing zoning, densities, uses, and their general locations within the Development, to be approved by the Town pursuant to the

requirements and procedures set forth in Chapter 4.11 of the Municipal Code in effect as of the Effective Date.

1.1.29. "PUD Development Plan". The second step in the Town's review of the application for PUD zoning for the Property, to be approved by the Town pursuant to the requirements and procedures set forth in Chapter 4.11 of the Municipal Code in effect as of the Effective Date, attached hereto as Exhibit C, and incorporated herein by this reference.

1.1.30. "PUD Guide". The PUD control document approved by the Town in conjunction with the PUD Zoning Plan and the PUD Development Plan.

1.1.31. "Start of Construction" or "Start Construction". The visible commencement by Developer or the Metropolitan District of actual, substantial, physical construction of public improvements serving lots in the first Subdivision Final Plat of the Development and, obtaining all required permits and licenses.

1.1.32. "State". The State of Colorado.

1.1.33. "Street Improvement Fee". The fee structure adopted by the Town, as set forth in Section 4.13.185(D)(1) of the Municipal Code as of the Effective Date to ensure that the Town's street facilities needed to support new development meet or exceed the LOS standards established by the Town for public streets, as adjusted by the Town from time to time in accordance with the methodology contained in the Town of Eagle Transportation Study (1997) prepared by Matthew J. Delich, P.E.

1.1.34. "Subdivision Final Plat". The final step in the subdivision process as further described in Section 4.12.010 (C) of the Municipal Code.

1.1.35. "Subdivision Preliminary Plan". The preliminary plan for the Property, to be approved by the Town pursuant to the requirements and procedures set forth in Chapter 4.12 of the Municipal Code in effect as of the Effective Date.

1.1.36. "Subdivision Sketch Plan". The sketch plan for the Property, to be approved by the Town pursuant to the requirements and procedures set forth in Chapter 4.12 of the Municipal Code in effect as of the Effective Date.

1.1.37. "Term". As defined in subsection 1.3.

1.1.38. "Town". The Town of Eagle, Colorado, a municipal corporation.

1.1.39. "Town Board". The Town Board of Trustees of the Town of Eagle, Colorado.

1.1.40. "Town's Master Plan" or "Master Plan". The plan and all components thereof, including the Eagle Area Community Plan (2010), adopted by the Town Board pursuant to Section 31-23-206, C.R.S.

1.1.41. "Transfer Assessment" means a voluntary real estate transfer assessment as described in the Transfer Assessment Covenant.

1.1.42. "Transfer Assessment Covenant". "A covenant imposing and implementing a Transfer Assessment that must be included in the recorded Declaration for the property owners' association to which all individual residential dwelling units will be subject, all as more particularly provided in Section 24 of this Agreement. The Transfer Assessment Covenant shall provide for exemptions substantially similar to those set forth in Exhibit L, attached hereto and incorporated herein by this reference.

1.1.43. "Uniform, Non-Discriminatory Regulations". Collectively, Town ordinances, rules, regulations, policies and standards applicable in the same manner to all developments within the Town exceeding ten (10) single family or ten (10) multifamily units located on one (1) or more contiguous parcels of land held under the same or substantially the same ownership at the time of application for development, or to nonresidential developments containing thirteen (13) or more equivalent units (E.Q.R.) as defined in Chapter 12.16 of the Municipal Code, on one or more contiguous parcels of land held under the same or substantially the same ownership at the time of application for development.

1.1.44. "Vested Property Rights Regulations". Chapter 4.17 of the Municipal Code in effect as of the Effective Date.

1.1.45. "Vested Property Rights Statute". Sections 24-68-101 et. seq., of the Colorado Revised Statutes in effect as of the Effective Date.

1.2. Covenants. The provisions of this Agreement shall constitute covenants or servitudes which shall touch, attach to, and run with the land comprising the Property, and the burdens and benefits of this Agreement shall bind and inure to the benefit of all estates and interests in the

Property and all successors in interest to the Parties to this Agreement, except as otherwise provided in this Agreement.

1.3. Term. The term of this Agreement (the "Term") shall commence on the effective date of the Town Board ordinance or resolution approving this Agreement and zoning the Property PUD (the "Effective Date") and shall continue until the end of the fifth (5th) year from the date of Final Approval if Start of Construction does not occur during such five (5) year period, or if Start of Construction occurs during such five (5) year period, the Term of this Agreement shall continue until the Completion of Construction and the expiration of any applicable warranty periods related to public improvements constructed as part of the Development. After the expiration of the Term, this Agreement shall be deemed terminated and of no further force or effect; provided, however, that such termination shall not affect (a) the annexation of the Property to the Town; (b) the PUD Development Plan, PUD Guide and the zoning of the Property as PUD; (c) any common law vested rights obtained prior to such termination and all vested property rights as stated in this Agreement; (d) any rights arising from Town permits, approvals or other entitlements for the Property or the Development which were granted or approved prior to, or concurrently with, or subsequent to the approval of this Agreement and the PUD Development Plan; and (e) any responsibilities concerning the maintenance, repair or replacement of public improvements and other Development improvements. (f) the Parties rights pursuant to subsection 29.4 below.

1.4. Final Approval.

1.4.1. As used in this Agreement, the term "Final Approval" means the later of the following dates:

(a) The date that is thirty-one (31) days following the date of publication of the latest of the ordinances or resolutions by which the Town Board approves the PUD Development Plan, or the zoning of the Property as PUD ("Board Approval"), provided that, within such thirty-one (31) day period, (a) no legal challenge to said ordinances or resolutions has been filed by any third party (a "Legal Challenge"), (b) the Town Board has not referred said ordinances or resolutions to a vote of the registered electors of the Town, and (c) no third party has submitted a petition for a referendum seeking to reverse or nullify any of the approvals; or

(b) If a referendum occurs, the date that there is a certification of election results upholding the Board Approval; or

(c) If a Legal Challenge is filed, the date that the Town or Developer, if applicable, prevail in the lawsuit (after all appeals have been exhausted).

1.4.2. If a Legal Challenge is filed within three (3) years after Final Approval, this Agreement shall remain in full force and effect unless within thirty (30) days after the Parties' receipt of legal notice that such Legal Challenge has been filed, all Parties mutually agree in writing to terminate this Agreement. If the Parties do not mutually agree in writing to terminate this Agreement within such thirty (30) day period, then all Parties shall remain bound by the terms of this Agreement during the pendency of the Legal Challenge until a final, unappealable determination by a court, which determination is adverse to one (1) or more of the Parties, occurs (the "Legal Challenge Period"). This Agreement shall be binding upon the Parties during the Legal Challenge Period, but none of the Parties shall be obligated to perform any obligations under this Agreement other than those set forth in this subsection 1.4 and subsection 1.6 during the Legal Challenge Period, and any date or deadline contained in this Agreement shall be extended for the number of days in the Legal Challenge Period. Provided, however, any obligation of the Town to join in or remain as a party in any legal proceeding shall not be construed to be a multiple-fiscal year direct or indirect financial obligation as that term is used in Section 20 of Article X of the Colorado Constitution and shall be subject to an annual appropriation approved by the Town Board. If the Town fails to annually appropriate sufficient funds to join in or remain as a party in a legal proceeding, such Party shall not be deemed to have breached this subsection.

1.5. Zoning. Until Final Approval has been obtained, the PUD zoning of the Property shall not be effective; provided, however, the PUD Zoning Plan for the Property as adopted by the Town with conditions, pursuant to Section 4.11.040 of the Municipal Code, shall remain effective for a period of five (5) years from the Effective Date.

1.6. Cooperation in Defending Legal Challenges. If any legal or equitable action or other proceeding is commenced by a third party challenging the validity of any provision of this Agreement or the PUD Development Plan, Developer, and the Town agree to cooperate in defending such action or proceeding and to bear their own expenses in connection therewith. Unless the Town, and Developer otherwise agree, each party shall select and pay its own legal counsel to represent it in connection with such action or proceeding. If any part of this Agreement is held to be invalid or of no effect by a court of competent jurisdiction, such judicial determination shall not affect any other part of this Agreement which will continue in full force and effect. If any part of this Agreement is determined by a court of competent jurisdiction to be in excess of the Town's power and authority, such part shall be unenforceable by any Party to this Agreement. In the event a judicial determination of the nature described in the two (2) immediately preceding sentences, which determination has the effect of materially and adversely impairing to a substantial degree any of Developer's or the Town's rights expressly established pursuant to this Agreement, each Party may elect to honor this Agreement as judicially reformed, or to terminate this Agreement without liability or penalty to Developer, the Metropolitan District or the Town in which event this Agreement shall be of no further force or effect.

1.7. Effect of Termination. If this Agreement is terminated pursuant to any provision in this Section 1 or Section 2 this Agreement shall be null and void and of no effect; and no action,

claim or demand may be based on any term or provision of this Agreement. In addition, the Parties agree to execute a mutual release or other instruments reasonably required to effectuate and give notice of such termination.

1.8. Amendment of Agreement. Except as otherwise set forth in this Agreement, this Agreement may be amended or terminated only by mutual consent in writing of the Town and Developer following the public notice and public hearing procedures required for approval of this Agreement. For the purposes of any amendment to this Agreement, "Developer" shall mean only Abrika Properties, LLC and those parties, if any, to whom Abrika Properties, LLC has specifically granted, in writing, the power to enter into such amendment. An amendment to the Development Plan shall not constitute or require an amendment to this Agreement.

1.9. Issuance of Building Permits. To the extent permitted by law, the Town's Building Department shall not accept for processing or approve any application for a building permit, temporary certificate of occupancy, or certificate of occupancy for the construction or occupancy of any building or structure within the Property or the Development unless the application therefor has first been approved by the Design Review Board to be created by the property owners' association or Developer pursuant to a Declaration (the "Design Review Board"). Such Design Review Board approval shall be evidenced by a certificate of approval executed by an officer of the Design Review Board, which certificate shall be affixed to the plans and specifications made a part of each application for a building permit. In determining whether to issue such certificate of approval, the Design Review Board shall review for conformity with the PUD Zoning Plan, the PUD Development Plan including the PUD Guide, the Design Guidelines, and applicable covenants, conditions and restrictions for construction of improvements within the Development. To the extent permitted by law, the Town's Building Department shall not issue a temporary certificate of occupancy or certificate of occupancy unless the Design Review Board issues a certificate stating that a building or structure was constructed in conformity with the Design Guidelines. The Town and Developer agree that the documents creating and governing a property owners association for Haymeadow will include architectural and landscaping design standards reasonably acceptable to the Town and Developer. Nothing in this subsection 1.9 shall be construed to create any independent obligation on the part of the Town to any landowner within the Development, or to any other party, with respect to an application's compliance with the Declaration or Design Guidelines.

Under the Declaration to be recorded by Developer, the property owners' association shall agree to indemnify and hold harmless the Town, its officers, agents and insurers, from and against all liability, claims and demands, including the Town's reasonable attorney's fees including legal assistant's fees and costs, which arise out of or in any manner are connected with the Town's refusal to issue a building permit if such liability, claim, or demand is alleged to be caused in whole or in part by the acts, omissions, errors, mistakes or negligence of the Design Review Board in refusing to issue a certificate of approval as set forth above.

Section 1.10. Enforcement of Design Guidelines and PUD Guide. The Design Review Board and/or Developer shall prepare a set of Design Guidelines which shall govern the design and construction of all buildings within Haymeadow, including a new fire station. These Design Guidelines shall be submitted to the Town for review and approval by the Town Board using the process identified in Section 4.06.060 of the Municipal Code for Major Development Permit Review. These Design Guidelines shall be approved and in place for any area of the Haymeadow PUD prior to the approval of any Subdivision Final Plat for that area.

The Design Review Board shall have the responsibility for interpreting and enforcing the Design Guidelines. The Town shall have no responsibility to interpret or enforce such Design Guidelines, and shall have no obligation to any landowner within the Development to enforce the Design Guidelines. The Design Review Board shall further have a responsibility to interpret and enforce the PUD Guide in accordance with the terms of the Declaration.

The Town shall have the independent right and responsibility to interpret and enforce the provisions of the PUD Guide and Development Plan. The Town expressly reserves the right to refuse to approve any application for a Development Permit or a building permit, temporary certificate of occupancy, a certificate of occupancy for the construction or occupancy of any building or structure within the Development if said building or structure fails to comply with the requirements of the PUD Guide, applicable Development Permit or the provisions of the applicable Subdivision Final Plat.

The Town may exercise the power and authority of the Design Review Board under certain circumstances as set forth in the PUD Guide. This subsection 1.10 shall not be construed as a waiver by Developer or building permit applicant of any right to appeal, subject to the appeal rights otherwise available under the Municipal Code, the Town's building codes or otherwise applicable law, the Town's refusal to approve any such application.

1.11. Scope of this Agreement.

1.11.1. This Agreement is intended to set forth the Parties' understandings and agreements as to the annexation of the Property pursuant to the Municipal Annexation Act of 1965, as amended; as to the procedures, limitations and standards applicable to the construction of future improvements that may be installed to serve the Property; as to the responsibilities of the Parties for various costs, fees and charges; and to such other matters the Parties believe can be adequately addressed at this time.

1.11.2. Except as otherwise provided in this Agreement, this Agreement is not intended to address those matters which are more appropriately considered at the time Developer submits to the Town for its review and approval Subdivision Final Plat applications for the Property. Developer has submitted an application to the Town for Planned Unit Development (PUD) zoning, as more specifically described in the PUD Zoning Plan and PUD Development Plan documents. Agreement by Developer to annex the Property is expressly conditional upon the Town granting such zoning. The Town has tentatively

approved such zoning conditioned upon the Property being annexed, and shall not unreasonably withhold or condition its final approval of any Development Plan document. Except as otherwise set forth in this Agreement, including but not limited to the vested property rights granted in Section 4 of the Agreement, the Town reserves all rights to review, approve or deny any future zoning application or future Subdivision Final Plat application on any portion of the Property, in accordance with State law and the ordinances and policies of the Town then in effect.

1.11.3. It is not the intention of the Parties in any way to diminish or limit the Town's legislative, judicial, quasi-judicial or other non-delegable discretionary powers, except with respect to the vested property rights granted in Section 4. Except as otherwise provided in this Agreement, it is not the intention of the Parties to impose on the Town any duty, beyond its ordinances and regulations as they may from time to time exist, nor to impose any special obligation on the Town to approve or accept any items submitted by Developer or its successors and assigns including, but not limited to, plans, drawings, reports, security documents, improvements, and conveyances. It is furthermore the expressed intention of the Parties that nothing in this Agreement shall be construed to void the rights and obligations of the Parties as set forth herein, to the extent such rights and obligations are consistent with law. The Parties expressly agree they will fully perform this Agreement.

1.11.4. The terms, conditions and criteria set forth in the Development Plan shall prevail and govern the development of Haymeadow, unless superseded by applicable provisions of the Municipal Code as expressly permitted by this Agreement. Where the Development Plan does not expressly address a specific subject, the applicable provisions of the Municipal Code shall control the development of Haymeadow, to the extent such Municipal Code provisions are not inconsistent with any express provision of the Development Plan or this Agreement. Pursuant to this Agreement and Section 24-68-105 C.R.S. in effect as of the Effective Date of this Agreement, application of such Municipal Code provisions shall not directly or indirectly have the effect of altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying, or otherwise materially and adversely affecting to a substantial degree Developer's vested property rights expressly set forth in this Agreement, except as otherwise permitted under Section 24-68-105 C.R.S. Notwithstanding the foregoing, Developer and the Town acknowledge and agree that the Town's APF Regulations shall apply to each application for Subdivision Final Plat approval during the Term, as set forth in Section 6. Provisions of the Design Guidelines which are more restrictive than either the Development Plan or the Municipal Code shall prevail in any instance where there is a conflict.

SECTION 2 CONDITION SUBSEQUENT

This Agreement is conditional upon the Metropolitan District executing a document substantially similar to Exhibit M, attached hereto and incorporated herein by this reference,

whereby the Metropolitan District agrees to be bound by all applicable terms and conditions of this Agreement. If the Metropolitan District fails to execute such Joinder of Metropolitan District within sixty (60) days following the recording of the Eagle County District Court's organizational Decree for the Metropolitan District (which is expected to follow the November 2014 coordinated election), the Town reserves the right to terminate this Agreement for cause upon thirty (30) days written notice to Developer. In such event, the Town agrees to grant an application for disconnection submitted by Developer, pursuant to Section 31-12-501, C.R.S., with the exception of the land or easement upon which the Haymaker Bicycle and Pedestrian Trail described in subsection 14.4 is located.

SECTION 3 ANNEXATION

3.1. Annexation. Annexation of the Property shall be in accordance with this Agreement and the Colorado Municipal Annexation Act of 1965, as amended (Sections 31-12-101, *et seq.*, C.R.S.).

3.2. Conditions Precedent. Annexation of the Property to the Town shall not be effective until the following conditions have been satisfied: (a) Developer and the Town have mutually executed and delivered this Agreement; (b) Final Approval has occurred.

3.3. Failure of Conditions. Until all of the conditions set forth in subsection 3.2 above have been satisfied, this document shall constitute an offer by Developer and the Town to enter into this Agreement (notwithstanding the Parties' mutual execution and delivery of this document) and the annexation of the Property to the Town shall not be effective. However, Developer and the Town agree that neither of them shall withdraw its offer to enter into this Agreement prior to Final Approval except that the Town may withdraw its offer to enter into the Agreement if Final Approval does not occur because a Legal Challenge has been filed and the Town determines in calendar year 2015 or subsequent calendar years not to appropriate funds to oppose such Legal Challenge. If Final Approval does not occur, then this Agreement shall be deemed void and of no force or effect, the Property shall be deemed not annexed to the Town, and the vested property rights described in this Agreement shall be deemed not established.

3.4. Metropolitan District Service Plan. If the Town has not adopted a resolution approving the service plan for the Metropolitan District ("Metropolitan District Service Plan"), in accordance with applicable law, on or before September 30, 2014, then Developer shall have the right to terminate this Agreement by notice to the Town within thirty (30) days thereafter. In such event, Developer shall have the right to file an application with the Town for disconnection of the Property from the Town pursuant to Section 31-12-501, C.R.S. The Town hereby determines that the best interests of the Town will not be prejudiced by the disconnection of the Property in this instance, and therefore agrees to enact an ordinance effecting such disconnection.

SECTION 4
VESTED PROPERTY RIGHTS

4.1. Permitted Uses/Design Standards. Upon zoning of the entire Property to PUD, and adoption of an ordinance approving the PUD Guide, the permitted uses of the Property, the density and intensity of use, all as more specifically described in the PUD Guide and the Development Plan, provisions for reservation or dedication of land for public purposes, and the general location of roads and trails, shall be those set forth in the Development Plan and this Agreement, as amended from time to time in accordance with subsection 1.8 above.

4.2. Vesting of Property Rights. Developer and the Town agree that (a) this Agreement, together with the documents constituting the Development Plan constitute an approved "site-specific development plan" as defined in the Vested Property Rights Statute and the Vested Property Rights Regulations, and (b) the owners of the Property shall have vested property rights to undertake and complete development and use of the Property as expressly provided in this Section 4. Pursuant to Section 4.17.100 of the Municipal Code:

APPROVAL OF THIS PLAN CREATES A VESTED PROPERTY RIGHT PURSUANT TO SECTION 24-68-103, C.R.S., AS AMENDED.

4.3. Property Rights Vested. The rights identified below shall constitute the vested property rights under this Agreement and under the approval of the Development Plan:

4.3.1. The right to develop, plan and engage in certain described land uses within the Property and the Development in the manner and to the extent expressly set forth in and pursuant to this Agreement and the documents constituting the Development Plan.

4.3.2. The right to develop, plan and engage in land uses within the Development in accordance with the densities, intensity of use, and general layout expressly set forth in the documents constituting the Development Plan.

4.3.3. The right to develop the Development at the rate and at the time as market conditions dictate, subject to the terms and conditions of this Agreement, the documents constituting the Development Plan, and any subdivision improvements agreements to be entered into by the parties.

4.3.4. The maximum height, bulk and size of proposed lots and buildings and other regulations as set forth in the PUD Guide.

4.3.5. The right to receive all Town approvals necessary for development of Haymeadow in accordance with this subsection 4.3 during the Term, provided that Subdivision Final Plats and other submittals of applications for approval comply with the terms of this Agreement and all then current Uniform, Non-Discriminatory Regulations, and subject to payment of all applicable review fees.

4.3.6. The Town shall not initiate any zoning, land use or other legal or administrative action that would directly or indirectly have the effect of altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise materially and adversely impairing to a substantial degree any of Developer's vested property rights expressly set forth in subsections 4.3.1 through 4.3.5 above and subsection 4.3.7 below, except as otherwise permitted under Section 24 -68 -105, C.R.S., or as expressly set forth in this Agreement.

4.3.7. In accordance with Section 4.17.060(B) of the Municipal Code and Section 24-68-104(2), C.R.S. and this Agreement, Developer shall be entitled to all rights, privileges and remedies arising under the Vested Property Rights Regulations and the Vested Property Rights Statute, as modified or limited by this Agreement, for a period of twenty (20) years from the date of Final Approval and as may be extended as provided in this Agreement, which the Town finds is warranted in light of all relevant circumstances including, but not limited to, the size and phasing of the Development, economic cycles, and market conditions.

4.4. Limitation of Vested Property Rights. In consideration of the Town's annexation of the Property, in consideration of the Town permitting vested property rights to accrue prior to the approval of Subdivision Final Plats for the Development, and in consideration of the Town's agreement to extend the duration of the period of vested property rights from three (3) years to twenty (20) years, Developer agrees, as a matter of contract, pursuant to Section 4.17.070 of the Eagle Municipal Code, to waive all rights and privileges, if any, arising under the Vested Property Rights Regulations and the Vested Property Rights Statute except as expressly set forth in subsections 4.3.1 through 4.3.4 of subsection 4.3. Developer states that such waiver is knowing, voluntary and made with the advice of legal counsel.

4.5. No Obligation to Develop. Developer shall have no obligation under this Agreement to develop all or any portion of the Development and shall have no liability under this Agreement to the Town or any other party for its failure to develop all or any part of the Development, unless otherwise expressly set forth in this Agreement including, without limitation, any obligations that arise out of Developer's obtaining approval of future Subdivision Final Plats within the Development. Nothing in this subsection 4.5 shall be construed as a waiver or release by the Town of its right to require Developer, in conjunction with obtaining approval of Subdivision Final Plats within the Development, to enter into subdivision improvements agreement(s) setting forth public improvements and certain private Development improvements required to be constructed by Developer and deadlines for the construction of such

improvements. Nothing in this subsection 4.5 shall be construed as a waiver or release by the Town to enforce against Developer the terms and conditions of such subdivision improvements agreement(s).

4.6. Payments and Obligations Non-Refundable. Notwithstanding anything to the contrary in this Agreement, Developer understands and agrees that as a matter of contract and a condition of annexation of the Property by the Town, the following costs and obligations of Developer are final and non-refundable once paid or performed, notwithstanding Developer's development or non-development of all or any portion of the Development:

4.6.1. Pre-payment of water plant investment fees as set forth in subsection 8.5 of this Agreement;

4.6.2. Payment of \$700,000 for contribution to U.S. Highway 6 Study pursuant to subsection 10.2 of this Agreement;

4.6.3. Payment of Development Impact Fees pursuant to Section 7 of this Agreement;

4.6.4. Conveyance of water rights pursuant to subsection 8.1 of this Agreement;

4.6.5. Dedication or conveyance of schools/recreation parcel pursuant to Section 15 of this Agreement;

4.6.6. Dedication or conveyance of fire station parcel to the Greater Eagle Fire Protection District pursuant to subsection 14.3 of this Agreement;

4.6.7. Dedication or conveyance of an easement or fee simple title of Land for the Haymaker Bicycle and Pedestrian Trail;

4.6.8. All other land dedications to the Town required pursuant to this Agreement, including but not limited to, dedications of rights-of-way and easements; and

4.6.9. All payments of recapture fees, pursuant to Section 17 of this Agreement.

SECTION 5
DEVELOPMENT

5.1. General Description. The Property is comprised of approximately 660 acres of land adjacent to the Town of Eagle. The Development Plan for the Property provides for a maximum of 837 dwelling units (not including AUDs) consisting of single family units, duplex units, and multi-family units, a public school/recreation facility, a fire station, active and passive parks and recreation areas, community facilities, trails and open space on the six hundred sixty (660) acres of land.

The Planned Unit Development (PUD) is divided into two (2) residential districts. Residential District 1 consists of four (4) neighborhoods with single family, duplex and multi-family residential units in Neighborhoods A1, A2, B and C. Residential District 2 consists of one (1) neighborhood for single family dwelling units not to exceed seven thousand (7,000) square feet maximum size in Neighborhood D, as further described in Exhibit C, attached hereto and incorporated herein by this reference. Recreation open space areas will consist of Tract E, a Town park and possible public school site, and Tract F, Trailhead Park. Three (3) open space tracts will also be created for equestrian, pedestrian and bicycle trails, lakes, ponds, reservoirs and irrigation ditches, shade shelters and picnic areas, agriculture uses and associated facilities, and other uses. Tract G will provide a site for a future fire station and related improvements. The above referenced Tracts are described on the Preliminary Plan attached hereto as Exhibit F and incorporated herein by this reference.

5.2. Phasing. The following provisions indicate the general intent of Developer regarding phasing of the Development.

5.2.1. It is anticipated that the Development will be implemented in five (5) general phases, starting closest to the existing town center and moving up the Brush Creek valley. The first phase will include the western portion of Neighborhood A and the extensions of Sylvan Lake Road and Ouzel Lane.

5.2.2. Developer anticipates the progression of phasing will proceed to the eastern portion of Neighborhood A as the first phase of single family lots are absorbed by the market. Neighborhood A is heavily weighted with 231 multi-family dwellings. The build-out of these multi-family dwellings may take years to complete while phasing progresses into the other neighborhoods, and there is no requirement that all of the multi-family dwellings be constructed prior to progressing to other neighborhoods.

5.2.3. Thereafter, the phasing, as anticipated at this time, will advance from Neighborhood A to Neighborhood B and/or Neighborhood C and then sequentially on to Neighborhood D over the course of an anticipated seventeen to twenty year time frame. Provided however, Developer shall not receive Subdivision Final Plat approval for

Neighborhood D, or any part thereof, until all public improvements and other required Development improvements in Neighborhoods A, B and C have been completed and the Warranty Period for such improvements has commenced. It is the intent of Developer to initiate phased improvements as the sales market allows, however, it is not the intent to develop and dedicate road improvements well ahead of vertical construction. It is not the intent of Developer to have large amounts of road system in place with no associated residential development.

5.3. Compliance with Current Regulations. Prior to the Town approving Final Subdivision Plats and building plans for the Property, but subject to the agreements of the Town and Developer as contained in this Agreement, Developer shall meet all then current Uniform, Non-Discriminatory Regulations of the Town (including but not limited to, building, fire, plumbing, electrical and mechanical codes, public improvement design standards, the Municipal Code and other rules and regulations); submit all required plans, specifications and other information; and pay all applicable review fees. Developer states that it has reviewed all applicable zoning, subdivision, building and other development regulations and ordinances of the Town currently in effect. To the extent expressly set forth in this Agreement, Developer agrees as a matter of contract and as a condition of the Town's annexation of the Property to abide by the requirements in such regulations as they exist on the Effective Date and as they may be amended from time to time, to the extent such requirements are not inconsistent with the vested property rights expressly established pursuant to Section 4 of this Agreement or other parts of this Agreement. Provided, however, Developer does not waive its right to oppose the legislative enactment of any such regulation, including any amendment to such regulations.

5.4. Completion of Construction. Developer or the Metropolitan District, as applicable, shall Complete Construction of all required on-site and off-site public improvements or restore all property disturbed by Developer and/or Metropolitan District to its original condition, or such lesser condition acceptable to the Town or any combination thereof, in the Town's sole discretion within twenty (20) years from the date of Final Approval.

SECTION 6 ADEQUATE PUBLIC FACILITIES

6.1. Determination of Adequacy. The Town hereby finds and determines that adequate Public Facilities will be available concurrent with the impacts of the proposed Development at the applicable Existing LOS Standards, conditioned only upon:

6.1.1. Developer or Metropolitan District constructing the off-site street improvements described in Section 10 of this Agreement;

6.1.2. Developer paying the water plant investment fees as set forth in subsection 8.5 of this Agreement;

6.1.3 Developer constructing the extension of Brush Creek Road (“Brush Creek Road Extension”) as set forth in subsection 10.1 of this Agreement;

6.1.4. Developer’s payment to the Town of \$700,000 for planning improvements to U.S. Highway 6 as described in subsection 10.2 of this Agreement;

6.1.5 Construction of the Sylvan Lake Road/Meadowlark/Brush Creek Road realignment and roundabout as set forth in subsection 10.3 of this Agreement;

6.1.6. Dedication or conveyance of the fire station parcel, Tract G, to the Greater Eagle Fire Protection District as set forth in subsection 14.3 of this Agreement;

6.1.7. Dedication or conveyance to the Town of the school/recreation parcel to the Town as set forth in Section 15 of this Agreement; and

6.1.8. The Town’s completion of its Lower Basin Water Treatment Plant concurrent with the impacts generated by the Development, and having available a treated water supply capacity to serve the Development; and

6.1.9. Developer paying the Street Improvement Fee as set forth in subsection 7.1 of this Agreement.

(Subsections 6.1.1 through 6.1.9 together referred to as “Conditional Positive Determination of Adequacy”)

The parties understand that in order to provide Adequate Public Facilities for this Development and for other developments, the Town will have the responsibility to construct certain street improvements, at its sole expense, including traffic signals and auxiliary turn lanes as noted in the Haymeadow Traffic Study.

In accordance with Section 4.14.040 of the Municipal Code, the Town acknowledges that it has reviewed a Public Facilities Impact Statement accompanying Developer's application for approval of the PUD Development Plan (the "Impact Statement"), and that the Conditional Positive Determination of Adequacy was based upon such review. The conditions set forth above are in accordance with Section 4.14.050(C) of the Municipal Code. Within thirty (30)

days following the date of Final Approval as described in subsection 1.4 above, the Town Board shall reaffirm the Conditional Positive Determination of Adequacy unless the Town Board finds that between the Effective Date as described in subsection 1.3 above and the date of Final Approval, changes have occurred that materially increase the impact from the Development on the Public Facilities.

With respect to subsection 6.1.8 above, the Town agrees and acknowledges that as soon as pre-paid water plant investment fees are paid by Developer: (i) the Town is required to provide a treated water supply adequate to serve the Development, (ii) the Town is legally obligated to construct the Lower Basin Water Treatment Plant, and (iii) the Town will obtain financing for construction of the Lower Basin Water Treatment Plant and will proceed with the bidding of the work and construction of the Lower Basin Water Treatment Plant on a timely basis with the intent of final completion of such treatment plant within three (3) years following the Town's approval of the first Subdivision Final Plat of the Development and prepayment by Developer or the Metropolitan District of the estimated water plant investment fees as required in subsection 8.5 of this Agreement.

6.2. Expiration of Determination of Adequacy. Unless otherwise provided herein, the Conditional Positive Determination of Adequacy as contained herein shall expire on the date that is twenty (20) years after the date of Final Approval (the "DOA Period"). Notwithstanding the foregoing, (a) in the event that Developer fails to Start Construction within five (5) years after the date of Final Approval, as set forth in subsection 1.4, the Conditional Positive Determination of Adequacy shall expire on the fifth (5th) anniversary of the date of Final Approval, or (b) in the event that a development approval sought by Developer for a portion of the Development deviates from the PUD Development Plan and this Agreement in a manner that materially increases the impact on Public Facilities (the "Increased Development Impact"), the Town may review the Conditional Positive Determination of Adequacy, in accordance with the Municipal Code, relating to such Increased Development Impact.

6.3. Future Determinations of Adequacy.

6.3.1. A Haymeadow PUD Planned Unit Development Comprehensive Development Impact Report and Public Facilities Impact Statement is being approved by the Town Board concurrently with the approval of the PUD Development Plan. Therefore, these approved statements and reports satisfy the requirements of Sections 4.07.030 and 4.14.040 of the Municipal Code, and applicants for future subdivision approvals or development permits within the Haymeadow PUD Planned Unit Development are not required to include individual Development Impact Reports (as defined in the Municipal Code) or individual Public Facilities Impact Statements (as defined in the Municipal Code), during the DOA Period, if the subdivision or development permit applications do not deviate from the approved PUD Development Plan, the PUD Guide, and this Agreement in a manner which materially increases the impacts on the Public Facilities. During the DOA Period, as part of the Town's procedures for review and final approval

of any application for approval of a Subdivision Preliminary Plan, Subdivision Final Plat, approval of a Development Permit, or approval of a special use permit, the Town Board, the Town's Planning Commission established by Chapter 2.24 of the Municipal Code, or administrative staff member vested with authority to approve such application shall make a determination that the conditions described in subsection 6.1 above have been met, have not been met, or will be met concurrently with the impacts generated by the proposed Development. No other Determination of Adequacy shall be made during the DOA Period so long as the subject application does not deviate from the approved PUD Development Plan, PUD Guide and this Agreement in a manner that materially increases the impacts on the Public Facilities. The Town shall find and determine that Adequate Public Facilities exist so long as the conditions have been met or will be met concurrently with the impacts generated by the proposed development and no deviation from the PUD Development Plan, PUD Guide, or this Agreement that materially increases the impacts has occurred. If a development application does deviate from the approved PUD Development Plan, PUD Guide or this Agreement in a manner that materially increases the impacts on the Public Facilities, the applicant shall submit an updated Public Facilities Impact Statement pursuant to subsection 4.14.040(A) of the Municipal Code which shall be reviewed by the Town in accordance with the procedures set forth in Section 4.14.060 of the Municipal Code. In making a Determination of Adequacy of Public Facilities, under such circumstances, the Town shall be entitled to use the LOS in effect as of the date the Determination of Adequacy is made.

6.3.2. In accordance with subsection 4.14.040(A) of the Municipal Code, after expiration of the DOA Period, all future applications for approval of a Subdivision Preliminary Plan, development permit or special use permit shall be accompanied by an updated Public Facilities Impact Statement, unless otherwise determined by the Town Planner. In accordance with Section 4.14.060 of the Municipal Code, after expiration of the DOA Period, and as part of the Town's procedures for review and final approval of any application for approval of a Subdivision Preliminary Plan, Subdivision Final Plat, approval of a development permit, or approval of a special use permit, the Town Board, the Town Planning Commission, or administrative staff member vested with authority to approve such application shall make a positive Determination of Adequacy, or make a negative Determination of Adequacy, or make a positive Determination of Adequacy with appropriate conditions. After the expiration of the DOA Period, in making a Determination of Adequacy of Public Facilities, the Town shall be entitled to use the LOS in effect as of the date the Determination of Adequacy is made.

SECTION 7 DEVELOPMENT IMPACT FEES

7.1. Development Impact Fees. Developer expressly agrees, as a matter of contract and as a condition of the Town annexing the Property, to pay the following development impact fees. Such fees for any particular portion of development shall be paid at the time of approval of a Subdivision Final Plat for the Property, or any portion thereof, unless otherwise described herein.

7.1.1. Street Improvement Fees. Developer shall pay Street Improvement Fees (as defined in Section 4.13.185 of the Municipal Code), including any adjustment for changes in construction costs as set forth in Section 4.13.185(K) of the Municipal Code to the Town as required at the time of each Subdivision Final Plat approval within the Development.

7.1.2. Fire Protection Impact Fees. Developer shall pay Fire Protection Impact Fees (as defined in Section 4.13.186 of the Municipal Code) for proposed development within Neighborhoods A-1, A-2 and B on the date that is the latter of (a) the date of approval of the first Subdivision Final Plat contained within Neighborhood A-1 or (b) the date of the issuance of a building permit for construction of a fire station at the Brush Creek site. Payment of Fire Protection Impact Fees for Neighborhoods C and D shall be credited to Developer as a consideration for advancing timing of payment of impact fees as noted above, donation of 1.6 acres of land for the site of a new fire station, and the delivery of all necessary utility services to the site and therefore no Fire Protection Impact Fees shall be due for any part of Neighborhoods C and D. Prepayment of Fire Protection Impact Fees shall constitute payment in full for all lots/units in Neighborhoods A-1, A-2, and B, regardless of any future increase in the amount of Fire Protection Impact Fees by the Town.

7.1.3. Emergency Medical Impact Fees. The Developer shall pay Emergency Medical Services Impact Fees (as defined in Section 4.13.187 of the Municipal Code) including an adjustment for inflation as set forth in Section 4.13.187(K) of the Municipal Code to the Town as required at the time of each Subdivision Final Plat approval within the Development.

7.2. Waiver of Right to Challenge Fees. The Developer specifically acknowledges that the impact fees described in this Section 7 are reasonable and necessary to mitigate the off-site impacts generated from development or subdivision of the Property. Such acknowledgment by Developer shall be binding on any subsequent owner of the Property. The Developer hereby waives and releases any right it may have to challenge or contest such fees in any court of competent jurisdiction on the basis that such impact fees are not reasonably related in the impacts of development or subdivision of the Property. Provided, however, that such waiver and release by Developer shall not be construed as a waiver or release by Developer, or by any subsequent owner of the Property, of any cause of action or remedy, whether at law or in equity, with respect to any other or additional fee or methodology for calculation of such fee. Developer states that such release and waiver is knowing, voluntary and made with the advice of legal counsel.

SECTION 8
WATER AND WASTEWATER SERVICES

8.1. Water Rights and Water Systems:

8.1.1. Upon approval of the Metropolitan District Service Plan by the Town Board, Developer shall convey to the Town the water rights listed on Exhibit B, attached hereto and incorporated herein by this reference, by Special Warranty Deed (the “Water Rights”). In the event of a termination of this Agreement pursuant to Section 1.7 above, the Town shall re-convey the Water Rights to Developer by special warranty deed.

8.1.2. In the event the PUD is developed by separate plats, the Town shall negotiate in good faith with Developer, the property owners association and/or the Metropolitan District to lease back from the Town a proportionate interest in the Water Rights to continue the raw water irrigation of the undeveloped land within the PUD until such time as development occurs. Such lease back for raw water irrigation may be adjusted from time to time by written agreement between the Town, the Metropolitan District, and Developer or its successor(s), and shall be leased for a nominal cost. Terms of this lease back and detailed operations of the Raw Water Irrigation System, as described below, including how historic flood irrigation shall be phased out by plat will be detailed in subsequent agreements to be drafted between the Town and Developer, the property owners association or the Metropolitan District, and agreed upon approval of first Subdivision Final Plat. Such lease back will be in the form of an agreement between the Town and Developer/property owners association or the Metropolitan District and shall be executed before or at the time of approval of the first Subdivision Final Plat.

8.1.3. Upon the conveyance of the Water Rights to the Town, the Town shall file an application with the District Court in and for Water Division No. 5 for approval of changes of the Water Rights, including but not limited to a change to alternate points of diversion for the Raw Water Irrigation System of the PUD described below, a change to municipal use/augmentation for a minimum of 160 acre-feet, and a change to the Warm Springs Ditch for irrigation of the recreation area through the Town’s existing raw water system; and an augmentation plan to enable the Town to use the Water Rights within the Town’s municipal water supply system. The augmentation plan will include contract storage water to be acquired by the Town in an amount not to exceed 15 acre feet annually from sources mutually agreed upon by Developer’s and Town’s water consultants. Developer shall be responsible for all costs and fees associated with obtaining such contract water and Developer/property owners association or the Metropolitan District shall pay all annual costs associated with such contract water, except that the Developer, property owners association and the Metropolitan District will not be responsible for, and the Town shall pay, any such costs that are more than the then prevailing cost and charges for Wolford Mountain Reservoir contract storage water, unless such greater expense is required by the water court application engineering. Developer shall be responsible for all costs and fees, including but not limited to engineering and attorney fees and costs, incurred by the Town associated with

prosecution to completion of any water court application filed hereunder, which amount shall not exceed \$75,000.00. An initial retainer of \$20,000 toward this amount shall be paid by Developer to the Town upon the conveyance of the Water Rights to the Town, and thereafter the Town shall bill Developer these fees and costs on a monthly basis to be paid by Developer upon the terms thereof. In the event Developer fails to pay any such invoice in a timely manner, the Town shall be entitled to all fees and costs of pursuing collection thereof, and shall be entitled to a lien therefor against any property within the Haymeadow PUD still owned by Developer. Developer covenants and agrees, that neither it, nor its successors or assigns, will oppose any water court proceeding that involves the Water Rights, but may file a "friendly" statement of opposition to insure the consistency of such applications with this Agreement and in light of Developer's interest in continued irrigation use of such rights pending completion the Development.

8.2. Provision of Treated and Irrigation Water Service

8.2.1. It is agreed by Developer and the Town that there will be no more than a total of 837 residential units on the Property, not including ADUs. Consistent with the PUD Final Approval, the number of units within each category below may vary so long as the Water Rights dedication made hereunder continues to be adequate for the uses contemplated thereunder. The total amount of water used by the Development may vary but cannot be increased by more than the amount of water conveyed to the Town by the Developer and allocated to municipal use as set forth above. Municipal treated water service will be provided by the Town for all in house domestic, institutional and public uses contingent upon construction of the water distribution system by Developer or the Metropolitan District described in subsection 8.3 below. In addition, the municipal service will provide water for the landscape irrigation on various single family/duplex lots and a limited number of public parks and recreation lands, all as will be set forth in the applicable Subdivision Final Plats approved by the Town from time to time, but not to exceed a total of fifty-five (55) acres of land, total, within the PUD.

8.2.2. A raw water irrigation system, built by Developer or the Metropolitan District and owned, operated, maintained and repaired by Developer/property owners association or the Metropolitan District as set forth below, shall service certain landscaping irrigation, including but not limited to, parks and recreation areas, yard area within multi-family projects, fire station landscaping, open space corridor irrigation, landscaped public rights-of-way, and pasture irrigation requirements ("Raw Water Irrigation System"), for a total irrigated area not to exceed approximately three hundred twenty (320) acres to be specified in writing by the Town and Developer in the lease back agreement described herein. Developer or the Metropolitan District shall submit to the Town for approval a Raw Water Irrigation Operations Plan. The areas irrigated by the Raw Water Irrigation System may be reduced or decreased during low flow stream conditions at the Town's discretion in accordance with the obligations of the Developer under the Brush Creek Watershed Management Plan ("BCWMP"). If necessary, the BCWMP shall be amended by Town to include low flow condition protocols for operation of the Raw Water Irrigation System and shall be binding on the owner and operator of the Raw Water

Irrigation System. As set forth above in subsection 8.1.1, the irrigation water necessary to serve this Raw Water Irrigation System shall be leased by the Town back to Developer, the property owners association or the Metropolitan District.

8.2.3. Upon Final Approval, completion of the required dedication of Water Rights, compliance with applicable regulations and legal requirements, execution of this Agreement, payment of pre-paid plant investment fees, execution of subdivision improvement agreements and the construction of the water distribution and transmission mains and lines and wastewater collection facilities for any phase or phases of the Development by Developer or the Metropolitan District, as set forth in subsection 8.3, below, conveyance of the same to the Town together with associated facilities and easements, and payment of plant investment fees pursuant to the Municipal Code and subsection 8.5 below, and connection charges, the Town hereby agrees to provide treated water service within the Haymeadow PUD and the treated water to be delivered by the Town pursuant to the terms of this Agreement may be used for all purposes as decreed.

8.2.4. All building permits issued for all multi-family projects, except as otherwise provided in this Agreement, shall include a provision which limits the installation of faucets, hoses, or water connections any place on the outside of any unit, to a maximum of two (2) hose connections per dwelling unit which shall not be used for lawn irrigation purposes.

8.3. Construction of Municipal Water Distribution System. Developer or the Metropolitan District, at its sole expense, shall design, purchase, and install all elements of a municipal treated water distribution system (including a water storage tank) to fully service the Development as more fully set forth in this Agreement and the Development Plan, including but not limited to water mains, water storage tanks, fire hydrants, service line laterals, pipelines, and all appurtenant facilities necessary to provide treated municipal water service to the Property. This municipal water distribution system shall be constructed in accordance with all Town specifications and Uniform Non-Discriminatory Regulations and pursuant to plans that are approved by the Town prior to the commencement of construction thereof and any subsequently executed subdivision improvements agreements and shall comply with all other requirements for public improvements as set forth in this Agreement. The Town agrees to assist the Developer in obtaining easements for water line locations across other property if necessary subject to Developer or the Metropolitan District paying and all costs associated with the acquisition thereof. The design of these improvements shall be reviewed and approved by the Town with the applicable Subdivision Final Plat or other development permit applications. The Parties understand that it is necessary to construct the water storage tank and related distribution system improvements prior to the issuance of the first building permit for a structure in the Development.

8.4. Construction of Raw Water Irrigation Distribution System. Developer, or the Metropolitan District, shall install, at its sole expense, a separate raw water irrigation distribution system or systems, as approved by the Town, using water diverted from Brush Creek for application on the Property in accordance with this Agreement and the phases of development approved herein, and

shall include installation of a raw water system for irrigation of parks, open space, recreation sites, landscaped public rights-of-way, wildlife corridor, multi-family sites, fire station landscaping and the school/recreation site as set forth above. The areas on the PUD Development Plan designated "haymeadow" shall be irrigated using existing irrigation ditches and/or the Raw Water Irrigation System. The Raw Water Irrigation System will be constructed in phases matched to phases of the Development. Upon Developer's completion of the portions of the Raw Water Irrigation System serving a particular phase, ownership of such portion shall be transferred to the property owners association or the Metropolitan District, and any service plan amendment therefor shall be approved by the Town. The parties agree that those water rights necessary for the Raw Water Irrigation System shall be leased by the Town to Developer, the property owners association or the Metropolitan District, as set forth above. Developer, the property owners association or the Metropolitan District, at its sole expense, shall be responsible for the ongoing maintenance and repair of all aspects of the Raw Water Irrigation Distribution System, including but not limited to: irrigation ditches, laterals, reservoirs, pumps, distribution lines, other appurtenant facilities and headgates. The lease back agreement for portions of the Water Rights for raw water irrigation will address the joint operation of any ditch headgates or other Brush Creek diversion structure by the Town, Developer, the Metropolitan District, and the homeowners association; provided however, the Town will have overall control of the headgates with respect to the amount of water used in each ditch.

Until the Raw Water Distribution System is constructed, the Irrigation Water leased back by the Town to the Developer shall continue to be conveyed in its historical manner through the existing irrigation ditches located on the Property, subject to the terms of the lease back with the Town and the terms of the BCWMP.

8.5. Water Plant Investment Fee and Prepayment of Deposit.

As a matter of contract and as a condition of the Town's Annexation of the Property, Developer shall prepay water plant investment fees in accordance with the requirements of Section 12.16.040 of the Municipal Code.

The current plant estimated investment fees based on the approval of 837 residential units, an estimated 837 Equivalent residential Units ("EQRs"), and a plant investment fee of \$7,000 per EQR totals \$5,859,000. Because 60% of \$5,859,000 is greater than \$3,000,000, the maximum prepaid deposit shall be \$3,000,000 as provided in Section 12.13.040 of the Municipal Code.

The pre-payment deposit is due at the time of Final Approval. However, in accordance with Section 12.16.040 of the Municipal Code, the Parties agree that the pre-payment deposit shall be deferred until the date of approval of the first Subdivision Final Plat unless sooner demanded by the Town, in its sole discretion. The obligation to pay such deposit upon demand shall be secured by an irrevocable letter of credit or escrow deposit in the amount of \$3,000,000 in a form approved by the Town Attorney. Developer shall deliver to the Town such performance guarantee on the date of Final Approval.

The deposit provided shall be non-refundable and shall be applied, as a credit, to the plant investment fees for individual water consuming units based on an EQR prorata basis until the \$3,000,000 has been fully credited, as follows:

$$\frac{\$7,000}{EQR} * 60\% = \frac{\$4,200}{EQR}$$

Therefore, a \$4,200 per EQR credit will be applied to the first 714.2857 EQRs on a prorata basis, which accounts for the full \$3,000,000 deposit. All subsequent EQRs shall not receive credit, and shall pay 100% of the prevailing plant investment fees.

At the time of application for any building permit for construction of any structure which will use Town water service, the property owner or authorized representative shall make application to the Town Clerk and to the Public Works Director for water service to the property for which the building permit is issued. The plant investment fee shall be assessed at the then prevailing rate applicable. The credit applied shall be applied as described above. . The balance due for any plant investment fee shall be due and payable at the same time the building permit is issued in accordance with Section 12.16.040 of the Municipal Code.

8.6. Provision of Wastewater Treatment Service. Upon annexation, and Developer's or the Metropolitan District's compliance with subsection 8.7 below, the Town agrees to provide wastewater collection and treatment service to the Development upon Developer or other property owner making a written request for such service and the payment of any required plant investment fees and connection charges at the then prevailing rate as established by the Municipal Code. The Parties acknowledge that the Town has sufficient wastewater capacity to serve the Development. However, service will be made available on a first come/first served basis with other wastewater customers subject to available system treatment capacity and any prior commitments.

8.7. Construction of Wastewater Collection System. Developer or the Metropolitan District, at its sole expense, shall design, purchase, and install all elements of the wastewater collection system to fully service the Development pursuant to the provisions of this Agreement, the Development Plan and the then existing provisions of the Municipal Code, the Town's Uniform Non-Discriminatory Regulations, and subsequently executed subdivision improvements agreements. The Town agrees to assist Developer in obtaining easements for wastewater line locations across other properties if necessary, subject to Developer or the Metropolitan District paying any and all costs associated with the acquisition thereof. The Parties acknowledge that it is necessary to construct substantial portions of the collection system improvements prior to the issuance of the first building permit for a structure in the Development. Taps will be made available by the Town on a first come/first served basis with other wastewater customers, subject to available system treatment capacity and any prior commitments. Developer will not receive any preference for or assurance of availability of wastewater service from the Town until the fees

are paid as set out in this Section. Upon payment of the wastewater plant investment fees as provided in this subsection, Developer shall have a permanent reservation of wastewater plant capacity and the right to use the Town's wastewater system. Wastewater plant investment fees are paid at time of issuance of a building permit by individual property owners. Pre-paid fees are not allowed by the Municipal Code unless otherwise authorized by agreement.

8.8. Plant Investment Fees and Related Charges-Computation and Payment. All plant investment fees for treated water service and wastewater collection and treatment service herein provided for shall be assessed utilizing the Town's then prevailing plant investment fee schedule and connection charge schedule (if any) established in the Municipal Code at the time of application for a building permit for the structure for which service is sought.

8.9. Waiver of Right to Challenge Fees. Developer and the Metropolitan District specifically acknowledge that the fees and water rights dedications described in this Section 8 are reasonable and necessary to mitigate the impacts generated from the development of the Property. Such acknowledgment by Developer and the Metropolitan District shall be binding on any subsequent owner of the Property. Developer and the Metropolitan District hereby waive and release any right they may have to challenge or contest such fees in any court of competent jurisdiction on the basis that such fees or required dedications are not reasonably related to the impacts of development of the Property. Developer and the Metropolitan District state that such release and waiver is known, voluntary and made with the advice of legal counsel.

SECTION 9 CONSTRUCTION AND INSTALLATION OF ON-SITE IMPROVEMENTS

9.1. General Improvements. Developer will, at its sole cost and expense, design and construct all on-site improvements required by the Development Plan, PUD Guide, the Municipal Code, this Agreement, and subsequent subdivision and Development Permit approvals. Such improvements may include, but are not limited to: streets, sidewalks, utilities, drainage systems, recreation trails, parks, open space improvements, fencing, irrigation systems, etc. Unless otherwise provided for in this Agreement, the Development Plan or PUD Guide, the on-site improvements will be constructed in a manner and on a schedule to be determined in subsequent subdivision and development permit review processes.

9.2. Trailhead Parking Areas. The Developer shall, with the first Subdivision Final Plat in each applicable Neighborhood, as identified in the PUD Development Plan, Exhibit B attached hereto, under the direction of the Town and the Bureau of Land Management with input from the Colorado Division of Parks and Wildlife, establish trailhead parking areas along the north side of the Property in addition to trailhead parking located at the south end of the Willow Corridor Open Space. Such trailhead parking areas shall be constructed as part of the public improvements identified in each applicable subdivision improvement agreement. Input from

both entities during the hearing process indicated such parking related to Neighbor D shall be constructed, but not to provide motor vehicle access to public lands.

9.3. Perimeter Fence. Developer will, at its sole cost, design, repair, modify or construct a perimeter fence along the northerly and easterly boundaries of the Property. The purpose of the perimeter fence is to prevent livestock entering the Property from adjoining lands. The perimeter fence will be designed and constructed using guidelines promulgated by the Colorado Division of Parks and Wildlife so as to be wildlife friendly. Additionally, the perimeter fence shall incorporate cattle guards or other similar devices at all approved recreation trail crossings. With the first Subdivision Final Plat application for Haymeadow, Developer shall submit to the Town for approval a plan detailing the location, materials, and design of the perimeter fence. The Perimeter Fence will be forever owned and maintained by Developer/property owners association or Metropolitan District.

9.4. Brush Creek Road Fence. Developer will, at its sole cost, remove the existing fencing along Brush Creek Road (the southerly boundary of the Property) and along the westerly boundary of the Property. The parties understand that this fence will be removed in stages as the Property is developed and the land is converted from agricultural use. Removal of this fence will commence with the development of the first subdivision of the Property.

9.5. Raw Water Irrigation System to the School/Recreation Parcel. Developer shall, at its sole cost and expense, design and construct a pressurized raw water irrigation system to the portions of the school/recreation parcel that cannot be served with the Town's existing Brush Creek Meadows non-potable irrigation system. This Raw Water Irrigation System shall be constructed with the development of the first subdivision within the Property.

9.6. Utility Service to the Fire Station Parcel. With development of the first subdivision within the Property, Developer shall construct, at its sole cost and expense, utility services to the property line of the fire station parcel. These utilities shall include: potable water, sanitary sewer, raw water irrigation, electric, telephone, cable TV, and natural gas. Developer shall ensure that all utility service lines are adequately sized so as to be capable of serving the proposed fire station.

9.7. Recreation Path Connection to Existing Pool and Ice Rink Facility. Developer shall, at its sole cost and expense, design and construct a ten foot (10') wide asphalt paved recreation path between Neighborhood A1 and the existing Pool and Ice Rink Facility as generally depicted in the engineering drawings submitted during the PUD Development Plan and Subdivision Preliminary Plan review process and attached hereto as Exhibit D. This improvement shall be included in the public improvements included in the first Subdivision Final Plat application submitted within the Development and shall be complete and available for use by the public prior to the issuance of the first temporary certificate of occupancy for a residence in Haymeadow.

9.8. Recreation Trail or “Spine Trail”. With development of the first subdivision within the Property, Developer shall construct, at its sole cost and expense, a ten foot (10’) wide asphalt paved recreation path generally paralleling Sylvan Lake Road and Ouzel Lane within the Development as depicted on Exhibit E. The Parties understand that as subsequent Neighborhoods are developed this Spine Trail will be extended eastward and will include at least one additional connection to Brush Creek Road.

9.9. Wetlands Restoration and Enhancement. With application for the first Subdivision Final Plat within Haymeadow, Developer shall submit to the Town for approval a wetlands restoration and enhancement plan for the Property. This plan will include a schedule of when various wetland areas will be treated as the development of the Property proceeds.

9.10. Sylvan Lake Road Extension to Brush Creek Road. Developer agrees that any subdivision or development permit application for Neighborhoods C and D shall include for Town review and approval an evaluation of extending Sylvan Lake Road to intersect with the existing Brush Creek Road near the eastern boundary of the Property. Upon review of this evaluation, should the Town choose to require the extension of Sylvan Lake Road, Developer shall construct, at its sole cost and expense, the roadway including the dedication of any right-of-way necessary for the extension.

9.11. PUD Buffer Area in Neighbor C. In each applicable Subdivision Final Plat application contained within Neighborhood C, as shown in the PUD Development Plan, Exhibit C attached hereto, Developer shall include a landscape design for the PUD Buffer Area that appropriately screens Neighborhood C from existing single family homes to the south of such Neighborhood.

9.12. Trail Connections to Eagle Ranch. With each Subdivision Final Plat application for the Development, Developer shall propose trail connections to be constructed between trails within the Development and existing trails within the Eagle Ranch PUD. The Parties understand that the intent is to create numerous trail connections between the two developments, as practical and feasible.

9.13. ECO Transit Bus Stop Shelter. Developer or the Metropolitan District agrees to fund the addition of a bus pullout on Town right-of-way and construction of an adjacent non-heated bus shelter similar to others to be developed in Town at a location agreed upon by ECO Transit and the Town along Sylvan Lake Road or Meadowlark Lane when and if ECO Transit secures funding and announces servicing of a circulator route that would benefit from such a stop in the proximity of the Haymeadow Development. This shall only apply to service provided anywhere between the Pool and Ice Rink access road and Trailhead Park. Total project funding by Developer for such pullout and shelter, including any site work, shall not exceed \$35,000 or a one-third cost share with ECO Transit and the Town as equal partners, whichever is less. This condition shall expire if ECO Transit has not secured funding and announced service for such a

route within five (5) years from the issuance of the first building permit in Haymeadow Neighborhood A-1.

SECTION 10
CONSTRUCTION AND INSTALLATION OF OFF- SITE PUBLIC IMPROVEMENTS

10.1. Brush Creek Road Extension. Developer shall, at its sole cost and expense, design and construct the Brush Creek Road Extension on or before the date that application is made for the building permit for the 300th residential dwelling unit in Haymeadow, or within five (5) years from the date of approval of the first Subdivision Final Plat within Haymeadow, whichever occurs first. However, should there be building permits for fewer than 125 total residential dwelling units issued within Haymeadow within five (5) years from the date of the approval of the First Subdivision Final Plat, then the Brush Creek Road Extension construction completion shall be delayed until the application for the building permit for the 300th dwelling unit in Haymeadow is made. Unless construction of the Brush Creek Road Extension has commenced previously, the Brush Creek Road Extension will be included as a public improvement in the subdivision improvements agreement for the Subdivision Final Plat that contains the 300th residential dwelling unit within Haymeadow; provided, however, that no letter of credit shall be required to be posted for completion of the Brush Creek Road Extension until such time as the building permit for the 200th dwelling unit has been granted within Haymeadow. In any event, Developer shall complete the preparation of the engineering design and construction drawings for the Brush Creek Road Extension within two (2) years of the approval of the first Subdivision Final Plat within Haymeadow. Any necessary right-of-way shall be acquired by the Town and/or Metropolitan District, to the extent permitted by law, at the latest within two (2) years of the completion of the Town approved construction drawings. Acquisition costs shall be paid for by the Developer. All permits necessary for the construction of the Brush Creek Road Extension shall be acquired within two (2) years of the completion of the Town approved construction drawings. In the event that this Agreement should terminate for any reason, all Brush Creek Road Extension plans, rights-of-way acquired, easements acquired, and permits acquired shall become property of the Town.

The Brush Creek Road Extension shall include, at a minimum: one through lane in each direction (two lanes total); auxiliary lanes at intersections as determined to be necessary pending completion of the engineering design, construction drawings, and permitting; a ten foot (10') wide detached paved recreation path generally parallel to the roadway; all necessary storm drainage improvements including outfall and water quality mitigation measures; lighting; curb and gutter as determined to be necessary pending completion of the engineering design, construction drawings, and permitting; all necessary driveway and/or parking improvements; any necessary utility relocations; and any other improvements necessary for the safe operation, construction, and permitting of the proposed street.

10.2. Contribution to US Highway 6 Study. Developer shall pay a sum not to exceed \$700,000 to the Town to be applied to the costs incurred to complete the planning for improvements to US Highway 6 (the "US Highway 6 Study"). The US Highway 6 Study is anticipated to cost

approximately \$1,000,000. The Town shall pay for the first \$300,000 of such costs, as and when payment for the same comes due. After payment of the Town's contribution, Developer will pay to the Town the \$700,000 within thirty (30) days after an invoice is presented to Developer for payment. The Parties agree that the \$700,000 due to the Town shall be paid in no more than two separate payments made as the Highway 6 Study work proceeds. Developer shall only be liable for a total of \$700,000, and any costs of the US Highway 6 Study in excess of \$1,000,000 shall be paid by the Town without contribution from Developer.

10.3. Sylvan Lake Road/Meadowlark/Brush Creek Road Re-alignment and Roundabout Intersection. Developer or Metropolitan District shall, at its sole cost and expense, design and construct the Sylvan Lake Road/Meadowlark/Brush Creek Road re-alignment and roundabout intersection as generally depicted in the engineering drawings submitted with the PUD Development Plan application, dated December 2013. These improvements shall be included in the public improvements to be constructed in the first Subdivision Final Plat application within the Development and shall be complete and available for use by the public prior to the issuance of the first temporary certificate of occupancy for a residence in Haymeadow.

10.4. Recreation Path Connection to Existing Pool and Ice Rink Facility. Developer shall, at its sole cost and expense, design and construct a ten foot (10') wide asphalt paved recreation path between Neighborhood A1 and the existing Pool and Ice Rink Facility as generally depicted in the engineering drawings submitted during the PUD Development Plan and Subdivision Preliminary Plan review process and attached hereto as Exhibit D, and incorporated herein by this reference. This improvement shall be included in the public improvements to be constructed in the first Subdivision Final Plat application submitted within the Development and shall be complete and available for use by the public prior to the issuance of the first temporary certificate of occupancy for a residence in Haymeadow.

SECTION 11 STANDARDS FOR CONSTRUCTION OF PUBLIC IMPROVEMENTS

11.1. Construction of Improvements. In the subdivision and/or development of the Property, the Developer hereby agrees to dedicate, develop and pay for construction of all public improvements and other required Development improvements, including certain off-site improvements as provided in this Agreement, and the extension of all required utility services in accordance with any applicable subdivision improvements agreement(s), the Municipal Code, and the Town's Uniform Non-Discriminatory Regulations then in effect, unless the Metropolitan District agrees to assume such responsibilities. Such improvements may include paving, grading, landscaping, curbs, streets, gutters, sidewalks, street lighting, street signs, traffic control devices, park improvements, bicycle and pedestrian paths, flood protection devices, drainage structures, municipal water lines, mains, water storage tanks and related facilities, and wastewater collection facilities. Unless otherwise provided in any subdivision improvements agreement to be entered into by the Parties, design criteria for such improvements, as well as building sites, parking, landscaped areas and open spaces shall be subject to Town approval and shall be part of any

Subdivision Final Plat application submitted and approved for the Property. All subdivision improvement agreements entered into between the Town and Developer or Metropolitan District shall be consistent with the terms of this Agreement.

11.2. Construction Operations Plan. Prior to the approval of the first Subdivision Final Plat for development of the Property, Developer shall submit to the Town for review and approval, and the Town shall approve, a construction operations plan for the Development. The plan shall include a plan for construction access, shall include proposed temporary interior haul roads, as necessary, hours of operation for construction, noise mitigation, dust control and reclamation standards for all surface areas disturbed by construction.

11.3. Access to Adjacent Lands. Developer shall not submit Subdivision Final Plats for any portion of development of the Property that provide for additional public street access, not now existing, to privately held lands adjacent to the Development, without the Town's consent.

11.4. Warranty by Developer and Metropolitan District. Developer and/or the Metropolitan District shall warrant any and all Public Improvements which it was responsible for constructing and which are conveyed or dedicated to the Town pursuant to this Agreement or the PUD Development Plan for a period of two (2) years from the date of the Town's Engineer Final Acceptance (as hereinafter defined) or, if earlier, the date that the Warranty Period commences as provided in subsection 11.5 below (the "Warranty Period"). Specifically, but not by way of limitation, Developer or the Metropolitan District, as applicable, shall warrant the following:

11.4.1. That the title conveyed shall be good and its transfer rightful; and

11.4.2. Any and all public improvements conveyed shall be free from any security interest or other lien or encumbrance arising by, through or under Developer or the Metropolitan District (but not by through or under the Town); and

11.4.3. Any and all public improvements so conveyed shall be free of any and all defects in materials or workmanship.

In addition, all other private development improvements required to be warranted pursuant to the Municipal Code, such as utility installations, parking improvements, landscaping improvements and other improvements as shown in the PUD Development Plan and accompanying plans, and approved construction drawings submitted to the Town for the Development, except for vertical improvements, buildings and structures, shall be warranted in accordance with the Municipal Code except that the Warranty Period shall be for twenty-four (24) months.

Sixty (60) days prior to the expiration of the Warranty Period, time being of the essence, the Town's Engineer shall issue a Warranty Punchlist to Developer or the Metropolitan District, as applicable, indicating any defects in materials or workmanship that must be corrected prior to the expiration of the Warranty Period. In the event that Developer or the Metropolitan District, as applicable, fails to correct such defects prior to the end of the Warranty Period (or within such longer period as is reasonably necessary to correct the defects), the Town may, after all applicable notice and cure periods, (a) exercise all equitable remedies, including an action for injunction or specific performance, or (b) obtain from Developer or the Metropolitan District reimbursement of the actual out of pocket costs and expenses incurred by the Town, in excess of the amount of the performance guarantee, to correct such defects.

11.5. Approval by Town's Engineer.

11.5.1. Upon full Completion of Construction by Developer or the Metropolitan District of such Public Improvements and other Development improvements, the Developer or District, as applicable, shall submit to the Town's Engineer a written request for a Final Punchlist. Upon receipt of such request, the Town's Engineer shall inspect the improvements within sixty (60) days of receipt of said written request from Developer or the Metropolitan District and prepare a written document indicating any work that was not completed in conformance with the subdivision improvements agreement, and/or development permit, covering the applicable public improvements or other required Development improvements (the "Final Acceptance Punchlist"), which shall be provided within such 60-day period to Developer or the Metropolitan District, as applicable. Notwithstanding any other provision of this Agreement or any subdivision improvements agreement, in the event that the Town does not deliver the Final Acceptance Punchlist to Developer or the Metropolitan District, as applicable, within the 60-day period provided for in this subsection 11.5.1, then the Warranty Period shall begin on the day after the expiration of the 60-day period, without prejudice to the Town's other rights under this subsection 11.5 so long as a Final Acceptance Punchlist is delivered prior to the date that is 180 days before the expiration of the Warranty Period, except that the Warranty Period shall not begin for any improvements that are not constructed at the time that request for the Final Acceptance Punchlist is made. For purposes of clarity, notwithstanding the Town's failure to deliver the Final Acceptance Punchlist within the 60-day period, Developer's or the District's obligations under 11.5.2 and 11.5.3 shall apply upon delivery of the Final Acceptance Punchlist at least 180 days prior to the expiration of the Warranty Period, although the Warranty Period shall not be extended thereby (except for improvements that were not constructed at the time that request for the Final Acceptance Punchlist is made), and Developer shall have no obligations under this subsection 11.5 after the expiration of the Warranty Period.

11.5.2. Within one hundred eighty (180) days from the receipt of the Final Acceptance Punchlist, Developer or the Metropolitan District, as applicable, shall make all corrections required by the Final Acceptance Punchlist. In the event Developer or the Metropolitan District, as applicable, fails to complete the Final Acceptance Punchlist

work within said one hundred eighty (180) day period, the Town, after all applicable notice and cure periods, may (a) exercise all equitable remedies, including an action for injunction or specific performance, or (b) obtain from Developer or the Metropolitan District reimbursement of the actual out of pocket costs and expenses incurred by the Town, in excess of the amount of the performance guarantee, to make such corrections.

11.5.3. Upon completing the Final Acceptance Punchlist work, Developer or the Metropolitan District, as applicable, shall submit to the Town's Engineer a written request for Final Acceptance of the completed improvements. The Town's Engineer shall then inspect said improvements and issue and deliver, within thirty (30) days of Developer's or Metropolitan District's request, as applicable, either (i) a written determination that all work has been completed ("Final Acceptance") or (ii) a revised Final Acceptance Punchlist indicating what work has not been satisfactorily completed. If the Town's Engineer shall issue and deliver a revised Final Acceptance Punchlist to Developer or Metropolitan District, as applicable, within the 30-day period, the provisions of 11.5.2 and 11.5.3 shall again apply. If the Town shall issue and deliver a Final Acceptance, then the Warranty Period shall commence, unless it has already commenced pursuant to the provisions of subsection 11.5.1, in which case the Warranty Period shall continue. Notwithstanding any other provision of this Agreement or any subdivision improvements agreement, in the event that the Town does not issue either a Final Acceptance or a revised Final Acceptance Punchlist within the 30-day period, then the Town shall be deemed to have issued a Final Acceptance for all purposes under this Agreement and the Warranty Period shall commence (unless it has already commenced, in which case it shall continue) and the Town shall be deemed to have waived any further rights under subsections 11.5.2 and 11.5.3.

11.5.4. Upon issuance of Final Acceptance, the Town's Engineer shall prepare a bill of sale for the public improvements to be conveyed for review by the Town's Administrator. The Town's Administrator shall issue a written acceptance of the bill of sale within forty-five (45) days of Final Acceptance. Developer or the Metropolitan District, as applicable, shall execute and deliver to the Town the bill of sale within thirty (30) days after written notice from the Town that the bill of sale has been approved. In the event that the Town has not delivered a bill of sale to Developer or Metropolitan District, as applicable, within one hundred eighty (180) days after Final Acceptance, then Developer or the Metropolitan District may, in its sole discretion, prepare and deliver a bill of sale for the improvements to the Town, and the Town shall be obligated to accept same.

11.5.5. The time required in this subsection 11.5 for any obligation imposed upon the Town, Developer or the Metropolitan District will be extended for any delays due to reasons beyond such Party's control to which such Party's actions or inactions did not contribute, including, but not limited to, delays or nonperformance caused by natural disaster, terrorism, war, civil insurrection, riot, fire, epidemic, unavailability of or delay in receiving labor or materials not reasonably anticipated, labor shortages not reasonably anticipated, strikes, work stoppages, acts of God, governmental regulations, court orders,

and fire or other casualty. Any such extension shall be for the number of calendar days that the force majeure condition shall exist.

11.6. Provision of "As Built" Drawings. Prior to final acceptance and approval of improvements as required by subsection 11.5 above, Developer or the Metropolitan District, as applicable, shall provide all necessary engineering designs, surveys, field surveys, and "as built" drawings for all Public Improvements and utility improvements for review and approval by the Town's Engineer at Developer's or the Metropolitan District's sole cost and expense. The legal description of all utility service lines shall be prepared by a registered land surveyor at Developer's or the Metropolitan District's sole expense, as applicable. In addition, all reasonable expenses incurred by the Town in updating the Town's base maps shall be paid by Developer or the Metropolitan District, as applicable, to the Town.

11.7. Conveyance of Public Improvements. Unless otherwise agreed by the Town, all Public Improvements constructed in accordance with this Agreement, the PUD Development Plan, any Subdivision Preliminary Plan, Subdivision Final Plat, and any applicable subdivision improvements agreement, including but not limited to, water mains, service lines, laterals, the water storage tank, fire hydrants and other water distribution facilities; all wastewater collection mains, lines, laterals and related improvements; street improvements; required sidewalks, curbs and gutters; required traffic control devices, pedestrian and bicycle trails; park improvements; and Town street lights shall be dedicated to the Town and warranted for the Warranty Period. Following such dedication or conveyance, the Town shall be solely responsible for the maintenance of such Public Improvements, unless otherwise provided in this Agreement, and except for any correction work required during the Warranty Period. Upon dedication or conveyance to the Town, the Town shall be solely responsible for all electrical service charges associated with Town street lights and traffic signals so dedicated or conveyed. Further, any damage to any Public Improvement caused by the Town or other parties in connection with the maintenance thereof shall not be covered by Developer's warranty and Developer shall have no obligation to repair such items if identified on a Warranty Punchlist.

11.8. Improvements Required Prior to Issuance of Building Permits and Temporary Certificates of Occupancy. All improvements required by the Municipal Code, and as otherwise required by this Agreement, or as required by subsequent subdivision or development approval documents must be complete prior to the issuance of building permits and temporary certificates of occupancy. All improvements required by the Municipal Code for issuance of a certificate of occupancy shall be required for the issuance of temporary certificates of occupancy within the Development, and as otherwise required by this Agreement, or as required by subsequent subdivision or development approval documents.

SECTION 12
PERFORMANCE GUARANTEES

12.1. Public Improvements and Other Required Development Improvements. In accordance with subsection 4.06.010(F) of the Municipal Code, in order to secure the construction and installation of the public improvements which will be dedicated and conveyed to the Town with each Subdivision Final Plat as a condition of approval of each Subdivision Final Plat and other required Development improvements, Developer or the Metropolitan District, as applicable, shall furnish the Town with one (1) or more of the following:

12.1.1. A cash deposit in the amount equal to one hundred ten percent (110%) of the estimated costs to construct the public improvements that will be dedicated to the Town and other required Development improvements, pursuant to an escrow and disbursement agreement reasonably approved by the Town's Attorney; or

12.1.2. An irrevocable standby letter of credit in an amount equal to one hundred ten percent (110%) of the estimated costs to construct said public improvements that will be dedicated to the Town and other required Development improvements, in a form approved by the Town's Attorney; or

12.1.3. A performance bond from a surety licensed in the State of Colorado in an amount equal to one hundred ten percent (110%) of the estimated costs to construct said public improvements that will be dedicated to the Town and other required Development improvements, in a form approved by the Town's Attorney; or

12.1.4. Such other security as may be satisfactory to the Town's Attorney.

12.2. Reduction in Security. Upon Completion of Construction of the public improvements and Final Acceptance by the Town's Engineer as described in subsection 11.5 above, the performance guarantee described in subsection 12.1 above shall be reduced as described in subsection 12.6 and the Developer or Metropolitan District, as applicable, shall provide the Town with a letter of credit or warranty surety bond in the amount of ten percent (10%) of the approved actual cost of such improvements to secure the warranty for such improvements during the Warranty Period as set forth in subsection 11.4 above. Following expiration of the Warranty Period and following the Town's Engineer's approval of any Warranty Punchlist work, the letter of credit or performance surety bond furnished to the Town shall be released in full by the Town.

12.3. Delivery of Performance Guarantee by Developer and/or District. In order to secure the construction and installation of the public improvements and any required Development Improvements as described in this Agreement, the PUD Development Plan, any Subdivision Preliminary Plan, any Subdivision Final Plat and any subdivision improvements agreement

which the Developer or District is responsible, Developer or the Metropolitan District, as applicable, shall furnish the Town with a performance guarantee as described in subsection 12.1 above. Neither the Developer nor the Metropolitan District shall commence any Development work until the performance guarantee is furnished to the Town.

12.4. Letter of Credit Standards; Payment Upon Default. In the event Developer or the Metropolitan District, as applicable, elects to furnish a letter of credit as a performance guarantee, the initial letter of credit shall be payable at sight to the Town, or its designee, and will bear an expiration date of not earlier than two (2) years from the date of issuance. Developer or the Metropolitan District, as applicable, shall renew such letter of credit as necessary in order to secure the performance and completion of the public improvements and other required Development improvements, for which Developer or the Metropolitan District is responsible in accordance with this Agreement, without further notice from the Town. If Developer or the Metropolitan District, as applicable, fails to provide to the Town a satisfactory substitute letter of credit at least thirty (30) days prior to the expiration date of a letter of credit previously delivered, the Town may draw the full amount of the existing letter of credit and hold the proceeds thereof as a performance guarantee deposit. The proceeds of such draw shall be deposited in a federally insured interest bearing account, and all interest earned thereon shall be added to and become part of the performance guarantee deposit. The letter of credit shall be payable at any time upon presentation of (a) a sight draft drawn on the issuing bank in an amount to which the Town is entitled pursuant to this subsection 12.4 and subsection 12.5 of this Agreement; (b) an affidavit by the Town's Mayor stating Developer or the Metropolitan District, as applicable, has failed to complete construction of improvements in accordance with this Agreement or any applicable subdivision improvements agreement or any development permit improvement agreement, has received notice of such failure as required by subsection 12.8 below and has failed to cure such failure within the time set forth in subsection 12.8; or Developer or the Metropolitan District, as applicable, has failed to renew the letter of credit as required herein; and (c) the original letter of credit. The letter of credit shall be in good and sufficient form, as approved by the Town's Attorney. In the event of a failure by Developer or the Metropolitan District, as applicable, to complete construction or renew the letter of credit as required herein, the issuer of the irrevocable letter of credit shall be authorized to disburse funds upon written request by the Town showing the proposed payee and the amount to be paid. Copies of any such requests shall be sent to Developer and the Metropolitan District at their last known addresses.

12.5. Payment of Performance Surety Bond Upon Failure to Perform. In the event Developer or the Metropolitan District, as applicable, elects to provide a performance surety bond as its performance guarantee to secure the construction and completion of the public improvements and other required Development improvements, the performance surety bond shall be payable at any time upon presentation of (a) an affidavit by the Town's Mayor stating Developer or the Metropolitan District, as applicable, has failed to complete construction or the public improvements or other required Development improvements in accordance this Agreement, or any subdivision improvements agreement or development permit improvements agreement, has received notice of such failure as required by subsection 12.8 below and has failed to cure such

failure within the cure period set forth in subsection 12.8. Copies of any such requests shall be sent to Developer and the Metropolitan District, as applicable, at their last known addresses.

12.6. Partial Release of Performance Guarantee. Upon completion of portions of the applicable public improvements and other required Development improvements by Developer or the Metropolitan District, as applicable, and evidence of a detailed cost breakdown of the completed improvements, the amount of any letter of credit or performance bond issued pursuant to the requirements of this Section 12 may be reduced by a percentage, which shall be determined by dividing the actual costs for the completed portions of the applicable improvements by the total estimated costs for all of the improvements. Upon completion by Developer or the Metropolitan District of all of the required improvements, for which Developer or the Metropolitan District is responsible, and upon final inspection and approval by the Town's Engineer of such improvements, the Town Board shall authorize the reduction of the amount of any letter of credit or performance bond to ten percent (10%) of the approved actual cost of such improvements, unless a separate warranty bond is provided in which case the letter of credit or performance bond shall be fully released.

12.7. Full Release of Performance Guarantee. Any performance guarantee or warranty guarantee issued pursuant to this Agreement shall be fully released and discharged upon expiration of the twenty-four (24) month Warranty Period, as described in subsection 11.4 above and the correction of any defects discovered during such Warranty Period.

12.8. Notice of Failure to Complete Construction. Upon Developer's or the Metropolitan District's failure to Complete Construction of all of the required public improvements and other required Development improvements in accordance with this Agreement, the PUD Development Plan, any Subdivision Preliminary Plan or any Subdivision Final Plat; any applicable subdivision improvements agreement or any applicable development permit improvements agreement; and all other applicable plans, drawings, specifications and other documents submitted by Developer or the Metropolitan District to the Town, as approved; and applicable Uniform Non-Discriminatory Regulations of the Town, within the time periods set forth in this Agreement, the Town's Mayor may give written notice to Developer or the Metropolitan District, as applicable, of the nature of the failure and an opportunity to be heard before the Town Board concerning such alleged failure to Complete Construction. If such failure has not been remedied within thirty (30) days of receipt of the notice or the date of any hearing before the Town Board, whichever is later (or such reasonable time as is necessary to Complete Construction provided that Developer or the Metropolitan District, as applicable, is diligently pursuing Completion of Construction), the Town's Mayor may then give written notice to Developer or the Metropolitan District, as applicable, and the issuer of any letter of credit or surety on any performance bond, or an escrow agent appointed pursuant to an escrow and disbursement agreement, that the Town, as agent for Developer or the Metropolitan District, as applicable, is proceeding with the task of installing the required public improvements or other Development improvements for which Developer or the Metropolitan District is responsible in whole or in part.

12.9. Power of Attorney Granted by Developer and the Metropolitan District. In the event Developer or the Metropolitan District, as applicable, fails to Complete Construction as required by this Agreement, Developer and the Metropolitan District hereby designate and irrevocably appoint the Mayor of the Town of Eagle, Colorado as their attorney-in-fact and agent for the purpose of completing all of the improvements required by this Agreement or any future subdivision improvements agreement or any applicable development permit improvements agreement or for restoring any disturbed property. This Agreement shall be filed in the office of the Clerk and Recorder of Eagle County, Colorado, and shall constitute constructive notice of this Agreement and the power of attorney provided herein. This Agreement and power of attorney contained herein may be enforced by the Town pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.

12.10. Increase in Amount of Performance Guarantee. If more than one hundred eighty (180) days elapses between the time of delivery of the performance guarantee and Start of Construction of the improvements by Developer or the Metropolitan District, as applicable, the Town reserves the right to require a reasonable increase in the amount of the applicable performance guarantee, if necessary because of estimated increased costs of construction.

12.11. Cost Estimate Not Binding. The purpose of the cost estimate described in subsection 12.1 above is solely to determine the amount of security required and may be revised from time to time to reflect the actual cost. No representations are made as to the accuracy of these estimates and the Developer and the Metropolitan District, as applicable, agree to pay the actual cost of all such public improvements and other required Development improvements for which it is responsible. Neither the estimated costs nor the amount of the performance guarantee establishes the maximum amount of the Developer's or the Metropolitan District's liability.

12.12. Attorney's Fees. If any legal proceedings are commenced concerning the Town's election to complete the public improvements and/or other required Development improvements, as agents for Developer or the Metropolitan District, and if Developer or the Metropolitan District, as applicable, does not prevail in such legal proceedings, the issuer of any letter of credit, any escrow agent or surety, as well as the Town shall be entitled to recover their reasonable attorney's fees, including legal assistant's fees, incurred therein from Developer or the Metropolitan District, as applicable.

SECTION 13 INDEMNIFICATION AND INSURANCE

13.1. Indemnification By Contractors. To the extent permitted by Colorado law, any contractor employed by Developer or the Metropolitan District who performs work within rights-of-way or easements dedicated to the Town or within other property owned by the Town shall indemnify and hold harmless the Town, its officers, and employees, insurers, and self-insurance pools (collectively, "Town Affiliates"), from and against all liability, claims, and demands, for injury,

loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever (“Indemnified Claims”), which arise out of or are in any manner connected with work performed by such contractors for Developer or the Metropolitan District within Town rights-of-way, easements or other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of such contractor, any subcontractor of the contractor, or any officer, employee, representative, or agent of such contractor or of any subcontractor of the contractor, or which arise out of any workers compensation claim of any employee of the contractor or of any employee of any subcontractor of the contractor. The contractors shall agree to investigate, handle, respond to, and provide a defense for and defend against, any such liability, claims or demands at the sole expense of such contractors. The contractors shall also agree to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent. Notwithstanding any other provision of this subsection 13.1, no contractor shall have any obligation hereunder with respect to any Indemnified Claims to the extent that same result from the negligent or intentional act or omission of the Town or any Town Affiliate.

13.2. Insurance Required. Any contractors employed by Developer or the Metropolitan District to perform work within rights-of-way or easements dedicated to the Town or within any other property owned by the Town, shall agree to procure and maintain, at their own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by such contractors pursuant to subsection 13.1. Such insurance shall be in addition to any other insurance requirements imposed by Developer, the Metropolitan District or by law. Any such contractors shall not be relieved of any liability, claims, demands or other obligations to be assumed pursuant to subsection 13.1 by reason of their failure to procure or maintain insurance, or by reason of their failure to procure or maintain insurance in sufficient amounts, durations, or types.

13.3. Nature and Amounts of Insurance. Any contractor employed by Developer or the Metropolitan District to perform work within rights-of-way and easements dedicated to the Town or other property owned by the Town shall procure and maintain, and shall cause any subcontractor of such contractor to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with an insurance company authorized to do business in the State of Colorado and which has a general policy rating of A- or better and a financial class of VII or better, as rated by A.M. Best Company (or if a rating of A.M. Best Company, Inc. is no longer available, a comparable rating from a similar or successor service). All coverages shall be continuously maintained to cover all liability, claims, demands and other obligations to be assumed by such contractors pursuant to subsection 13.1. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

13.3.1. Workers compensation insurance to cover obligations imposed by applicable Colorado law for any employee engaged in the performance of work, and Employers'

Liability insurance with minimum limits of \$500,000.00 each accident, \$500,000.00 disease-policy limit, and \$500,000.00 disease-each employee. Evidence of qualified self-insured status may be substituted for the Workers' Compensation requirements of this subsection.

13.3.2. General Liability insurance with minimum combined single limits of \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual, and employee acts), blanket contractual independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

13.3.3. Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate with respect to each of a contractor's owned, hired or non-owned vehicles assigned to or used in performance of services within the Town's rights-of-way, easements and other property. The policy shall contain a severability of interests provision. No additional insured endorsement to the policy required by this subsection shall contain any exclusion for bodily injury or property damage arising from completed operations.

13.3.4. The policies required by subsections 13.3.2 and 13.3.3 above shall be endorsed to include Developer, the Metropolitan District and the Town, their officers, agents, and employees, as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, or carried by or provided through any insurance pool of the Town, shall be excess and not contributory insurance to that provided by Developer's or the Metropolitan District's contractors. No additional insured endorsement to the policy required by subsection 13.3.1 above shall contain any exclusion for bodily injury or property damage arising from completed operations. A contractor shall be solely responsible for deductible losses under any policy required above.

13.3.5. Developer or the Metropolitan District, as applicable, shall provide the Town with a certificate of insurance to be completed by the contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The certificate shall identify the construction contract and shall provide that the coverages afforded under the policy shall not be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Town.

13.3.6. General liability and worker's compensation insurance for the Town and Developer, the Metropolitan District and contractors of Developer or the Metropolitan District required hereunder may be provided under controlled insurance programs.

13.4. Indemnification by Developer and the Metropolitan District. In addition to the indemnification required in subsection 13.1, Developer and, to the extent permitted by law, the Metropolitan District hereby expressly agree to indemnify and hold the Town harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity, excluding Town officers, agents or employees, in connection with, or on account of the performance of the Public Improvements within the Development and elsewhere by such party as applicable, or its agents, contractors or employees pursuant to this Agreement, except to the extent any such claims, costs or liability arises from the negligent or intentional act or omission of the Town or any Town Affiliate. Developer and the Metropolitan District further agree to aid and defend the Town in the event that the Town is named as a defendant in any action concerning the performance of work by Developer or the Metropolitan District, or their agents, contractors or employees pursuant to this Agreement except where such suit is brought by Developer or the Metropolitan District, as applicable. Neither Developer nor the Metropolitan District shall be considered an agent or employee of the Town for any purpose.

13.5. Governmental Immunity. The Parties hereto understand and agree that the Town and the Metropolitan District are relying on, and do not waive or intend to waive by any provision contained in this Section 13, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101, *et. seq.*, C.R.S., as from time to time amended, or otherwise available to the Town, the Metropolitan District, their officers, agents, or their employees.

SECTION 14

DEDICATION AND IMPROVEMENT OF PARKS AND OTHER PUBLIC LANDS

As a matter of contract, and as a condition of the Town's annexation of the Property, Developer shall dedicate or convey the following described parcels, at no cost, free and clear of all liens and encumbrances, and further described in Exhibit H attached hereto and incorporated herein by this reference:

14.1. Brush Creek Road Right-of-Way. Developer shall dedicate to the Town, at the time of approval of the first Subdivision Final Plat for Haymeadow, by the Town Board, a thirty foot (30') wide right-of-way parallel and adjacent to the existing Brush Creek Road right-of-way. This right-of-way dedication shall be made in all areas where the Haymeadow Property is adjacent to the Brush Creek Road right-of-way. The Parties understand that the purpose of this right-of-way dedication is to allow for future improvements including but not limited to: safety improvements to Brush Creek Road, capacity improvements to Brush Creek Road, utility installations, and recreation trail construction.

14.2. Upland Open Space. Developer shall sequentially dedicate or convey to the Town the Upland Open Space, identified as Parcel No. 1 on Exhibit H for public open space purposes, with each Subdivision Final Plat of the Property adjacent to the south of such open space area.

14.3. Fire Station Property. Developer shall dedicate or convey to the Greater Eagle Fire Protection District a parcel containing approximately 1.6 acres, more or less, identified as Parcel 3 on Exhibit H for the construction and operation of a fire station and related uses. Said parcel shall be dedicated or conveyed at the time of approval of the first Subdivision Final Plat by the Town Board and provided with access to necessary utilities by the Developer. In order to maintain architectural harmony within Haymeadow and preserve property values, the deed of conveyance of the parcel to the Greater Eagle Fire Protection District will contain a covenant that shall (a) prohibit any construction upon the parcel without the approval of the Haymeadow Design Review Board, subject to the Design Guidelines (which shall contain specific provisions related to the design of the fire station); and (b) require that the parcel and all improvements be maintained in conformance with the Design Guidelines and all other requirements of the Design Review Board in perpetuity.

14.4. Haymaker Trail. Developer shall dedicate or convey to the Town a perpetual easement over the Haymaker Bicycle and Pedestrian Trail, identified as Parcel 2 on Exhibit H (“Haymaker Trail”), as constructed in the field and shown on the PUD Development Plan for use by the general public for bicycle and pedestrian trail purposes, within thirty (30) days following the date of Final Approval.

14.5. Wildlife Corridor. Developer shall dedicate or convey to the Town for wildlife protection purposes, the area described as Parcel 4 on Exhibit H, at the time approval of the first Subdivision Final Plat for any property in Neighborhood D of the Haymeadow PUD by the Town Board.

14.6. Willow Tree Corridor. Developer shall dedicate or convey to the Town the area known as the Willow Tree Corridor, identified as Parcel 5 on Exhibit H, for wildlife protection and open space purposes, at the time of approval of the first Subdivision Final Plat by the Town Board.

14.7. Trailhead Park. Developer shall dedicate or convey to the Town the area known as Trailhead Park, containing 20.5 acres, more or less, identified as Parcel 6 on Exhibit H, for public park and recreation purposes, at the time of approval of the first Subdivision Final Plat by the Town Board.

14.8. Wetland Open Space. Developer shall dedicate or convey to the Town an area known as the Wetlands Open Space, containing approximately 24 acres, more or less, identified as Parcel 7 on Exhibit H, for public open space purposes, at the time of approval of the first Subdivision Final Plat by the Town Board.

14.9. Additional Lands. Developer shall also be required to dedicate or convey to the Town additional lands with each Subdivision Final Plat as generally shown as public open space on the PUD Development Plan.

SECTION 15
SCHOOL/RECREATION LAND DEDICATION

As a matter of contract, and as a condition of the Town's annexation of the Property, Developer shall dedicate or convey to the Town, at no cost, free and clear of all liens and encumbrances, a school/recreation parcel containing 32.733 acres, more or less, identified as Parcel 8 on Exhibit H, for public school and recreation purposes. Upon such dedication, the Parties acknowledge that Developer will have fully complied with the requirements of Section 4.13.065 of the Municipal Code concerning Public School Dedication or the payment of a fee in lieu of dedication. The Parties understand that in accordance with an intergovernmental agreement to be entered into between the Town and the Eagle County School District (the "School District"), the Town will, upon request from the School District, convey a portion of the parcel to the School District, at no cost, free and clear of all liens and encumbrances, for the purposes described in Section 4.13.065 (C) of the Municipal Code. In the event the School District provides notice to the Town that it does not intend to use the parcel for such purposes, the Town may sell the portion of the parcel that would have been conveyed to the School District to a third party. All proceeds from such sale shall be paid to the School District and shall be used for the acquisition of other school land or for the construction or expansion of school facilities. As an alternative, the Town may elect to retain the subject property and pay to the School District the fair market value of the property that would have been conveyed to the School District. Such funds shall be used by the School District for the purpose stated above. Developer shall have the right of first refusal to purchase such property in accordance with the Right of First Refusal Agreement attached hereto as Exhibit N and incorporated herein by this reference.

SECTION 16
LOCAL EMPLOYEE RESIDENCY PROGRAM

As a matter of contract and as a condition of the Town's annexation of the Property, Developer shall satisfy the Town's LERP by the implementation of the Haymeadow LERP Housing Plan submitted to and approved by the Town, attached hereto as Exhibit G, and incorporated herein by this reference.

SECTION 17
PAYMENT OF IMPROVEMENT RECAPTURE FEES TO WEST EAGLE RANCH, LLC

The Parties acknowledge that on or about November 13, 2007, the Town and West Eagle Ranch, LLC, a Delaware limited liability company, entered into a Memorandum of Understanding and Infrastructure Improvements Recapture Agreement ("Recapture Agreement"), attached hereto as

Exhibit I, and incorporated herein by this reference. Developer also acknowledges that under such Recapture Agreement, Developer is required to pay to the Town a prorata share of the cost incurred by West Eagle Ranch, LLC for improvements known as the Sylvan Lake Road extension and U.S. Highway 6 access improvements, as well as certain wastewater improvements.

In accordance with the Recapture Agreement, the Town Engineer has calculated the prorata share of the costs of the Sylvan Lake Road extension and the U.S. Highway 6 access improvements originally constructed by West Eagle Ranch, LLC based on the number of "trip ends" generated by the Eagle Ranch development at full build out and by the number "trip ends" generated by Haymeadow and has calculated the prorata share of costs for the wastewater improvements based on the number of EQR located within the Eagle Ranch development at full build out and the number of EQRs in Haymeadow benefiting from such improvements. Said calculation is contained in Exhibit J, attached hereto and incorporated herein by this reference.

As a matter of contract, and as a condition of the Town's annexation of the Property, concurrently with the approval of each Subdivision Final Plat, Developer shall pay to the Town a proportional amount owed based upon the number of residential dwelling units approved for each Subdivision Final Plat determined by the Town's Engineer, \$1051.12 per residential unit. The Town shall then pay to West Eagle Ranch, LLC, or its successors and assigns, such amount within ten (10) days after receipt thereof.

Provided, however, in the event of a demand by West Eagle Ranch, LLC for payment of the recapture amount in a lump sum, or in the event of threatened or pending litigation by West Eagle Ranch, LLC asserting the same, Developer may elect to pay in a lump sum amount all recapture fees due and owing. Developer will cooperate with the Town in taking reasonable actions to defend against any litigation brought by West Eagle Ranch, LLC, or its successors and assigns, arising from, related to or as a result of the Parties' agreement that Developer may make payments of the recapture fees concurrently with the approval of Subdivision Final Plats instead of upon Final Approval of this Agreement. Developer agrees to pay the Town's reasonable and necessary legal fees, including legal assistants' fees, and all costs for any such defense within thirty (30) days of the date of any bill or statement for such fees and costs.

SECTION 18 FUTURE COST RECOVERY AGREEMENTS

18.1. In General. Developer has paid or will pay costs, and has dedicated or will dedicate property in excess of what would be required solely to service the Haymeadow development. These costs and dedications will have benefits to other Town property owners, both current and future, since those owners would not otherwise be required to share in the costs of such benefits and improvements. The provisions of this Section 18 are intended to provide recovery of a portion of such costs in the event of future development that receives a benefit from certain of Developer's commitments contained in this Agreement.

18.2. Fire Impact Fees and Dedication. Developer's agreements to dedicate a fire station parcel to the Greater Eagle Fire Protection District, at no cost, as well as to pay a substantial portion of the Town's Fire Impact Fee at the beginning of the Development rather than spread across the term of the Development, have the impact of reducing costs of construction to many possible future annexations in the Brush Creek Valley. Therefore, in the event that the Town, in its sole discretion, may require new annexations south of Haymeadow in the Brush Creek Valley to pay a proportional reimbursement of costs incurred by Developer relating to the provision of the new fire station, including the value of the parcel of land dedicated for the fire station, the Town agrees may enter into future cost recovery agreements based on cost savings generated for future annexations as a result of the construction of the fire station within Haymeadow. Such proportional reimbursement, if required by the Town, shall be paid concurrently with the approval of Subdivision Final Plats for such new developments.

18.3. Brush Creek Road Extension. The Town agrees to enter into a cost recovery agreement with any future land annexation south of the Development in the Brush Creek Valley that will demonstrably benefit from Developer's construction of the Brush Creek Road Extension. Under such agreement(s), the owners of the proposed new development(s) shall reimburse Developer for an incremental portion of the costs incurred by Developer for design and construction of the Brush Creek Road Extension based on trip counts as calculated by the Town Engineer, including any right-of-way acquisition costs. Such reimbursement shall be paid at the time any such annexation becomes effective, and as a condition of the effectiveness of such annexation. The share of Developer's costs to be repaid by the new development shall be determined by the Town Engineer based on the number of "trip ends" generated by the Development and by the number of "trip ends" generated by new development on other newly annexed properties benefitting from the Brush Creek Road Extension. Such proportional costs shall be recalculated by the Town Engineer each time a new land annexation occurs that will demonstrably benefit from Developer's construction of the Brush Creek Road Extension. Reimbursements to Developer (and other developers who have previously paid proportional costs) shall be paid as described above.

18.4. Payment of Eagle Ranch Recapture Amounts. Pursuant to Section 17 of this Agreement, Developer is required to reimburse to West Eagle Ranch, LLC, certain costs pursuant to that certain Memorandum of Understanding and Infrastructure Improvements Recapture Agreement attached hereto as Exhibit I (the "MOU"). Those cost reimbursements were calculated as though Eagle Ranch and Haymeadow were the only developments that benefit from the Sylvan Lake Road extension and US Highway 6 access improvements (as defined in the MOU). It is possible, however, that future developments on newly annexed lands into the Town may also benefit from those improvements and therefore be obligated to pay cost recovery amounts pursuant to the MOU. The Town agrees that, based upon Developer's payment of the cost recovery amounts to West Eagle Ranch, LLC, Developer and West Eagle Ranch, LLC may be entitled to future reimbursement payments under the MOU in proportion to the amounts each has paid thereunder. Therefore, if any amounts are collected by the Town under the MOU in the future, Developer and West Eagle Ranch, LLC will be entitled to additional proportional reimbursements based

upon the “trip ends” generated by such future developments using the Sylvan Lake Road extension and US Highway improvements. Reimbursements for wastewater improvements originally constructed by West Eagle Ranch, LLC and serving future developments newly annexed to the Town shall be calculated based upon the EQR in such future developments. The Town agrees with Developer to enforce the MOU against future developments to be annexed for the benefit of Developer and West Eagle Ranch, LLC and to collect such cost recovery amounts at the time of approval of each new Subdivision Final Plat. In the event that either Developer elects to, or a court orders Developer to, pay the cost recovery amounts due to West Eagle Ranch, LLC, pursuant to Section 17 of this Agreement in one lump sum, rather than at the time of each Subdivision Final Plat within the Development, then the Town shall require any future developer to pay the amounts due under this subsection on the same basis.

SECTION 19 WILDLIFE PROTECTION

Developer will provide a wildlife corridor as required by Section 3.2.9 of the PUD Guide, as the same may be amended from time to time with consent of the Town. In addition, the design and placement of recreation trails adjacent to the eastern wildlife corridor and open space shall minimize the impact of trail users upon wildlife. Developer further agrees to retain the eastern buffer/wildlife corridor, as shown in the PUD Development Plan, Exhibit C attached hereto, in agricultural production. No other requirements regarding wildlife protection are imposed by this Agreement.

SECTION 20 DISTURBANCE OF OPEN SPACE AREAS

20.1. Unplatted Areas. Areas within the Property that are not contained within an approved Subdivision Final Plat shall be maintained in their present natural state or agricultural production and irrigated as necessary. Provided, however, underground utility construction shall be permitted but disturbed areas must be revegetated to a natural condition subject to Town approval. In addition, the Town acknowledges that certain areas within the Property are presently in agricultural use and production, and all such areas shall be entitled to remain in any form of agricultural use and/or production until such time as such areas are developed in accordance with this Agreement and the Development Plans. Developer or the Metropolitan District shall develop a plan for review and approval by the Town, for the control of noxious weeds and ground squirrels in all such unplatted areas.

20.2. Reclamation of Upland Open Space. With the first Subdivision Final Plat application, Developer shall submit a reclamation plan for portions of the Upland Open Space which have been disturbed and currently contain a significant amount of weeds as indicated on photographs numbered 10 and 12 on the Vegetative Assessment prepared by Western Ecological Resources Inc. included in Developer’s PUD application.

20.3. Designated Open Space Areas. Any designated public or private open space areas within the Property that are disturbed during construction of the Development shall be promptly graded and successfully revegetated to a natural looking condition by Developer at its sole cost and expense in a manner approved by the Town.

SECTION 21
MAIL DELIVERY

Prior to the approval of the first Subdivision Final Plat for the Property, Developer, together with Town officials, shall meet with representatives of the United States Postal Service concerning the possibility of obtaining home delivery within the Development, a postal annex to serve the Development, and/or the provision of cluster mail boxes within the Development. In completing the final design of the Development, Developer agrees to incorporate in its Subdivision Final Plat(s) the location and design of facilities reasonably necessary to facilitate home mail delivery or the use of cluster mail boxes within the Development, as may be required by the United States Postal Service.

SECTION 22
USE OF CHEMICALS

Concurrently with the submittal of its application for the first Subdivision Final Plat, Developer shall submit a plan to minimize the use of chemicals harmful to the environment, including pesticides, herbicides, and other chemicals. The Town shall review and approve a plan for minimizing the use of chemicals in connection with the Town's review and approval of the first Subdivision Final Plat. Notwithstanding any provision of this Section 22, Developer or its tenants, agents or other occupants of any portion of the Property that is put to agricultural use or production shall be entitled to use any legal chemicals upon such portion of the Property, including pesticides and herbicides. Such management plan shall include suppression of current weed infested areas and the revegetation of applicable areas.

SECTION 23
OPEN SPACE MANAGEMENT PLAN

Developer or the Metropolitan District, as applicable, shall submit to the Town for review and approval a management plan for all open space areas within the Development concurrently with the submittal of an application for the first Subdivision Final Plat.

SECTION 24
TRANSFER ASSESSMENT COVENANT

Developer shall include a Transfer Assessment Covenant within the governing Declaration of the property owners association formed for Haymeadow. The Transfer Assessment Covenant shall provide for an assessment of six tenths of one percent (0.6%) of the consideration paid on the

sale and purchase of individual lots, lots platted for multi-family development after the first Subdivision Final Plat, and individual residential dwelling units that shall be payable to the Town; provided, however, the Transfer Assessment Covenant shall provide for exemptions substantially similar to those described in Exhibit L, attached hereto and incorporated herein by this reference. Such required provisions shall not be repealed, altered or amended by the property owners association without the written consent of the Town. Proceeds from such Transfer Assessment due to the Town shall be paid to the Town within thirty (30) days after receipt by the property owners association and may be used for such purposes as solely determined by the Town Board. The Town will cooperate with Developer and the property owners association in taking reasonable actions to defend against any litigation brought by a third party against Developer arising from, related or as a result of the imposition of the Transfer Assessment Covenant on residential dwelling units in the Development and the Town agrees to pay the reasonable and necessary legal fees and costs of Developer and the property owners association for any such defense within thirty (30) days of the date of any bill or statement for such fees or costs. Nothing in this Agreement shall limit the total amount of the Transfer Assessment imposed by the governing Declaration of the property owners association formed for Haymeadow, which may change from time to time as provided in said Declaration; provided, however, that the amount of the Transfer Assessment shall not be less than the 0.6% that is obligated to be paid to the Town hereunder.

SECTION 25
MAINTENANCE OF COMMON AREAS, OPEN SPACE,
AND DEVELOPMENT IMPROVEMENTS

The Parties understand and agree that the entities shown on Exhibit K, attached hereto and incorporated herein by this reference, shall own and be responsible for the ongoing maintenance, upkeep and repair of the common areas, parks, open space, recreation areas, and other development improvements shown on Exhibit K. Upon submittal of its application for the first Subdivision Final Plat, Developer shall provide the Town with an updated schedule indicating specifically whether the property owners association or the Metropolitan District will be responsible for the ongoing maintenance, upkeep and repair of applicable such common areas, open space, and other Development improvements shown in Exhibit K where both the property owners association and the Metropolitan District are listed as responsible parties. Provided, however, the Parties may mutually agree in future subdivision improvements agreements to alter such responsibilities for the maintenance, upkeep and repair of such facilities.

SECTION 26
REIMBURSEMENT OF COSTS

26.1. Development Review Costs. Pursuant to subsection 4.03.080(C)(2) of the Municipal Code, as it may be amended from time to time, Developer shall pay to the Town the actual costs incurred by the Town, rendered in connection with Developer's Annexation Petitions, PUD Zoning Plan and PUD Development Plan application. In addition, Developer shall pay to the Town the reasonable costs incurred by the Town in connection with consulting services provided to the Town in connection with Developer's PUD Zoning Plan and PUD Development Plan

application. All costs due and owing shall be paid prior to the date Final Approval is received. Provided, however, upon request, Developer shall receive detailed invoices reflecting the nature and description of each charge so incurred by the Town. In the event Developer does not believe that the costs assessed under this Section 26 are reasonable, Developer may appeal such assessment to the Town Board. Following an opportunity for Developer to be heard, the Town Board shall affirm the appeal or deny the appeal. In addition, Developer shall pay to the Town fifty percent (50%) of the Town's monthly costs of employing an assistant town planner, in the amount of \$2,800.00 per month, to facilitate the Town's review and processing of Developer's Annexation Petitions, PUD Zoning Plan and PUD Development Plan applications as well as future land use applications. Developer shall only be obligated to pay such costs for the period commencing on August 1, 2013 and ending April 1, 2014. Said sums shall be billed by the Town on a monthly basis and Developer shall pay such amounts within thirty (30) days following billing.

26.2. Inspection Costs. Prior to the approval and acceptance of the construction and installation of the required Public Improvements and other necessary Development improvements, Developer shall pay to the Town the actual cost of all inspections of such improvements as provided in subsection 4.03.080(D)(1) of the Municipal Code, as it may be amended from time to time (the "Inspection Costs"). In the event Developer believes the costs assessed are unreasonable, Developer may appeal such assessment in the manner set forth in subsection 26.1.

SECTION 27 OVERLAPPING URBAN RENEWAL AUTHORITY PROHIBITED

The Town shall not create an urban renewal authority overlapping any portion of the Metropolitan District unless the Metropolitan District, Town and urban renewal authority execute an intergovernmental agreement by which the Metropolitan District will be paid all tax revenues generated by the Metropolitan District mill levies.

SECTION 28 DEFAULT; REMEDIES; TERMINATION

28.1. Default by Town. A "breach" or "default" by the Town under this Agreement shall be defined as (a) pursuant to Section 24-68-105, C.R.S., in effect as of the Effective Date, any zoning, land use or other action or inaction, direct, indirect or pursuant to an initiated measure, taken without Developer's consent, that alters, impairs, prevents, diminishes, imposes a moratorium on development, delays or otherwise materially and adversely affects to a substantial degree the vested property rights of Developer as expressly created under the Development Plan and this Agreement as limited in subsection 4.4 of this Agreement, or as otherwise permitted under Section 24-68-105, C.R.S., or (b) the Town's failure to fulfill or perform any material obligation of the Town contained in this Agreement.

28.2. Default by Developer. A "breach" or "default" by Developer shall be defined as Developer's failure to fulfill or perform any material obligation of Developer contained in this Agreement.

28.3. Notices of Default. In the event of a default by either party under this Agreement, the non-defaulting Party shall deliver written notice to the defaulting Party of such default, at the address specified in subsection 29.7 below, and the defaulting Party shall have thirty (30) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such thirty (30) day period and the defaulting Party gives written notice to the non-defaulting Party within such thirty (30) day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time given the nature of the default following the end of such thirty (30) day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure.

28.4. Remedies.

28.4.1. If any default under this Agreement is not cured as described above, the non-defaulting Party shall have the right to enforce the defaulting Party's obligations hereunder by an action in equity for any equitable remedy, including injunction and/or specific performance. Only in the event that the remedy of specific performance is not available, either Party may seek an equitable monetary award in accordance with applicable law and as limited by this Agreement in lieu of such specific performance remedy.

28.4.2. The Parties acknowledge that since this Agreement and the Development Plan constitute a development agreement which confers rights beyond those provided by the three (3) year statutory vesting approach described in the Vested Property Rights Statute, in the event of a breach or default by the Town, in addition to any of the foregoing equitable remedies, Developer shall be entitled to: recover from the Town solely those damages that would have been specifically available to Developer as contemplated in Section 24-68-105(1)(c), C.R.S. as in effect on the Effective Date; and cause the Property, or any portion thereof designated by Developer, to be disconnected from the Town.

SECTION 29 MISCELLANEOUS PROVISIONS

29.1. Voluntary Agreement. Developer agrees that the provisions and requirements of this Agreement are entered into with full knowledge, free will and without duress.

29.2. Recordation of Agreement. This Agreement shall be recorded in the records of the Eagle County Clerk and Recorder, and upon recording shall be deemed a covenant running with all the real property described in Exhibit A, for the benefit of the Town and any real property owned by the Town.

29.3. Enabling Ordinances Required. To the extent required by law and by the terms of this Agreement, the obligations and covenants of the Town are conditional upon the adoption by the Town of appropriate enabling ordinances.

29.4. Attorney's Fees. In the event that any action is filed or maintained by either Party in relation to this Agreement, the prevailing Party shall be entitled to its costs and reasonable attorney fees, including reasonable legal assistant's fees. All rights concerning remedies or attorney's fees shall survive termination of this Agreement.

29.5. Complete Agreement. This Agreement contains all of the understandings, conditions, and agreements between the Parties relating to annexation and development at this time, and no other prior or current representation, oral or written, shall be effective or binding upon the Parties, except for representations made by Developer, or its agent, or the Town Board and Town staff members at public hearings concerning annexation of the Property and development of the Property, not in conflict with express provisions of the Development Plan or this Agreement.

29.6. Authorization. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

29.7. Notices. All notices required or given by the terms of this Agreement shall be made by certified first class mail, postage prepaid, return receipt requested, to the parties at their addresses listed below. All notices shall be effective upon mailing. These addresses shall remain valid until notice of a change of address is given in accordance herewith.

If to the Town:

Town of Eagle, Colorado
Board of Trustees
P.O. Box 609
Eagle, CO 81631
Attention: Town Manager

With a copy to:

Sands Law Office, LLC
450 West Avenue, Suite 204
Rifle, CO 81650
Attention: Edward P. Sands, Esq.

If to Developer

Abrika Properties, LLC
P.O. Box 772289
Ocala, FL 34477
Attention: Fredric Newman
With an email copy to: '
Ric Newman' (Ric@newmancomm.com)

With a copy to:

Greg Perkins, Esq.
710 West Lionshead Circle, Suite B
Vail, CO 81657

29.8. No Additional Annexation Conditions Imposed. The Town and Developer acknowledge and affirm that this Agreement does not impose additional terms and conditions within the meaning of Section 31-12-110(2), C.R.S. To the extent that Section 31-12-110(2), C.R.S. is construed as being ambiguous as to what might be considered additional terms and conditions, Developer, as the owner of 100% of the land described in Exhibit A, hereby declares that it has voluntarily entered into this Agreement and states that if an election were held, Developer would approve the terms and conditions of this Agreement at such election.

29.9. Waiver of Defects. In executing this Agreement, Developer waives all rights it may have concerning defects, if any, of the form or substance of this Agreement, and the formalities whereby it is executed; concerning the power of the Town to impose conditions on Developer as set forth herein; and concerning the procedure, substance, and form of the ordinances or resolutions adopting this Agreement. Similarly, the Town waives all rights it may have concerning defects, if any, of the form or substance of this Agreement, and the formalities whereby it is executed as well as defects, if any concerning the procedure, substance, and form of the ordinances or resolutions adopting this Agreement.

29.10. Colorado Law Applicable. This Agreement is made and delivered within the State of Colorado, and the laws of the State of Colorado shall govern its interpretation, validity, and enforceability.

29.11. Jurisdiction of Courts. Personal jurisdiction and venue for any civil action commenced by any of the Parties to this Agreement whether arising out of or relating to this Agreement, a letter of credit, or performance bond will be deemed to be proper only if such action is commenced in the Metropolitan District Court for Eagle County, Colorado. Developer, the Metropolitan District and the Town expressly waive any right to bring such action in or to remove such action to any other court, whether State or federal.

29.12. Metropolitan District's Performance of Developer's Obligations. The Metropolitan District is hereby authorized and may, in Developer's discretion, perform any obligation of Developer so long as such performance is in accordance with the Special District Act, Sections 32-1-101 *et. seq.*, C.R.S. and other applicable law.

29.13. Waiver. No waiver of one or more of the terms of this Agreement shall constitute a waiver of other terms. No waiver of any provision of this Agreement in any instance shall constitute a waiver of such provision in other instances.

29.14. Authorization. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

29.15. Representations of Town Officials. It is expressly understood that the Town cannot be legally bound by the representations of any of its officers or agents or their designees except in accordance with the Municipal Code, and that Developer or the Metropolitan District, when dealing with the Town, acts at its own risk as to any representation or undertaking by the Town or its officers or agents or their designees which is subsequently held unlawful by a court of law, which is in accordance with the law of the State of Colorado. Provided, however, this subsection shall not be construed to limit the rights and remedies of the Parties otherwise provided by law.

29.16. Covenants. The provisions of this Agreement shall be binding on all subsequent owners of the Property as covenants running with the Property, to be released only by the Town, unless this Agreement is otherwise terminated in accordance with its terms or by any Party pursuant to the terms of this Agreement. The benefits and burdens of this Agreement shall bind and inure to the benefit of all estates and interests in the Property and all successors in interest to the Parties to this Agreement, except as otherwise provided herein.

29.17. Time of the Essence. Time is of the essence with respect to all obligations under this Agreement.

29.18. Rights of Persons not a Party. No person or entity which is not a Party to this Agreement will have any right of action under this Agreement.

29.19. Binding Upon Successors, Assignees. This Agreement shall be binding upon and, except as otherwise provided in this Agreement, shall inure to the benefit of the successors in interest or the legal representatives of the Parties hereto. Developer shall have the right to assign or transfer all or any portion of its interest, rights or obligations under this Agreement to third parties acquiring an interest or estate in the Property, including, but not limited to, purchasers or long term ground lessees of individual lots, parcels, or of any improvements now or hereafter located within the Property. The express assumption of any of Developer's obligations under this Agreement by its assignee or transferee shall, upon written notice to and approval by the Town, relieve Developer of any further obligations under this Agreement with respect to the matter so assumed.

29.20. Developer's Right to Assign. Except (a) as provided in subsection 29.19 or (b) for a collateral assignment of this Agreement by Developer to Lender, Developer's rights and obligations hereunder may not be assigned or delegated, except to affiliates, without the Town's written consent, which shall not be unreasonably withheld. Any attempted assignment or delegation by Developer not in compliance herewith shall be null and void.

29.21. Town's Right to Assign. The Town's obligations hereunder may not be assigned or delegated without Developer's written consent, which shall not be unreasonably withheld and any attempted assignment or delegation by the Town not in compliance herewith shall be null and void.

29.22. Counterparts. This Agreement shall be executed in multiple counterparts, each of which shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

29.23. Amendments, Waivers and Consents. No amendment or waiver of any provision of this Agreement, nor consent to any departure here from, shall in any event be effective unless the same shall be in writing and signed by the Parties hereto, or their approved successors and assigns, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

29.24. Provisions Deemed Severable. Except as otherwise provided in this Agreement, if any part, term or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or unenforceability will not affect the validity of any other part, term, or provision of this Agreement and the rights of the Parties will be construed as if the part, term, or provision was never part of this Agreement.

29.25. No Waiver of Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's or the Metropolitan District's sovereign immunity or governmental immunity under any applicable State law.

29.26. Execution of Other Documents. The parties agree to execute any additional documents and to take any additional actions necessary to carry out this Agreement.

29.27. Recordation of Agreement. The Town shall record a copy of this Agreement in the office of the Clerk and Recorder of Eagle County, Colorado (the "Clerk and Recorder"). In the event this Agreement terminates in accordance with its terms, or is terminated by any Party pursuant to the terms of this Agreement, all Parties shall execute a release, promptly upon request, to be recorded with the Clerk and Recorder evidencing the termination of this Agreement.

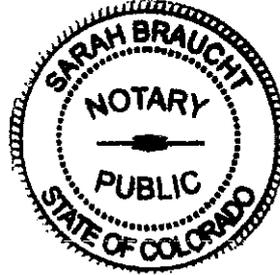
STATE OF COLORADO)
) ss:
COUNTY OF EAGLE)

The foregoing instrument was acknowledged before me this 25th day of March, 2014, by Fredric Newman as a member of Abrika Properties, LLC, a Florida limited liability company.
↑ Manager of Newman Family Holding LLC, a Florida Limited Liability Company

Witness my hand and official seal.

My commission expires: 8-29-2015

Sarah Braucht
Notary Public



APPROVED AS TO FORM:

Edward P. Sands
Edward P. Sands, Esq.
Attorney for the Town of Eagle, Colorado

4/3/14
Date

Greg Perkins
Greg Perkins, Esq.
Attorney for Abrika Properties, LLC

4/4/14
Date

Haymeadow Annexation & Development Agreement Exhibit List

- Exhibit A: Legal Description of Property
- Exhibit B: List of Water Rights to be Conveyed
- Exhibit C PUD Development Plan
- Exhibit D Description of Pool/Ice Rink Recreation Trail
- Exhibit E Description of Recreation Trail or “Spine Trail”
- Exhibit F Subdivision Preliminary Plan
- Exhibit G Haymeadow LERP Housing Plan
- Exhibit H Map Showing Parcels to be Dedicated or Conveyed by Developer
- Exhibit I MOU – Recapture Agreement
- Exhibit J Town Engineer’s Calculation of Recapture Fees
- Exhibit K Matrix Showing Responsibility for Maintenance of Common Areas and Development Improvements
- Exhibit L RETA Exemption Provisions
- Exhibit M Metropolitan District Joinder
- Exhibit N Right of First Refusal Agreement

EXHIBIT A

Haymeadow PUD Annexation and Development Agreement

Being those lands currently owned by the applicant, and being further described as follows: A parcel of land located in Tracts 37, 38, 44, 55, 59, 61, 62 and 63 in Sections 2, 3, 4, 9, 10 and 11, Township 5 South, Range 84 West of the 6th Principal Meridian with all bearings herein based on a bearing of N 00 DEGREES 33 MINUTES 00 SECONDS W between the Town of Eagle Street monuments located at Fifth and Broadway and Second and Broadway; said parcel of land is more particularly described as follows to wit:

Beginning at angle point 2 of said Tract 38, being marked on the ground by a 2 1/2" USGLO brass cap on 1" iron pipe, found in place; thence along the 2-1 line of said Tract 38, N 89 DEGREES 57 MINUTES 47 SECONDS E, 2819.44 feet to angle point 1 of said Tract 38, also being angle point 2 of said Tract 37, being marked on the ground by a 1 1/2" aluminum cap on # 5 rebar, LS #4551, found in place, S 10 DEGREES 32 MINUTES 06 SECONDS W, 13.67 feet from the record location; thence along the 2-1 line of said Tract 37, N 89 DEGREES 58 MINUTES 44 SECONDS E, 2779.22 feet to angle point one of said Tract 37, being marked on the ground by a 2 1/2" USGLO brass cap on 1" iron pipe, found in place; thence along the 1-6 line of said Tract 37, S 00 DEGREES 14 MINUTES 15 SECONDS E, 1346.39 feet to angle point 6 of said Tract 37, also being angle point 2 of said Tract 62 and angle point 1 of said Tract 59, being marked on the ground by a 2 1/2" USGLO brass cap on 1" iron pipe, found in place; thence along the 2-1 line of said Tract 62, S 89 DEGREES 57 MINUTES 23 SECONDS E, 2838.60 feet; thence leaving said 2-1 line of Tract 62, S 00 DEGREES 02 MINUTES 37 SECONDS W, 4743.42 feet to a point on the northerly right-of-way fence line of Brush Creek Road; thence along said northerly right-of-way fence line of Brush Creek Road the following twelve (12) courses:

- 1) N 79 DEGREES 30 MINUTES 59 SECONDS W, 166.80 feet,
- 2) N 79 DEGREES 11 MINUTES 51 SECONDS W, 197.18 feet,
- 3) N 79 DEGREES 41 MINUTES 31 SECONDS W, 89.23 feet,
- 4) N 69 DEGREES 00 MINUTES 09 SECONDS W, 48.79 feet,
- 5) N 65 DEGREES 35 MINUTES 39 SECONDS W, 53.04 feet,
- 6) N 55 DEGREES 20 MINUTES 50 SECONDS W, 61.81 feet,
- 7) N 47 DEGREES 15 MINUTES 27 SECONDS W, 52.82 feet,
- 8) N 44 DEGREES 46 MINUTES 44 SECONDS W, 97.90 feet,
- 9) N 43 DEGREES 18 MINUTES 30 SECONDS W, 471.12 feet,
- 10) N 43 DEGREES 41 MINUTES 12 SECONDS W, 311.25 feet,
- 11) N 57 DEGREES 28 MINUTES 07 SECONDS W, 17.09 feet,
- 12) N 63 DEGREES 53 MINUTES 22 SECONDS W, 98.91 feet to a point on the 4-5 line of said Tract 63; thence leaving said northerly right-of-way fence line of Brush Creek Road, along said 4-5 line of Tract 63, N 00 DEGREES 26 MINUTES 38 SECONDS E, 32.80 feet to angle point 4 of said Tract 63, also being a point on the 3-4 line of said Tract 61, being marked on the ground by a 3 1/2" aluminum cap on #6 rebar, PLS

#23508, found in place; thence along said 3-4 line of Tract 61, N 87 DEGREES 39 MINUTES 09 SECONDS W, 53.69 feet to a point on said Northerly right-of-way fence line of Brush Creek Road; thence leaving said 3-4 line of Tract 61, along said northerly right-of-way fence line of Brush Creek Road, the following three (3) courses:

- 1) N 71 DEGREES 51 MINUTES 06 SECONDS W, 155.57 feet,
- 2) N 86 DEGREES 50 MINUTES 43 SECONDS W, 269.20 feet,
- 3) N 74 DEGREES 27 MINUTES 53 SECONDS W, 580.93 feet to a point on the boundary of the Norman Property described in Book 232 at Page 462 and Book 271 at Page 437; thence leaving said northerly right-of-way fence line of Brush Creek Road, along said boundary line of the Norman Property the following five (5) courses:

- 1) N 00 DEGREES 27 MINUTES 52 SECONDS W, 1073.83 feet,
- 2) S 72 DEGREES 09 MINUTES 52 SECONDS E, 105.30 feet,
- 3) N 00 DEGREES 27 MINUTES 52 SECONDS W, 226.55 feet,
- 4) N 72 DEGREES 09 MINUTES 52 SECONDS W, 565.27 feet,
- 5) S 00 DEGREES 27 MINUTES 52 SECONDS E, 1295.60 feet to said northerly right-of-way fence line of Brush Creek Road; thence along the northerly right-of-way fence line of Brush Creek Road the following four (4) courses:

- 1) N 71 DEGREES 00 MINUTES 00 SECONDS W, 41.08 feet,
- 2) N 66 DEGREES 08 MINUTES 17 SECONDS W, 300.81 feet,
- 3) N 49 DEGREES 39 MINUTES 25 SECONDS W, 454.64 feet,
- 4) N 59 DEGREES 14 MINUTES 45 SECONDS W, 365.99 feet to a point on the northerly right-of-way boundary line of Brush Creek Road, Parcel C as recorded in Book 470, Page 687; thence along said northerly right-of-way boundary line of Brush Creek Road, Parcel C the following two (2) courses:

- 1) N 30 DEGREES 00 MINUTES 27 SECONDS E, 13.58 feet,
- 2) N 59 DEGREES 59 MINUTES 33 SECONDS W, 519.40 feet to a point on the boundary line of Peters Subdivision as recorded in Book 524, Page 199; thence leaving said right-of-way of Brush Creek Road, along said boundary of Peters Subdivision the following six (6) courses:

- 1) N 00 DEGREES 12 MINUTES 04 SECONDS E, 299.29 feet,
- 2) N 85 DEGREES 52 MINUTES 11 SECONDS W, 171.57 feet,
- 3) N 62 DEGREES 02 MINUTES 32 SECONDS W, 50.05 feet,
- 4) N 71 DEGREES 56 MINUTES 16 SECONDS W, 192.31 feet,
- 5) N 58 DEGREES 31 MINUTES 55 SECONDS W, 390.77 feet,
- 6) S 25 DEGREES 22 MINUTES 18 SECONDS W, 240.90 feet to a point on the northerly right-of-way boundary of Brush Creek Road, Parcel B, as recorded in Book 470, Page 687; thence along leaving said Peters Subdivision, along said northerly right-of-way boundary of Brush Creek Road, Parcel B the following six (6) courses:

- 1) N 57 DEGREES 11 MINUTES 23 SECONDS W, 36.26 feet,
- 2) N 54 DEGREES 19 MINUTES 30 SECONDS W, 105.80 feet,
- 3) 293.22 feet along a curve to the right with a radius of 6465.00 feet, the chord of which bears N 53 DEGREES 01 MINUTES 32 SECONDS W, 293.19 feet, 4) N 51 DEGREES 43 MINUTES 35 SECONDS W, 115.13 feet,
- 5) N 52 DEGREES 59 MINUTES 59 SECONDS W, 33.80 feet,

6) 125.04 feet along a curve to the left with a radius of 2285.00 feet, the chord of which bears N 54 DEGREES 34 MINUTES 03 SECONDS W, 125.03 feet to a point on the 2-3 line of said Tract 37, also being a point on the 1-6 line of Tract 58; thence leaving said northerly right-of-way boundary of Brush Creek Road, along said 2-3 line of Tract 37, N 00 DEGREES 00 MINUTES 34 SECONDS W, 457.78 feet to Corner 1 of said Tract 58, being marked on the ground by a 2 1/2" aluminum cap on #6 rebar, PLS #26967, found in place; thence leaving said 2-3 line of Tract 37, along the 1-2 line of said Tract 58, S 89 DEGREES 12 MINUTES 06 SECONDS W, 654.26 feet to the northerly right-of-way boundary of Brush Creek Road, Parcel A, as recorded in Book 470 at Page 687; thence along said northerly right-of-way boundary of Brush Creek Road, Parcel A the following twenty (20) courses:

- 1) N 72 DEGREES 17 MINUTES 55 SECONDS W, 112.23 feet,
- 2) 42.30 feet along a curve to the left with a radius of 585.00 feet the chord of which bears N 78 DEGREES 54 MINUTES 56 SECONDS W, 42.29 feet,
- 3) N 80 DEGREES 59 MINUTES 13 SECONDS W, 48.03 feet,
- 4) N 88 DEGREES 08 MINUTES 24 SECONDS W, 408.36 feet,
- 5) N 83 DEGREES 01 MINUTES 28 SECONDS W, 40.11 feet,
- 6) 254.45 feet along a curve to the right with a radius of 665.00 feet, the chord of which bears N 72 DEGREES 03 MINUTES 46 SECONDS W, 252.90 feet,
- 7) N 61 DEGREES 06 MINUTES 04 SECONDS W, 40.13 feet,
- 8) N 55 DEGREES 59 MINUTES 08 SECONDS W, 409.17 feet,
- 9) 485.00 feet along a curve to the left with a radius of 5764.58 feet, the chord of which bears N 58 DEGREES 23 MINUTES 45 SECONDS W, 484.86 feet,
- 10) N 60 DEGREES 48 MINUTES 22 SECONDS W, 342.72 feet,
- 11) N 62 DEGREES 48 MINUTES 22 SECONDS W, 33.98 feet,
- 12) 370.57 feet along a curve to the left with a radius of 1467.39 feet, the chord of which bears N 70 DEGREES 02 MINUTES 26 SECONDS W, 369.58 feet,
- 13) N 77 DEGREES 16 MINUTES 31 SECONDS W, 33.94 feet,
- 14) N 79 DEGREES 16 MINUTES 31 SECONDS W, 208.60 feet,
- 15) N 71 DEGREES 35 MINUTES 45 SECONDS W, 44.29 feet,
- 16) 57.57 feet along a curve to the right with a radius of 486.00 feet, the chord of which bears N 68 DEGREES 12 MINUTES 07 SECONDS W, 57.54 feet,
- 17) N 64 DEGREES 48 MINUTES 30 SECONDS W, 44.26 feet,
- 18) N 57 DEGREES 07 MINUTES 44 SECONDS W, 426.57 feet,
- 19) N 53 DEGREES 12 MINUTES 03 SECONDS W, 37.69 feet,
- 20) 35.57 feet along a curve to the right with a radius of 815.00 feet, the chord of which bears N 51 DEGREES 57 MINUTES 02 SECONDS W, 35.57 feet to a point on the 7-8 line of said Tract 44, also being a point on the 3-4 line of said Tract 38; thence leaving said northerly right-of-way boundary of Brush Creek Road, Parcel A, along said 7-8 line of Tract 44, N 89 DEGREES 23 MINUTES 49 SECONDS E, 913.11 feet to angle point 7 of said Tract 44, also being angle point 2 of said Tract 55, being marked on the ground by a 2 1/2" aluminum cap on #6 rebar, PLS #26967, found in place; thence leaving said 3-4 line of Tract 38, N 02 DEGREES 58 MINUTES 53 SECONDS E, 1324.86 feet to the Point of Beginning.

EXCEPTING THEREFROM:

Lot 1 of Brush Creek Meadows Filing 4, according to the Final Plat thereof, Town of Eagle, Colorado.

Containing 657.3 acres more or less more or less.

EXHIBIT A

HERNAGE DITCH WATER RIGHTS

| Priority No. | Case Number | Adjudication Date | Appropriation Date | Total Amount Decreed | Amount Conveyed by Abrika |
|---------------------|--------------------|--------------------------|---------------------------|-----------------------------|----------------------------------|
| 5 | CA 294 | 12/17/1889 | 05/01/1882 | 2.4000 cfs | 1.6340 cfs |
| 50 | CA 294 | 12/17/1889 | 03/30/1887 | 1.2000 cfs | 0.2170 cfs |
| 88 | CA 294 | 12/17/1889 | 08/21/1889 | 0.2800 cfs | 0.186 cfs |
| 455 VV | CA 964 | 10/03/1936 | 09/01/1923 | 9.2900 cfs | 6.3260 cfs |

MATHEWS DITCH WATER RIGHTS

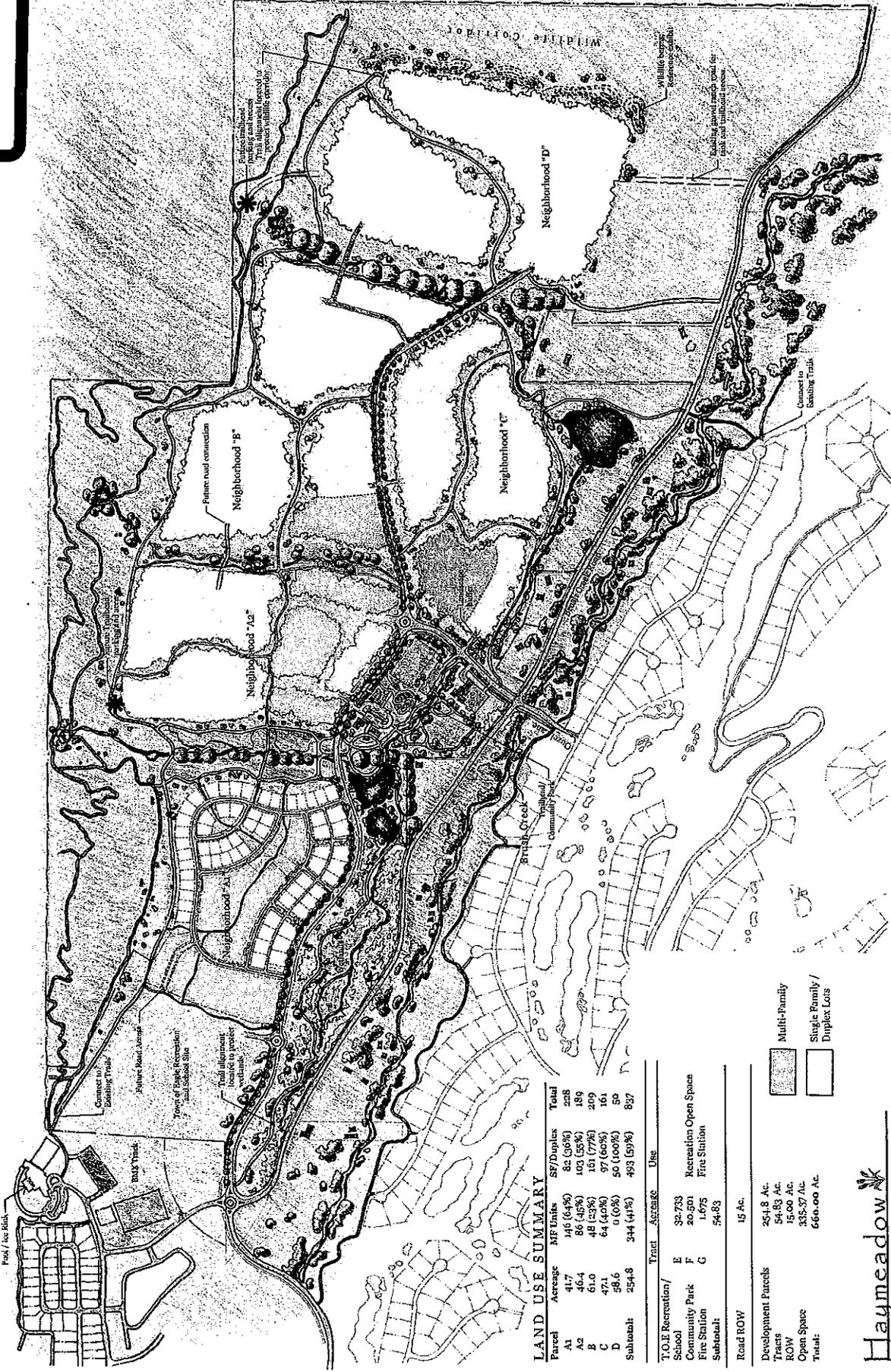
| Priority No. | Case Number | Adjudication Date | Appropriation Date | Total Amount Decreed | Amount Conveyed by Abrika |
|---------------------|--------------------|--------------------------|---------------------------|-----------------------------|----------------------------------|
| 13 | CA 294 | 12/17/1889 | 6/1/1883 | 1.80 cfs | 1.80 cfs |
| 60 | CA 294 | 12/17/1889 | 2/8/1888 | 1.80 cfs | 1.80 cfs |
| 82 | CA 294 | 12/17/1889 | 7/30/1889 | 1.40 cfs | 1.182 cfs |
| 171 | CA 385 | 3/5/1901 | 4/10/1896 | 0.6 cfs | 0.6 cfs |
| 455SS | CA 963 | 10/3/1936 | 9/1/1923 | 13.74 cfs | 13.74 cfs |

WILKINSON DITCH WATER RIGHTS

| Priority No. | Case Number | Adjudication Date | Appropriation Date | Total Amount Decreed | Amount Conveyed by Abrika |
|---------------------|--------------------|--------------------------|---------------------------|-----------------------------|----------------------------------|
| 132 | CA 385 | 3/5/1901 | 4/30/1882 | 4.80 cfs | 2.818 cfs |
| 187 | CA 385 | 3/5/1901 | 4/30/1899 | 1.00 cfs | 0.587 cfs |
| 455QQ | CA 294 | 10/31/1936 | 9/1/1923 | 14.91 cfs | 8.752 cfs |

LOVE AND WHITE DITCH WATER RIGHTS

| Priority No. | Case Number | Adjudication Date | Appropriation Date | Total Amount Decreed | Amount Conveyed by Abrika |
|---------------------|--------------------|--------------------------|---------------------------|-----------------------------|----------------------------------|
| 83 | CA 294 | 12/17/1889 | 7/31/1889 | 2.20 cfs | 0.866 cfs |
| 134 | CA 385 | 3/5/1901 | 2/1/1883 | 2.60 cfs | 1.023 cfs |
| 176 | CA 385 | 3/5/1901 | 6/10/1897 | 5.70 cfs | 1.850 cfs |
| 298 | CA 565 | 11/13/1911 | 7/29/1911 | 0.20 cfs | 0.079 cfs |
| 455PP | CA 963 | 10/31/1936 | 9/1/1923 | 9.70 cfs | 3.46 cfs |



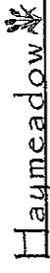
LAND USE SUMMARY

| Parcel | Average | MF Units | SF/Duplex | Total |
|------------------|--------------|------------------|------------------|------------|
| A1 | 41.7 | 146 (64%) | 84 (56%) | 228 |
| A2 | 46.4 | 86 (48%) | 101 (55%) | 189 |
| B | 61.0 | 48 (25%) | 151 (77%) | 209 |
| C | 47.1 | 64 (46%) | 97 (69%) | 161 |
| D | 58.6 | 9 (6%) | 50 (100%) | 59 |
| Subtotal: | 254.8 | 344 (41%) | 493 (59%) | 837 |

| T.O.F. Recreation / | Tract | Average | Use |
|---------------------|-------|--------------|-----------------------|
| School | E | 32-733 | Recreation Open Space |
| Community Park | F | 20.971 | Fire Station |
| Fire Station | G | 1.675 | Fire Station |
| Subtotal: | | 54.83 | |

| Road ROW | Ac. |
|----------------------------|-------------------|
| Road ROW | 15 Ac. |
| Development Parcels | 251.8 Ac. |
| Tracts | 54.83 Ac. |
| ROW | 15.00 Ac. |
| Open Space | 335.37 Ac. |
| Total: | 666.00 Ac. |

Multi-Family
 Single Family / Duplex Lots



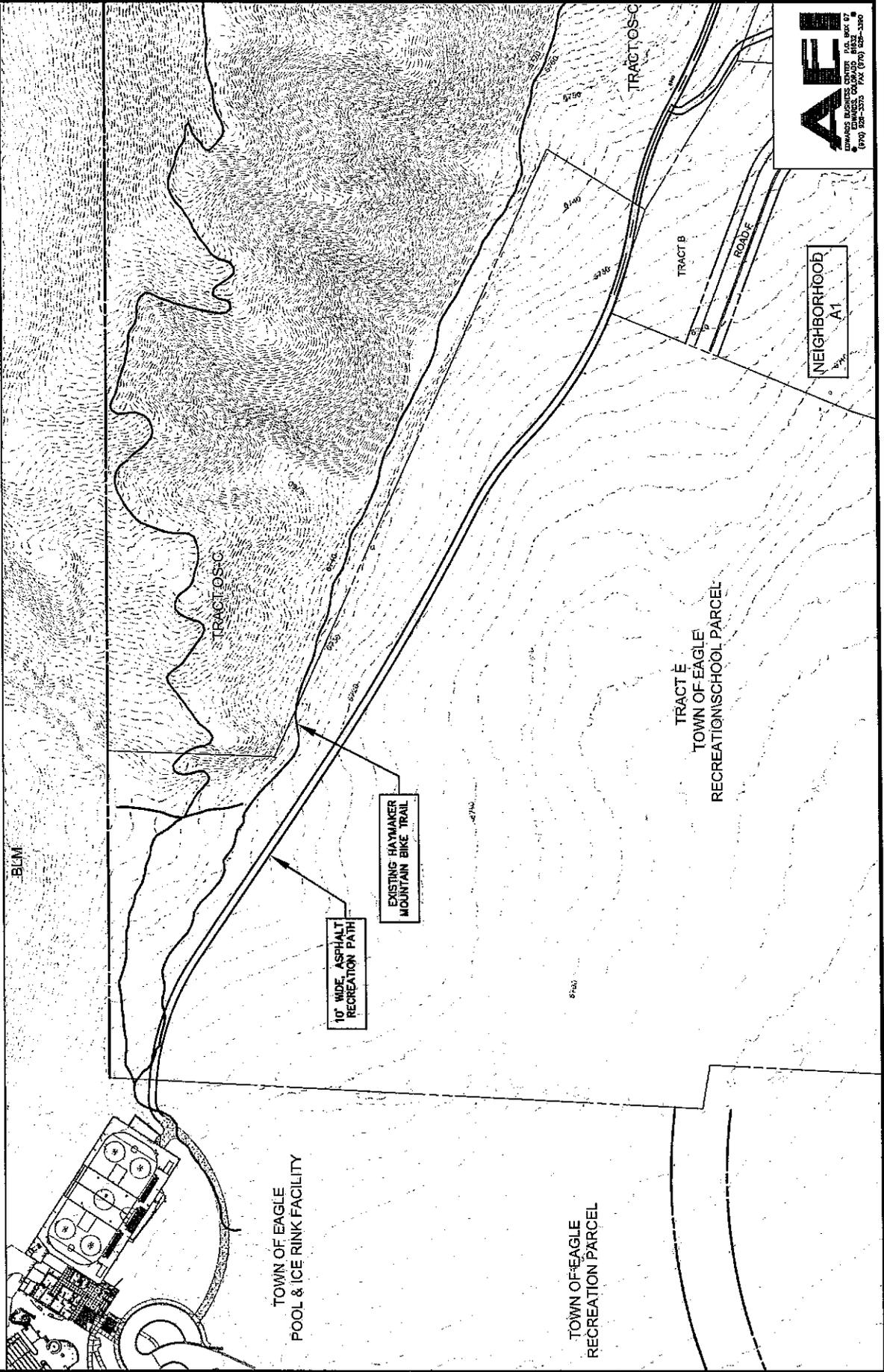
PUD DEVELOPMENT PLAN DRAWING
 FOR THE HAYMEADOW SUBDIVISION, 13104A ST. NE, LAUREL 98148 WA
 10/18/11 1" = 200'

See Haymeadow PUD Development Plan Application Book dated 12/2013 for general descriptions, as amended by the approved Haymeadow PUD Ammendment Development Agreement.

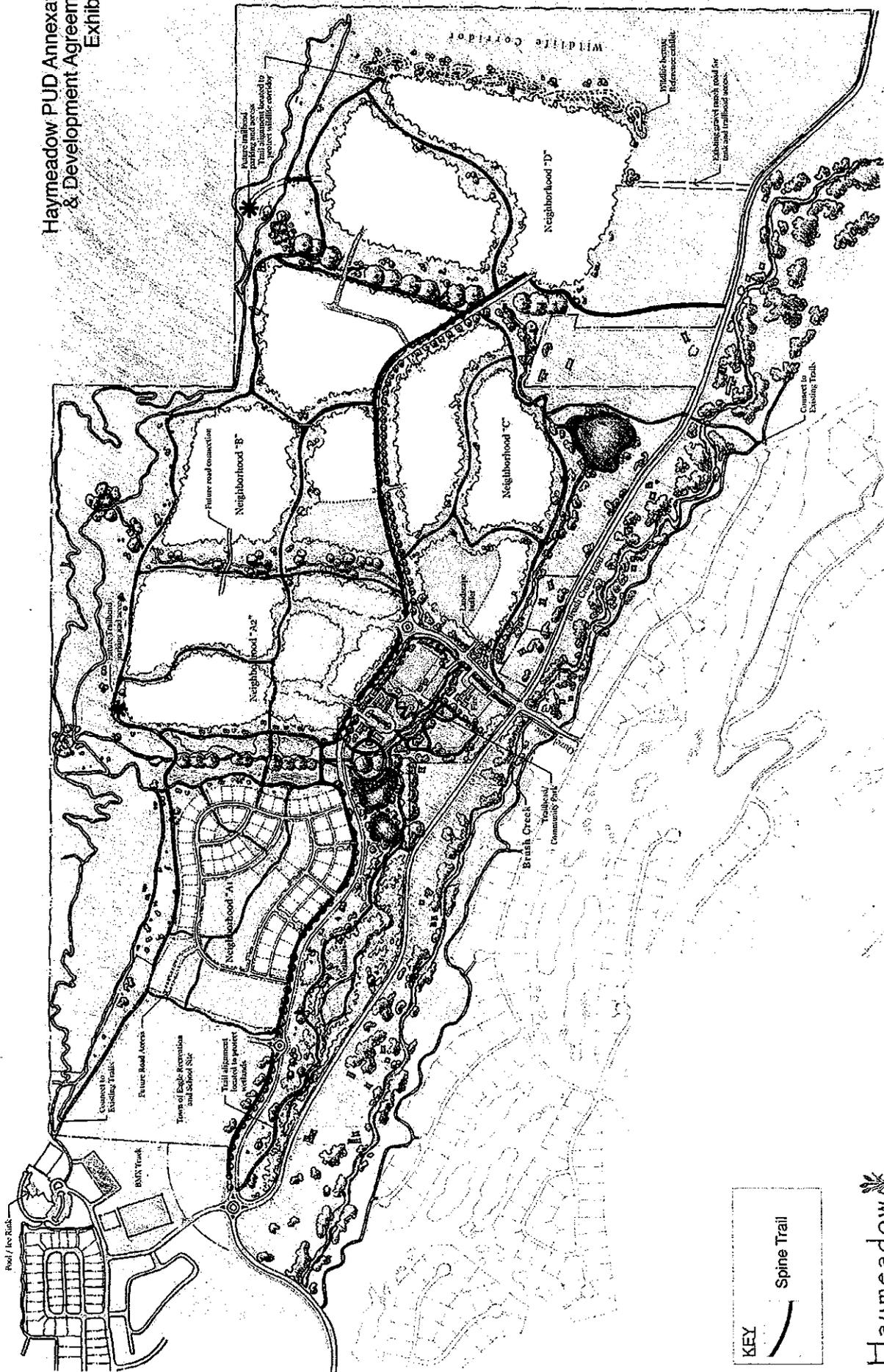
APPROVAL OF THIS PLAN CONSTITUTES A VESTED PROPERTY RIGHT
 PURSUANT TO SECTION 24-68-103.C.E.S., AS AMENDED



EXHIBIT D HAYMEADOW ANNEXATION AND DEVELOPMENT AGREEMENT POOL AND ICE RINK CONNECTOR TRAIL



Haymeadow PUD Annexation & Development Agreement Exhibit E



KEY

Spine Trail



PRELIMINARY CERTIFICATE OF DEDICATION AND OWNERSHIP

The undersigned, Abrika Properties, LLC, being the sole owner in fee simple of all the property described as follows:

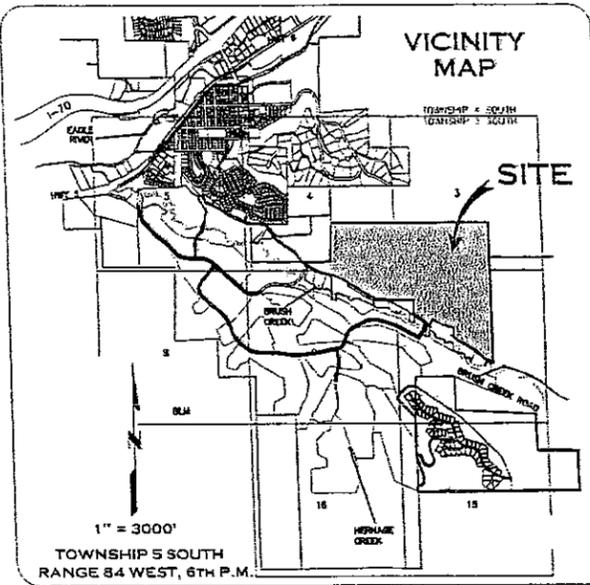
Haymeadow Parcel, being those lands currently owned by the applicant, and being further described as follows: A parcel of land located in Tracts 37, 38, 44, 55, 59, 61, 62, and 63 in Sections 2, 3, 4, 9, 10 and 11, Township 5 South, Range 84 West of the Sixth P.M. ...

Containing 657.3 acres more or less, and as shown on the accompanying Plat, has by these presents laid out, platted and subdivided the same into lots and tracts as shown on this Plat and designated the same as Haymeadow Filing 1, a subdivision of the Town of Eagle, County of Colorado, and does hereby make the following dedications and grants:

All streets shown herein being Public Road, Right-of-Way to the full width of their platted right-of-way are hereby dedicated to the Town of Eagle for use by the general public, forever as public streets, and for drainage and utility purposes.

All utility easements as shown on this Final Plat are dedicated to the Town of Eagle for use by authorized service providers as perpetual easements for the installation, operation, maintenance and repair of utilities and appurtenances thereto including but not limited to electric lines, natural gas pipelines, power lines, water lines, telephone lines, cable service lines, other broadband communication service lines and also for the installation and maintenance of traffic control facilities, street lighting, street trees and grade structures.

PRELIMINARY PLAN HAYMEADOW FILING 1 LOCATED IN TRACTS 37, 38, 44, 55, 59, 61, 62, AND 63, IN SECTIONS 2, 3, 4, 9, 10 AND 11, TOWNSHIP 5 SOUTH, RANGE 84 WEST OF THE SIXTH P.M. COUNTY OF EAGLE, STATE OF COLORADO SHEET 1 OF 5



The dedication of the easements shown hereon to the Town include the installation of improvements, including but not limited to trees, shrubs, rocks, the deposit of materials, or the alteration of existing ground elevation within the easement area which could in any manner impair the Town's or other service providers' use of the easement as provided in this dedication.

The undersigned accepts the responsibility for the completion of all required public improvements for this Subdivision.

Executed this ___ day of ___, 20__ at ___, Colorado. Owner: Abrika Properties, LLC. By: [Signature] Name: [Name] STATE OF COLORADO; COUNTY OF EAGLE. The foregoing Certificate of Dedication and Ownership was acknowledged before me this ___ day of ___, 20__ by ___ as ___ of Abrika Properties, LLC. Witness my hand and official seal. My commission expires: ___ Notary Public.

BOARD OF TRUSTEES CERTIFICATE

This plat approved by the Board of Trustees of the Town of Eagle, Colorado, this ___ day of ___, 20__ for filing with the Clerk and Recorder of Eagle County, Colorado, and for conveyance or dedication to the Town of Eagle the public dedications shown hereon; subject to the provisions that approval in no way obligates the Town of Eagle for financing or constructing of improvements on said lands, streets or easements dedicated to the public except as specifically agreed to by the Board of Trustees of the Town of Eagle. Further, said approval in no way obligates the Town of Eagle for maintenance of public improvements until construction of said improvements has been completed in accordance with the Town of Eagle's specifications and the Town of Eagle has agreed to accept said improvements. This approval does not guarantee that the size, soil conditions, sub-surface geology, ground water conditions, or loading conditions of any lot shown hereon are such that a building permit, development permit, or any other required permit will be issued. This approval is with the understanding that all expenses involving required improvements for all utility services, paving, grading, landscaping, curbs, gutters, sidewalks, road lighting, mail signs, flood protection devices, drainage structures, and all other improvements that may be required shall be the responsibility of the owners designated herein and not the Town of Eagle, unless otherwise specifically agreed to in writing by the Board of Trustees.

TOWN OF EAGLE, COLORADO By: Mayor Witness my hand and seal of the Town of Eagle, Colorado. ATTEST: Town Clerk



- GENERAL NOTES: 1) The purpose of this PRELIMINARY PLAN is to illustrate various lots, Open Space Tracts and Rights-of-Way, as listed in the Land Use Summary as listed hereon. 2) BASIS OF BEARING: N 89°57'47" E along a portion of the North of subject Property between Corners number 1 and 2 of Tract 38, both found U.S.G.L.O. brass cap monuments properly marked. 3) SURVEY DATE: December, 2005 4) Record Easements and Rights-of-Way shown on this Plat were derived from Land Title Guarantee Company ALTA Commitment Order No. V5000763, dated September 22, 2005. 5) According to Colorado law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification hereon.

APPROVAL OF THIS PLAN CONSTITUTES A VESTED PROPERTY RIGHT PURSUANT TO SECTION 24-68-103, C.R.S., AS AMENDED

SURVEYOR'S CERTIFICATE I, Theodore J. Archibeque, do hereby certify that I am a Professional Land Surveyor licensed under the laws of the State of Colorado, that this plat is a true, correct, and complete plan of Haymeadow Filing 1, as laid out, platted, dedicated and shown hereon, that such plat was made from an accurate survey of said property by me and under my supervision and correctly shows the location and dimensions of the lots, staked upon the ground in compliance with 38-31-105 C.R.S., and that such plat meets the requirements of 38-31-209 C.R.S., as amended, and all other regulations governing the subdivision of land.

Theodore J. Archibeque, PLS 37902 Professional Land Surveyor State of Colorado

TITLE CERTIFICATE Land Title Guarantee Company does hereby certify that it has examined the title to all lands shown on this Plat and that title to such lands is vested in Abrika Properties, LLC, free and clear of all liens, and encumbrances, except as follows:

Executed this ___ day of ___, 20__ By: [Signature]

LAND USE SUMMARY

LOTS 1 - 36, 45 & 52 = SINGLE FAMILY LOTS 7 - 44, 46 - 51 = DUPLEX

Table with 2 columns: PARCEL and LAND USE. Lists various tracts and their corresponding land use designations such as Multi-Family, Open Space, and Right-of-Way.

PLANNING COMMISSION CERTIFICATE This plat approved by the Town of Eagle Planning Commission the ___ day of ___, 20__ Chairman

CERTIFICATE OF TAXES PAID I, the undersigned, do hereby certify that the entire amount of taxes and assessments due and payable as of ___ upon all parcels of real estate described on this Plat are paid in full. Dated this ___ day of ___, A.D. 20__ Treasurer of Eagle County, Colorado

EAGLE COUNTY CLERK AND RECORDER CERTIFICATE This plat was filed for record in the office of the Eagle County Clerk and Recorder at ___ o'clock ___ M. on the ___ day of ___, 20__, and is duly recorded at Reception No. ___ EAGLE COUNTY CLERK & RECORDER By: Deputy

PRELIMINARY PLAN HAYMEADOW FILING 1 LOCATED IN TRACTS 37, 38, 44, 55, 59, 61, 62, AND 63, IN SECTIONS 2, 3, 4, 9, 10 AND 11, TOWNSHIP 5 SOUTH, RANGE 84 WEST OF THE SIXTH P.M. COUNTY OF EAGLE, STATE OF COLORADO. Includes fields for DRAWN BY (TJA), JOB NUMBER (05230), DRAWING NAME (05230_PP.DWG), SHEET (1 OF 5), DATE (08-07-13), and CHECKED BY (MSS).

Archibeque Land Consulting, Ltd - Professional Land Surveying & Mapping - 105 Capitol Street, Suite 5 - P.O. Box 3893 Eagle, Colorado 81631 970.328.6020 Office 970.328.6021 Fax

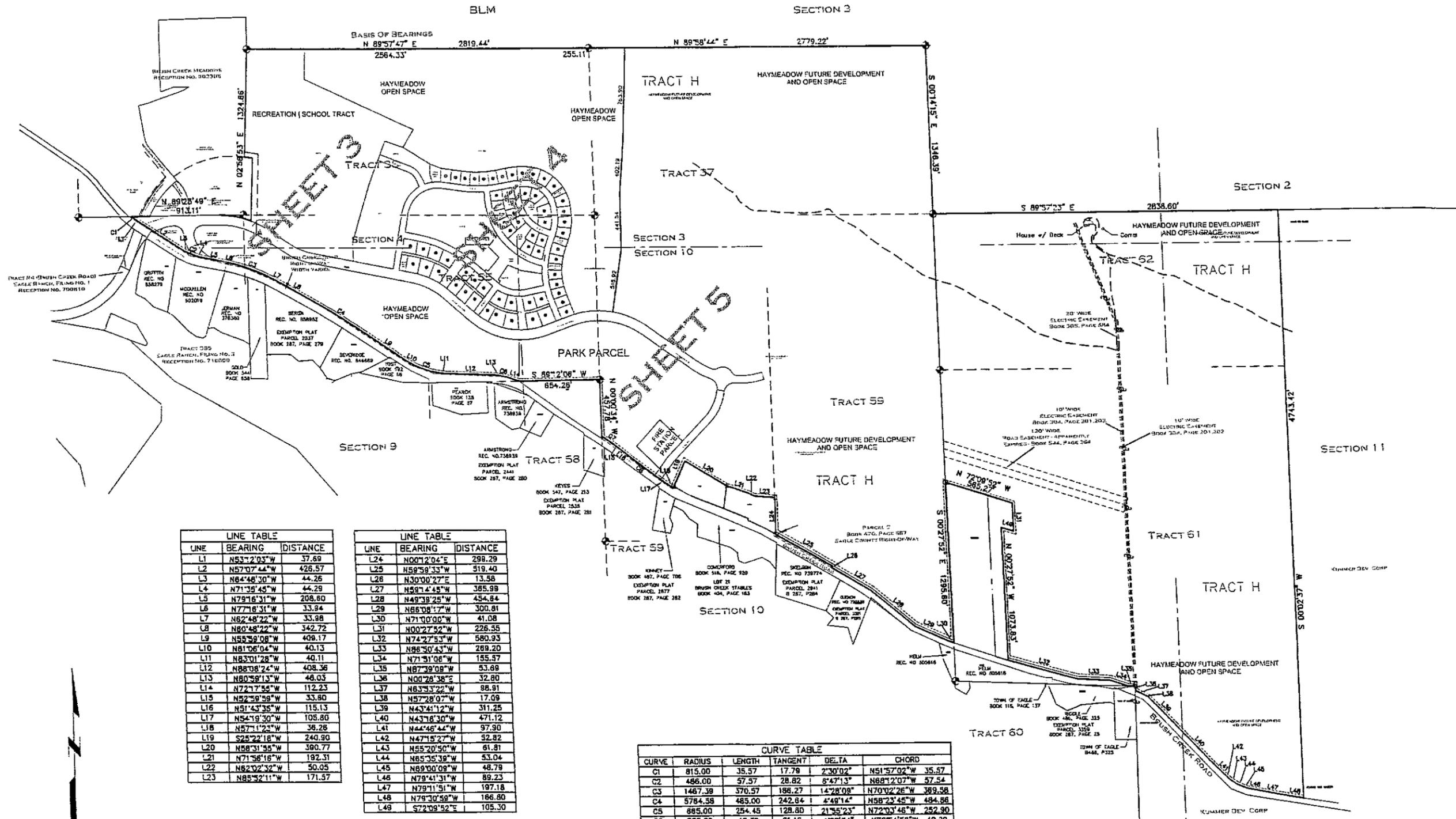
REVISED TJA 03-11-2014 MINOR DRAFTING EDITS REVISED TJA 03-17-2014 RECONFIGURED LOT LINES

OVERALL SHEET

PRELIMINARY PLAN HAYMEADOW FILING 1

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SHEET 2 OF 5



| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L1 | N53°2'03"W | 37.69 |
| L2 | N57°07'44"W | 426.57 |
| L3 | N64°46'30"W | 44.26 |
| L4 | N71°35'45"W | 44.29 |
| L5 | N79°16'31"W | 208.80 |
| L6 | N77°18'31"W | 33.84 |
| L7 | N62°48'22"W | 33.98 |
| L8 | N80°48'22"W | 342.72 |
| L9 | N59°59'08"W | 408.17 |
| L10 | N81°06'04"W | 40.13 |
| L11 | N83°01'28"W | 40.11 |
| L12 | N88°08'24"W | 408.36 |
| L13 | N80°58'13"W | 48.03 |
| L14 | N72°17'55"W | 112.23 |
| L15 | N52°59'59"W | 33.80 |
| L16 | N51°43'35"W | 115.13 |
| L17 | N54°19'30"W | 105.80 |
| L18 | N57°11'23"W | 38.28 |
| L19 | S25°22'18"W | 240.90 |
| L20 | N58°31'55"W | 390.77 |
| L21 | N71°58'16"W | 192.31 |
| L22 | N82°02'32"W | 50.05 |
| L23 | N85°52'11"W | 171.57 |

| LINE | BEARING | DISTANCE |
|------|-------------|----------|
| L24 | N00°12'04"E | 298.29 |
| L25 | N59°58'33"W | 519.40 |
| L26 | N30°00'27"E | 13.58 |
| L27 | N59°14'45"W | 385.98 |
| L28 | N49°38'25"W | 454.84 |
| L29 | N66°08'17"W | 300.81 |
| L30 | N71°00'00"W | 41.08 |
| L31 | N00°27'52"W | 226.55 |
| L32 | N74°27'53"W | 580.93 |
| L33 | N88°30'43"W | 289.20 |
| L34 | N71°31'06"W | 155.57 |
| L35 | N87°39'08"W | 53.88 |
| L36 | N00°28'38"E | 32.80 |
| L37 | N63°33'22"W | 98.91 |
| L38 | N57°28'07"W | 17.09 |
| L39 | N43°41'12"W | 311.25 |
| L40 | N43°18'30"W | 471.12 |
| L41 | N44°46'44"W | 97.90 |
| L42 | N47°15'27"W | 52.82 |
| L43 | N55°20'50"W | 61.81 |
| L44 | N85°35'39"W | 53.04 |
| L45 | N89°00'09"W | 48.79 |
| L46 | N79°41'31"W | 89.23 |
| L47 | N79°11'51"W | 197.18 |
| L48 | N79°30'59"W | 166.80 |
| L49 | S72°09'52"E | 105.30 |

| CURVE | RADIUS | LENGTH | TANGENT | DELTA | CHORD |
|-------|---------|--------|---------|-----------|--------------------|
| C1 | 815.00 | 35.57 | 17.79 | 2°30'02" | N51°57'02"W 35.57 |
| C2 | 486.00 | 57.57 | 28.82 | 6°47'13" | N88°12'07"W 57.54 |
| C3 | 1467.38 | 370.57 | 188.27 | 14°28'08" | N70°02'26"W 389.58 |
| C4 | 5764.58 | 485.00 | 242.84 | 4°49'14" | N58°23'45"W 484.86 |
| C5 | 885.00 | 254.45 | 128.80 | 21°55'23" | N72°03'46"W 252.90 |
| C6 | 985.00 | 42.30 | 21.16 | 4°08'34" | N78°54'56"W 42.29 |
| C7 | 2265.00 | 125.04 | 62.53 | 3°08'07" | N54°34'03"W 125.03 |
| C8 | 6485.00 | 293.22 | 146.63 | 2°35'55" | N53°01'32"W 283.18 |



Archibeque Land Consulting, Ltd
 ~ Professional Land Surveying & Mapping ~
 105 Capitol Street, Suite 5 - P.O. Box 3893
 Eagle, Colorado 81531
 970.328.6020 Office 970.328.6021 Fax

PRELIMINARY PLAN
HAYMEADOW FILING 1
 LOCATED IN TRACTS 37, 38, 44, 55, 59, 61, 62, AND 63, IN SECTIONS 2, 3, 4, 9, 10 AND 11, TOWNSHIP 5 SOUTH, RANGE 84 WEST OF THE SIXTH P.M., COUNTY OF EAGLE, STATE OF COLORADO

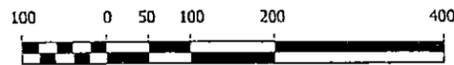
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| DRAWN BY: TJA | JOB NUMBER: 05230 | DRAWING NAME: 05230_PP.DWG |
| SHEET 2 OF 5 | DATE: 08-07-13 | CHECKED BY: MSS |

REVISED TJA 03-21-2014 MINOR DRAFTING EDITS
 REVISED TJA 03-17-2014 RECONFIGURED LOT LINES

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COUNTY OF EAGLE, STATE OF COLORADO

SHEET 3 OF 5



1 INCH = 100 FEET

BRUSH CREEK MEADOWS FILING 4
RECEPTION NO. 201211319

PARCEL B
19.661 ACRES

LOT 1
5.781 ACRES

PARCEL A
0.997 ACRES

BRUSH CREEK MEADOWS FILING 4
RECEPTION NO. 201211319

SYLVAN LAKE ROAD
BRUSH CREEK MEADOWS FIL. 3
10.501 ac.

TRACT OS-A
0.660 ac.

MEADOWLARK ROAD
0.611 ac.

Homesite No. 1

GRIFFITH
REC. NO
838279

TRACT RA (SYLVAN LAKE ROAD)
EAGLE RANCH, FILING NO. 1
RECEPTION NO. 700810

TRACT OS-5
EAGLE RANCH
FILING NO. 3
RECEPTION
NO. 718009

THIS HAYMEADOW FILING 1 PLAN
PROPOSES TO VACATE LANDS
PREVIOUSLY PLATTED AS TRACT A &
SYLVAN LAKE ROAD RIGHT OF WAY,
OF BRUSH CREEK MEADOWS FIL. 3 &
4 PLATS, AND INCORPORATES BOTH
PARCELS INTO THE HAYMEADOW PUB.

TRACT 38
TRACT 55

20' WIDE
UTILITY EASEMENT
RECEPTION NO. 927202

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Eagle, Colorado 81631

970.328.6020 Office 970.328.6021 Fax

REVISED TJA 03-21-2014 MINOR DRAFTING EDITS
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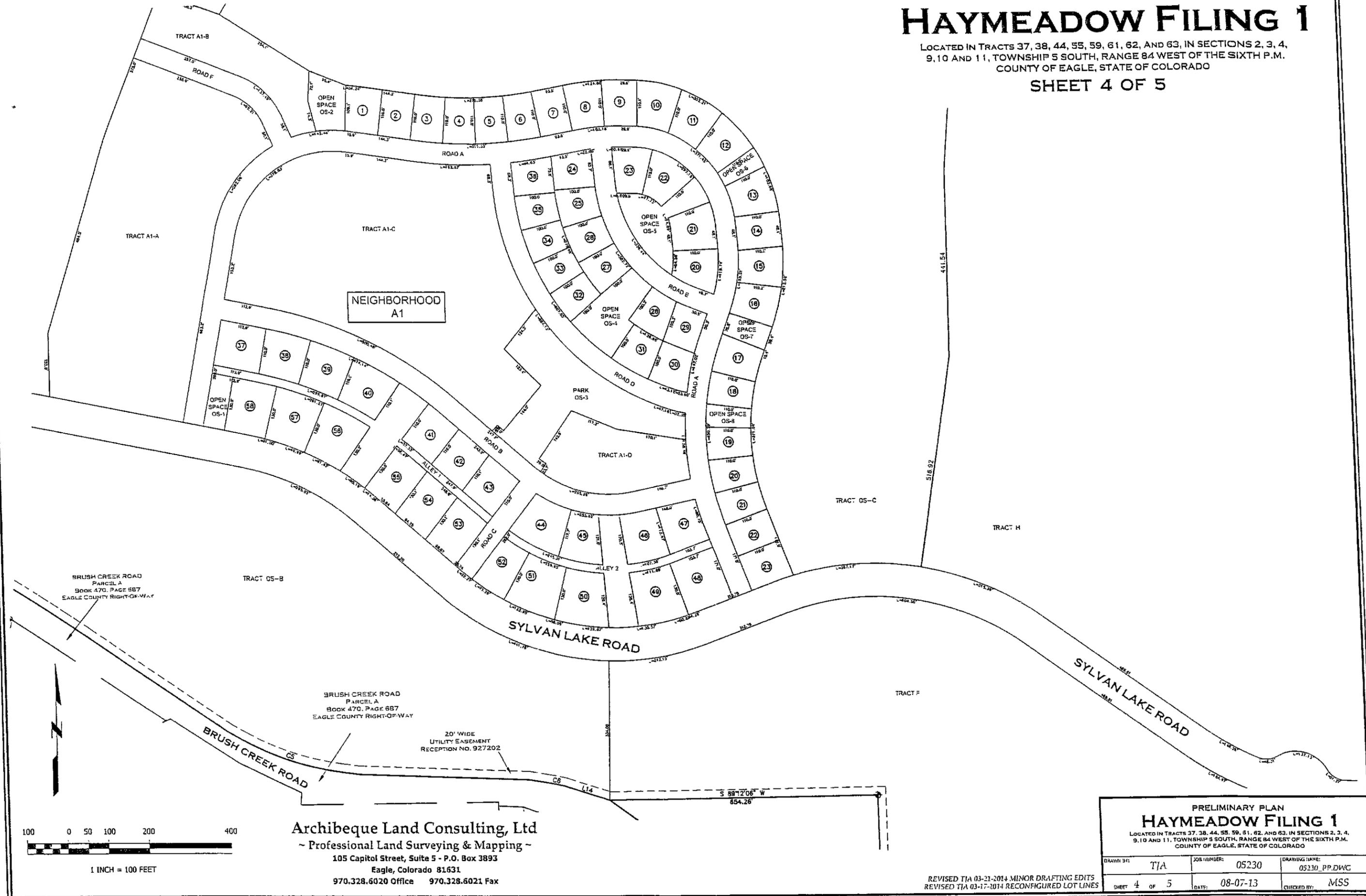
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SHEET 4 OF 5



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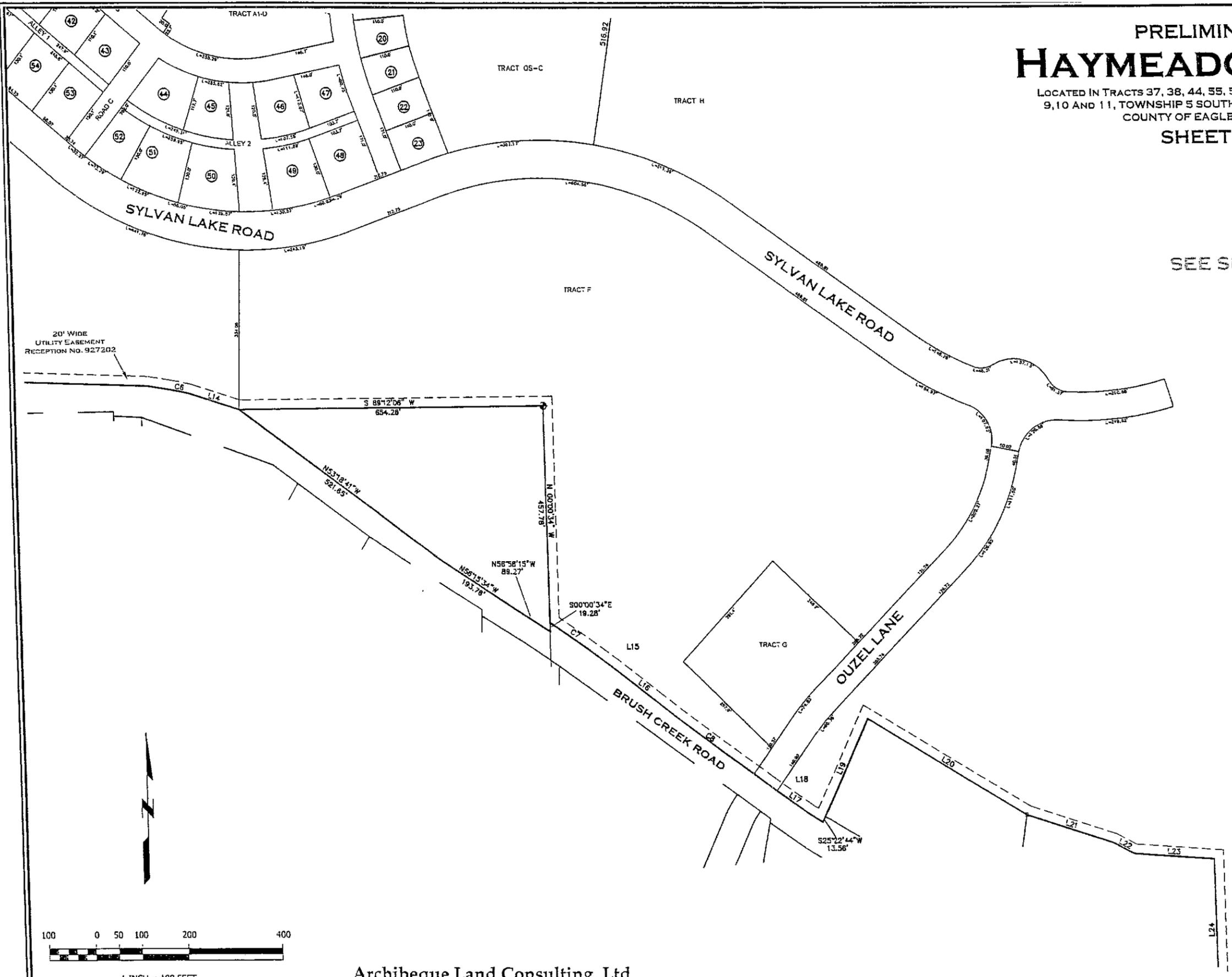
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PRELIMINARY PLAN
HAYMEADOW FILING 1

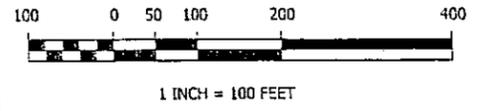
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 COUNTY OF EAGLE, STATE OF COLORADO

SHEET 5 OF 5

SEE SHEET 2 OF 5



20' WIDE
 UTILITY EASEMENT
 RECEPTION NO. 927202



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REVISED TJA 03-21-2014 MINOR DRAFTING EDITS
 REVISED TJA 03-17-2014 RECONFIGURED LOT LINES

Haymeadow

**Local Employee Residency Plan
March 25, 2014**

**PUD Development Plan
& Preliminary Subdivision Plan**

The purpose of this document is to serve as the initial Haymeadow Local Employee Residency Plan, in accordance with the requirements stated in Section IV. B. of the Town of Eagle Local Employee Residency Program Requirements and Guidelines.

The Haymeadow PUD Development Plan and Preliminary Subdivision Plan application represents a large multi-phased residential development that will take many years and multiple review processes to complete. While this step of the application requires the submittal of a Local Employee Residency Plan, and this document will serve as such, much of the requested detail has not yet been developed and will necessarily come into later steps of the review process.

It is the intent of the Haymeadow applicant to fully comply with the intent of the Town of Eagle Local Employee Residency Program (“LERP”) housing program through the development and build-out of Haymeadow. This Haymeadow Local Employee Residency Plan represents a formal request for a Variance to allow the unit types and distribution as detailed below. In consultation with local housing experts, town staff members and in public discussion with the Town Board of Trustees we believe it is appropriate to propose a unit mix that is weighted towards entry level housing units and does not include single-family product. All proposed LERP units shall be multi-family units. The proposed housing unit mix is detailed below.

The Haymeadow PUD Development Plan proposes a total of 837 dwelling units. Based on the 10% inclusionary requirement of the LERP program this will result in a requirement of 84 qualified LERP units. This plan proposes to provide all of the those units in the following unit mix:

| <u>Unit type</u> | <u># Provided</u> |
|----------------------|-------------------|
| Studio | 21 |
| One-bedroom | 33 |
| Two-bedroom | 18 |
| <u>Three-bedroom</u> | <u>12</u> |
| Total | 84 |

As market conditions vary the unit mix to be provided may be amended by a staff approval process to allow for unit types with more bedrooms to be increased in number and offset by a corresponding decrease in unit types with less bedrooms. I.E., if the applicant desires to provide a greater number of two-bedroom units than the proposed 18 two-bedroom units listed in the above table units this will be allowable and shall be offset by a corresponding decrease in the required number of studio or one-bedroom units. In no case shall the unit type mix be amended by a staff approval to increase the number of units with less bedrooms.

The Haymeadow applicant is committed to provide this number of units, in accordance with the program guidelines and requirements for unit price points, size and quality/design considerations. The LERP units shall be dispersed in a reasonable manner throughout each neighborhood. There may be more than one LERP unit per building, and there may be multi-family buildings that contain three or more LERP units. However, all, or a significant concentration of, the required LERP units for each

neighborhood shall not be located within one multi-family project or cluster of buildings.

The intent of this LERP Plan is that the timing of provision of the LERP units should generally keep pace at 10% of the construction of free-market units. This pace may vary within individual neighborhoods during build out. Each development permit application for multi-family buildings will include which, if any, units will be designated for the LERP program and will include the required level of detail that specifies unit sizes, bedroom configurations and sales price points. The Town Staff shall use the Development Permit process to monitor the pace of provision of LERP units and may recommend denial of a Development Permit if the construction of LERP units is significantly off pace.

The following table indicates the proposed location of LERP units by neighborhood.

Haymeadow Local Employee Residency Plan

LERP Unit Distribution Table

| <u>Neighborhood</u> | <u># LERP Units</u> |
|---------------------|---------------------|
| A1 | 25 |
| A2 | 22 |
| B | 21 |
| C | 16 |
| <u>D</u> | <u>0</u> |
| Total | 84 |

**MEMORANDUM OF UNDERSTANDING AND
INFRASTRUCTURE IMPROVEMENTS RECAPTURE AGREEMENT**

THIS MEMORANDUM OF UNDERSTANDING AND INFRASTRUCTURE RECAPTURE AGREEMENT ("MOU") is entered into this 13th day of NOVEMBER, 2007, by and between the TOWN OF EAGLE, Colorado, a Colorado municipal corporation (the "Town"), whose address is P.O. Box 609, Eagle, CO 81631, and WEST EAGLE RANCH, LLC, a Delaware limited liability company (the "Developer"), whose address is Drawer 2770, Avon, CO 81620. The Town and the Developer are collectively referred to herein as the "Parties".

RECITALS

WHEREAS, on January 12, 1999, the Town and the Developer entered into that certain AGREEMENT RELATING TO THE ANNEXATION AND DEVELOPMENT OF PROPERTY KNOWN AS EAGLE RANCH ANNEXATIONS NO. 1, NO. 2, AND NO. 3 TO THE TOWN OF EAGLE, COLORADO, as amended (the "Annexation Agreement"); and

WHEREAS, the Annexation Agreement sets forth certain obligations and responsibilities of the Parties regarding the Eagle Ranch property which is more particularly identified and defined in the Annexation Agreement; and

WHEREAS, pursuant to the Annexation Agreement, the Developer agreed to (i) construct certain access infrastructure improvements to U.S. Highway 6 ("Highway 6 Access Improvements"), (ii) extend the new alignment of Brush Creek Road (now known as Sylvan Lake Road) between the golf course clubhouse and existing Brush Creek Road ("Sylvan Lake Road Extension"), and (iii) "oversize" certain wastewater infrastructure improvements ("Wastewater Improvements") during the Developer's development of the Eagle Ranch property, all as more particularly set forth in the Annexation Agreement ((i)-(iii) above are collectively referred to herein as the "Infrastructure Improvements"); and

WHEREAS, in addition to benefiting the Eagle Ranch property, the Infrastructure Improvements will also benefit and serve certain future development that may occur within or adjacent to the Town; and

WHEREAS, pursuant to the Annexation Agreement, the Town agreed to enter into "cost recovery agreements" in order to recapture and collect from owners and/or developers of future development property that will benefit from the Infrastructure Improvements such development's pro-rata share of the Infrastructure Improvements, and to reimburse the Developer such amounts collected; and

WHEREAS, the purpose of this MOU is to further set forth the Town's obligations with respect thereto.

AGREEMENT OF THE PARTIES

NOW THEREFORE, in consideration of the foregoing, and the terms, covenants and conditions hereinafter set forth, the parties hereby agree as follows:

1. Recapture and Reimbursement for Sylvan Lake Road Extension.

a. Pursuant to Annexation Agreement §7.4, the Town agrees that prior to or concurrent with (i) approval of any subdivision or development permit for any future development within the Town that will benefit from the Sylvan Lake Road Extension (and as a condition to such approval), (ii) entering into any annexation agreement for property currently not within Town limits but that will benefit from the Sylvan Lake Road Extension, or (iii) entering into any water or wastewater service agreement or similar agreement for ten (10) or more parcels of property currently not within Town limits but that will benefit from the Sylvan Lake Road Extension, the Town shall enter into a cost recovery agreement whereby such benefited property owner(s) and/or developer(s) shall pay to the Town such owner's and/or developer's pro rata share of the costs of the Sylvan Lake Road Extension. The total cost of the Sylvan Lake Road Extension which is subject to reimbursement is \$1,635,334.90 (the "Sylvan Lake Road Extension Cost").

b. The determination of the pro rata share of the Sylvan Lake Road Extension Cost payable by an owner or developer pursuant to Section 1.a. shall be determined by the Town Engineer based on the number of "trip ends" generated by the Eagle Ranch development at full development build-out and by the number of "trip-ends" generated by new development on other properties benefiting from the improvements at full development build-out, in accordance with the schedule set forth in Section 4.13.185(D)(1) of the Town's Municipal Code (as same may be amended or re-codified from time to time), and, if necessary, in accordance with data contained in the publication Trip Generation, 6th Edition, Institute of Transportation Engineers, or any later edition of such publication.

c. All pro-rata share amounts for the Sylvan Lake Road Extension must be paid to the Town at the time the above-described subdivision improvement agreement(s), annexation agreement(s), or water or wastewater service agreement(s) or similar agreement(s) are entered into by such third party(ies) and the Town. In no event will the Town issue any permit for any work related to such benefited property until such property's recapture amounts have been paid in full.

d. The Town shall reimburse Developer all pro-rata share amounts collected and recaptured for the Sylvan Lake Road Extension within ten (10) days after receipt thereof. (See Default and Remedies, Section 4 below.)

2. Recapture and Reimbursement for Highway 6 Access Improvements.

a. Pursuant to Annexation Agreement §7.7, the Town agrees that prior to or concurrent with (i) entering into any subdivision improvement agreement for any future

development within the Town that will benefit from the Highway 6 Access Improvements, (ii) entering into any annexation agreement for property currently not within Town limits but that will benefit from the Highway 6 Access Improvements, or (iii) entering into any water or wastewater service agreement or similar agreement for ten (10) or more parcels of property currently not within Town limits but that will benefit from the Highway 6 Access Improvements, the Town shall enter into a cost recovery agreement whereby such benefited property owner(s) and/or developer(s) shall pay to the Town such owner's and/or developer's pro rata share of the costs of the Highway 6 Access Improvements. The total cost of the Highway 6 Access Improvements which is subject to reimbursement is \$1,983,299.25 (the "Highway 6 Access Improvements Cost").

b. The determination of the pro rata share of the Highway 6 Access Improvements Cost payable by an owner or developer pursuant to Section 2.a. shall be determined by the Town Engineer based on the number of "trip ends" generated by the Eagle Ranch development at full development build-out and by the number of "trip-ends" generated by new development on other properties benefiting from the improvements at full development build-out, in accordance with the schedule set forth in Section 4.13.185(D)(1) of the Town's Municipal Code (as same may be amended or re-codified from time to time), and, if necessary, in accordance with data contained in the publication Trip Generation, 6th Edition, Institute of Transportation Engineers, or any later edition of such publication.

c. All pro-rata share amounts for the Highway 6 Improvements must be paid to the Town at the time the above-described subdivision improvement agreement(s), annexation agreement(s), or water or wastewater service agreement(s) or similar agreement(s) are entered into by such third party(ies) and the Town. In no event will the Town issue any permit for any work related to such benefited property until such property's recapture amounts have been paid in full.

d. The Town shall reimburse Developer the pro-rata share amounts collected and recaptured for the Highway 6 Access Improvements within ten (10) days after receipt thereof. (See Default and Remedies, Section 4 below.)

3. Recapture and Reimbursement for Wastewater Improvements.

a. Pursuant to Annexation Agreement §8.11, the Town agrees that as a condition of extension of wastewater treatment and collection services to any owner(s) or developer(s) of any property containing ten (10) or more units that will utilize or otherwise benefit from the Wastewater Improvements, whether such property is inside or outside of the Town, the Town shall enter into a cost recovery agreement whereby such benefited property owner(s) and/or developer(s) shall pay to the Town such owner's and/or developer's pro rata share of the Wastewater Improvements. The total cost of the Wastewater Improvements which is subject to reimbursement is \$204,679.20 (the "Wastewater Improvements Cost").

b. The determination of the pro rata share of the Wastewater Improvements Cost payable by an owner or developer pursuant to Section 3.a. shall be determined by the Town

Memorandum of Understanding

Page 4 of 5

Engineer based on the number of EQR located within the Eagle Ranch development at full development build-out and by the number of EQR located within new development on other properties benefiting from the improvements at full development build-out, in accordance with the schedule set forth in Section 12.16.050 of the Town's Municipal Code (as same may be amended or re-codified from time to time).

c. All pro-rata share amounts for the Wastewater Improvements must be paid to the Town at the time the above-described agreement(s) to extend wastewater treatment and collection services are entered into by such party(ies) and the Town. In no event will the Town issue any permit for any work related to such benefited property, or otherwise allow such benefited property from utilizing the Wastewater Improvements, until such property's recapture amounts have been paid in full.

d. The Town shall reimburse Developer all pro-rata share amounts collected and recaptured for the Wastewater Improvements within ten (10) days after receipt thereof. (See Default and Remedies, Section 4 below.)

4. Default and Remedies. Default and remedy provisions under this MOU shall be as set forth in Section 21 and Subsection 22.4 of the Annexation Agreement, which provisions are hereby incorporated herein by reference.

5. Expiration. The provisions of this MOU shall be expire on December 31, 2027, and shall be of no further force and effect thereafter.

6. No Relief or Waiver. Nothing contained herein shall be interpreted as relieving or waiving either of the Parties of any of their respective obligations or rights under the Annexation Agreement or any other agreement related to the development Eagle Ranch property.

7. Colorado Law Applicable. This MOU is made and delivered within the State of Colorado, and the laws of the State of Colorado shall govern its interpretation, validity, and enforceability. It is not the intention of the parties in any way to diminish or limit the Town's legislative, quasi-judicial, or other non-delegable discretionary powers or to impose on the Town any duty, beyond its ordinances and regulations as they may from time to time exist, nor to impose any special obligation on the Town to approve or accept any future filings, applications, plans, drawings, security documents, improvements, and conveyances. It is furthermore the express intention of the parties that nothing in this MOU shall be construed to void the rights and obligations of the parties as set forth herein or in the Annexation Agreement, to the extent such rights and obligations are consistent with law. The parties expressly agree they will fully perform this MOU to the extent it is consistent with the law.

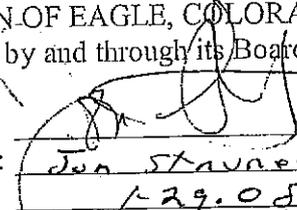
8. Severability. In the event any provision of this MOU shall be held invalid or unenforceable by any Court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof unless a manifest injustice or inequity would result from applying or enforcing any such remaining provisions.

9. Capitalized Terms. Capitalized terms used herein shall have the same meaning given in the Annexation Agreement unless otherwise defined herein.

10. Execution of Other Documents. The Parties agree to execute any additional documents and to take any additional actions necessary to carry out this MOU.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed on the day and year first above written.

TOWN OF EAGLE, COLORADO, a municipal corporation
acting by and through its Board of Trustees

By: 
Name: Joan Stavney
Date: 1-29-08

Maureen D. Miller, Town Clerk

WEST EAGLE RANCH, LLC, a Delaware limited liability
company

By: East West Partners, Inc., a Colorado corporation,
its sub-manager

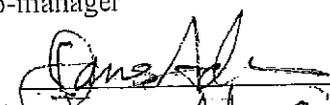
By: 
Name: James Adams
Date: 1-29-08

Exhibit J
Town Engineer's Calculation of Recapture Fees

Haymeadow Recapture Fees

| | |
|-------------------------------|---------------------|
| Sylvan Lake Road Extension | \$393,900.94 |
| Highway 6 Access Improvements | \$404,913.54 |
| Wastewater Improvements | \$80,977.01 |
| Total | \$879,791.49 |

Exhibit J
Town Engineer's Calculation of Recapture Fees

Haymeadow Trip Generation

| ITE Code | Land Use | Size | Unit | Trip Reduction Factors | | ADT | | |
|----------|------------------------|------|----------|------------------------|----------------------------------|-------|-------|----------------------------|
| | | | | Multi-Modal | Internal and Multi-Purpose Trips | Rate | Total | Total With Trip Reductions |
| 520/522 | K-8 School | 600 | Students | 0.1 | 0.375 | 1.36 | 816 | 459 |
| 412 | Community Park | 13 | Acres | 0.15 | 0.5 | 2.28 | 30 | 13 |
| * | Fire Station | 1.6 | Acres | 0 | 0 | 12.5 | 20 | 20 |
| 495 | Recreation Center | 68 | ksf | 0.1 | 0.1 | 14 | 952 | 771 |
| 488 | Soccer Complex | 3 | Fields | 0.1 | 0.1 | 71.33 | 214 | 173 |
| 210 | Single Family Detached | 493 | DU | 0.05 | 0.05 | 9.57 | 4718 | 4258 |
| 230 | Townhome/Condo/Apt | 344 | DU | 0.05 | 0.05 | 5.86 | 2016 | 1819 |
| 230** | ADU | 50 | DU | 0.05 | 0.05 | 5.86 | 293 | 264 |
| Total DU | | 887 | DU | | | | 9058 | 7778 |

% of Trips Using Sylvan Lake

Road Extension *** = 47% **3656**

% of Trips Using SLR

Roundabout *** = 38% **2956**

In general the data in this table was taken from the Haymeadow Traffic Impact Study dated August 15, 2013. The significant change was to update the dwelling unit numbers to match the final development approval.

* Fire Station trip generation was taken directly from the Haymeadow Traffic Impact Study dated August 15, 2013.

** ADUs were calculated utilizing the Multi-family trip generation rate and assuming that 10% of all Single Family homes will have ADUs.

*** The trip distribution percentages were taken from Figure 11 from the Haymeadow Traffic Impact Study dated August 15, 2013.

Exhibit J
Town Engineer's Calculation of Recapture Fees

Sylvan Lake Road Extension
Total Cost *= \$1,635,334.90

| | ADT | % of Total ADT | Proportional Cost |
|-------------|-------|-------------------|----------------------|
| Eagle Ranch | 11521 | 75.91% | \$1,241,433.96 |
| Haymeadow | 3656 | 24.09% | \$393,900.94 |

* From MOU with West Eagle Ranch, LLC dated November 13, 2007.

Exhibit J
Town Engineer's Calculation of Recapture Fees

Highway 6 Access Improvements (Sylvan Lake Road Roundabout)

Total Cost * = \$1,983,299.35

| | ADT | % of Total ADT | Proportional Cost |
|-------------|-------|-------------------|----------------------|
| Eagle Ranch | 11521 | 79.58% | \$1,578,385.81 |
| Haymeadow | 2956 | 20.42% | \$404,913.54 |

* From MOU with West Eagle Ranch, LLC dated November 13, 2007.

Exhibit J
Town Engineer's Calculation of Recapture Fees

Wastewater Improvements

Total Cost * = \$204,679.20

| | Dwelling Units ** | % of Total DU | Proportional Cost |
|-------------|-------------------|---------------|--------------------|
| Eagle Ranch | 1355 | 60.44% | \$123,702.19 |
| Haymeadow | 887 | 39.56% | \$80,977.01 |

* From MOU with West Eagle Ranch, LLC dated November 13, 2007.

** From Haymeadow final development approval and the Haymeadow Traffic Impact Study dated August 15, 2013

| Item | Land Ownership | Maintenance/Replacement/Enforcement |
|---|---|---|
| Open Space / Wildlife Corridor | | |
| Upland Open Space* | Town | Town |
| BLM and Upper Ranch Boundary Fence | Town | Homeowners Association or Metropolitan District |
| Brush Creek Agricultural Area & Wildlife Corridor* | Town | Homeowners Association or Metropolitan District |
| Willow Tree Corridors* | Town | Homeowners Association or Metropolitan District |
| Weed and Pest Control - Open Space | N/A | Homeowners Association or Metropolitan District |
| Parks | | |
| Trailhead Park (not including Buildings)* | Town | Homeowners Association or Metropolitan District |
| Pavilion Buildings at Trailhead Park | Town | Town |
| Metro District Building at Trailhead Park | Homeowners Association or Metropolitan District | Homeowners Association or Metropolitan District |
| Neighborhood "A1" Greenspace and "Neighborhood Park"* | Homeowners Association or Metropolitan District | Homeowners Association or Metropolitan District |
| Specific improvements within Neighborhood "A1" Greenspace and "Neighborhood Park" | Homeowners Association or Metropolitan District | Homeowners Association or Metropolitan District |
| Weed and Pest Control - Parks | N/A | Homeowners Association or Metropolitan District |
| Trails | | |
| Paved Recreation Paths | N/A | Homeowners Association or Metropolitan District |
| Soft, Crusher Fines Paths | N/A | Homeowners Association or Metropolitan District |
| Pedestrian Lighting of Trails | N/A | Homeowners Association or Metropolitan District |
| Dirt Trails on Upland Open Space and Combined School/Town Recreation Site | Town | Town |
| Dirt Trails in Willow Tree Corridors, Trailhead Park, Wetlands, and all other parks and public spaces | Town | Homeowners Association or Metropolitan District |
| Willow Trailhead* | Town Open Space | Homeowners Association or Metropolitan District |
| Road Gulch Trailhead* | Town Open Space | Homeowners Association or Metropolitan District |
| Rights-of-Way / Alleys / Parking | | |
| Roads, Curb and Gutter in Public Rights-of-Way | Town | Town |
| Landscaping in Public Rights-of-Way | Town | Homeowners Association or Metropolitan District |

*Please refer to Haymeadow Ownership & Maintenance Diagram on page 4

| Item | Land Ownership | Maintenance/Replacement/Enforcement |
|---|--|--|
| <i>Rights-of-Way / Alleys / Parking (continued)</i> | | |
| Street Lights in Public Rights-of-Way | Town | Town |
| Sidewalk/Paths in Public Rights-of-Way | Town | Homeowners Association or Metropolitan District |
| Alleys | Homeowners Association or Metropolitan District | Homeowners Association or Metropolitan District |
| Parallel On-Street Parking within Public Rights-of-Way | Town | Homeowners Association or Metropolitan District Enforcement by the Town |
| Perpendicular Parking within Public Rights-of-Way | Town | Homeowners Association or Metropolitan District Enforcement by the Town |
| Parking Lot Lights | Homeowners Association or Metropolitan District | Homeowners Association or Metropolitan District |
| <i>Storm Drainage</i> | | |
| Public Drainage Facilities within Public Rights-of-Way and Open Space | Town | Town |
| Private Drainage Facilities | Homeowners Association or Metropolitan District | Homeowners Association or Metropolitan District |
| <i>Utilities</i> | | |
| Shallow Utilities | Each Entity is responsible for their own utility | |
| Deep Utilities | Town | Town |
| <i>Non Potable System</i> | | |
| Irrigation Ditches and Ponds | N/A | Metropolitan District |
| Water Features | N/A | Metropolitan District |
| <i>Fire Station / Combined School-Town Recreation Site</i> | | |
| Fire Station* | Fire District | Fire District |
| Combined School-Town Recreation Site (prior to being developed)* | Town | Metropolitan District |
| Combined School-Town Recreation Site (when developed)* | Town, School District | Town, School District, West Eagle County Metropolitan Recreation District |
| <i>Other</i> | | |
| Mail Cluster Boxes | N/A | Master Homeowners Association or Metropolitan District |

*Please refer to Haymeadow Ownership & Maintenance Diagram on page 4

Definitions:

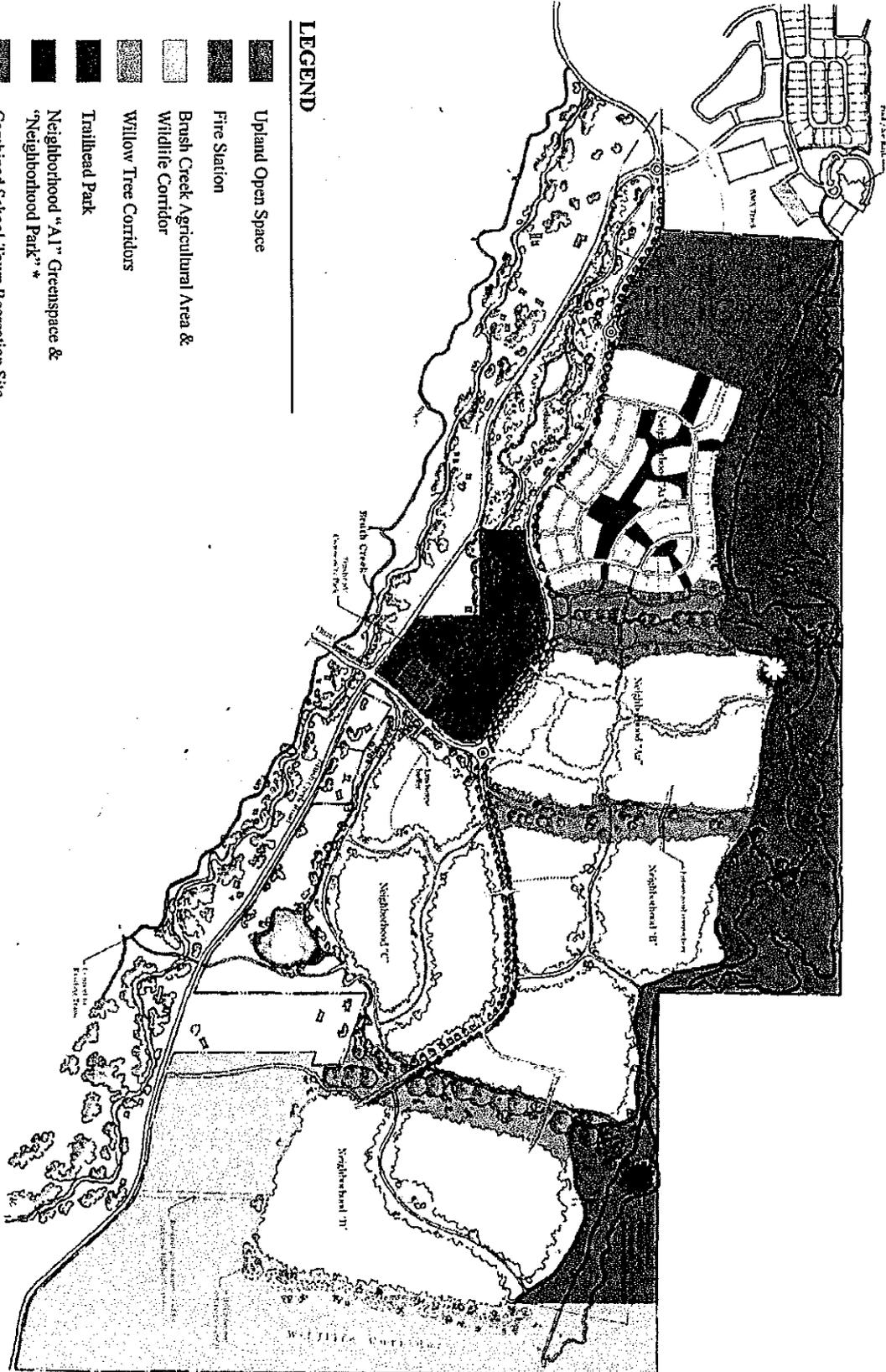
Public Drainage Facilities: Includes curbs, gutters, roadside ditches, grates, inlets, culverts and detention ponds.

Private Drainage Facilities: Includes curbs, gutters, roadside ditches, grates, inlets, culverts and detention ponds. Culverts for private driveways are the responsibility of the owner of the driveway.

Shallow Utilities: Includes Electric Power, Natural Gas, and Telecommunication Lines.

Deep Utilities: Includes Water Main Systems and Sanitary Sewer Main Systems.

Haymeadow Ownership & Maintenance Diagram
(For Illustrative Purposes Only - Not to Scale)



LEGEND

- Upland Open Space
- Fire Station
- Brush Creek Agricultural Area & Wildlife Corridor
- Willow Tree Corridors
- Trailhead Park
- Neighborhood "A1" Greenspace & "Neighborhood Park" *
- Combined School-Town Recreation Site
- Willow Trailhead
- Road Gulch Trailhead

*Neighborhood "A1" Greenspace & "Neighborhood Park" boundaries to be determined at Final Plat or Development Permit depending on location.

Haymeadow PUD Annexation
and Development Agreement
Exhibit L

5.9.3 Exclusions. The Transfer Assessment shall not apply to any of the following, except to the extent that they are used for the purpose of avoiding the Transfer Assessment:

5.9.4.1 any transfer to the United States, or any agency or instrumentality thereof, the state of Colorado, any county, city and county, municipality, district or other political subdivision of the State of Colorado;

5.9.4.2 any transfer to Declarant, any Successor Declarant, the Metro District, or the Association;

5.9.4.3 any transfer, whether outright or in trust, that is for the benefit of the transferor or his or her relatives, but only if there is no more than nominal consideration for the transfer. For the purposes of this exclusion, the relatives of a transferor shall include all lineal descendants of any grandparent of the transferor, and the spouses of the descendants. Any person's stepchildren and adopted children shall be recognized as descendants of that person for all purposes of this exclusion. For the purposes of this exclusion, a distribution from a trust shall be treated as a transfer made by the grantors of the trust, in the proportions of their respective total contributions to the trust;

5.9.4.4 any transfer arising solely from the termination of a joint tenancy or the partition of property held under common ownership, except to the extent that additional consideration is paid in connection therewith;

5.9.4.5 any transfer or change of interest by reason of death, whether provided for in a will, trust or decree of distribution; any transfer made (i) by a majority-owned subsidiary to its parent corporation or by a parent corporation to its majority-owned subsidiary, or between majority-owned subsidiaries of a common parent corporation, in each case for no consideration other than issuance, cancellation or surrender of the subsidiary's stock; or (ii) by a partner, member or a joint venturer (each, a "Business Association Member") to a Business Association in which the Business Association Member has not less than a 50 percent interest, or by a Business Association to a Business Association Member holding not less than a 50 percent interest in such Business Association, in each case for no consideration other than the issuance, cancellation or surrender of the interests in the Business Association, as appropriate; or (iii) by a corporation to its shareholders, in connection with the liquidation of such corporation or other distribution of property or dividend in kind to shareholders, if the Unit is transferred generally pro rata to its shareholders, and no consideration is paid other than the cancellation of such corporation's stock; or (iv) by a Business Association to its Business Association Members, in connection with a liquidation of the Business Association or other distribution of property to the Business Association Members, if the Unit is transferred generally pro rata to its Business Association Members, and no consideration is paid other than the cancellation of the Business Association Members' interests; or (v) to a corporation or Business Association where such entity is owned in its entirety by the persons transferring the Unit and such persons have the same relative interests in the transferee entity as they had in the Unit immediately prior to such transfer, and no consideration is paid other than the issuance of each such persons' respective stock or other ownership interests in the transferee entity; or (vi) by any person(s) or entity(ies) to any other person(s) or entity(ies), whether in a single transaction

or a series of transactions where the transferor(s) and the transferee(s) are and remain under common ownership and control as determined by the Executive Board in its sole discretion applied on a consistent basis; provided, however, that no such transfer or series of transactions shall be exempt unless the Executive Board finds that such transfer or series of transactions (x) is for no consideration other than the issuance, cancellation or surrender of stock or other ownership interest in the transferor or transferee, as appropriate, (y) is not inconsistent with the intent and meaning of this Subsection 5.9.4.6, and (z) is for a valid business purpose and is not for the purpose of avoiding the obligation to pay the transfer Assessment. In connection with considering any request for an exception under Subsection 5.9.4.6(vi), the Executive Board may require the applicant to submit true and correct copies of all relevant documents relating to the transfer setting forth all relevant facts regarding the transfer, stating that in their opinion the transfer is exempt under this Subsection 5.9.4.6(vi), and setting forth the basis for such opinion;

5.9.4.7 any transfer made solely for the purpose of confirming, correcting, modifying or supplementing a transfer previously recorded, making minor boundary adjustments, removing clouds on titles, or granting easements, rights-of-way or licenses, and any exchange of Units between Declarant and any original purchaser from Declarant of the one or more Units being transferred to Declarant in such exchange. To the extent that consideration in addition to previously purchased Units is paid to Declarant in such an exchange, the additional consideration shall be a transfer subject to Assessment. To the extent that Declarant, in acquiring by exchange Units previously purchased from Declarant, pays consideration in addition to transferring Units, the amount of such additional consideration shall be treated as reducing the original assessable transfer and shall entitle an original purchaser from Declarant, who exchanges with Declarant Unit previously purchased from Declarant, to a refund from the Association of the amount of the transfer Assessment originally paid on that portion of the original transfer;

5.9.4.8 any transfer pursuant to any decree or order of a court of record determining or vesting title, including a final order awarding title pursuant to a condemnation proceeding, but only where such decree or order would otherwise have the effect of causing the occurrence of a second assessable transfer in a series of transactions which includes only one effective transfer of the right to use or enjoyment of a Unit;

5.9.4.9 any lease of any Unit (or assignment or transfer of any interest in any such lease) for a period of less than thirty (30) years;

5.9.4.10 any transfer to secure a debt or other obligation or to release property which is security for a debt or other obligation, including transfers in connection with foreclosure of a deed of trust or mortgage or transfers in connection with a deed given in lieu of foreclosure;

5.9.4.11 the subsequent transfer(s) of a Unit involved in a "tax free" or "tax deferred" trade under the Internal Revenue Code wherein the interim owner acquires property for the sole purpose of reselling that property within thirty (30) days after the trade. In these cases, the first transfer of title is subject to transfer Assessment, and subsequent transfers will only be exempt as long as a transfer Assessment has been paid in

connection with the first transfer of such Unit in such exchange;

5.9.4.12 the transfer of a Unit to an organization which is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code, as amended (or any comparable statute), provided that the Executive Board specifically approves such exemption in each particular case;

5.9.4.13 any transfer made by a corporation or other entity, for consideration, (1) to any other corporation or entity which owns 100 percent of its equity securities (a "Holding Company"), or (2) to a corporation or entity whose stock or other equity securities are owned, directly or indirectly, 100 percent by such Holding Company;

5.9.4.14 any transfer from a partially-owned direct or indirect subsidiary corporation to its direct or indirect parent corporation where consideration is paid for, or in connection with, such transfer; however, unless such transfer is otherwise exempt, such exemption shall apply only to the extent of the direct or indirect beneficial interest of the transferee in the transferor immediately prior to the transfer. For example, if corporation A owns 60 percent of corporation B, and corporation B owns 100 percent of corporation C and corporation C conveys a Unit to corporation A for \$2,000,000, 60 percent of the transfer Assessment would be exempt and a transfer Assessment would be payable only on \$800,000 (i.e., 40 percent of the \$2,000,000 consideration); and

5.9.4.15 the consecutive transfer of a Unit wherein the interim owner acquires such Unit for the sole purpose of immediately reconveying such Unit, but only to the extent there is no consideration to the interim owner and such interim owner receives no right to use or enjoyment of such Unit, provided the Executive Board specifically approves such exemption in each particular case. To the extent that consideration is paid to, or for the benefit of, the interim owner, the additional consideration shall be a transfer subject to Assessment. In these cases, the first transfer of title is subject to the transfer Assessment and subsequent transfers will only be exempt as long as a transfer Assessment has been paid in connection with the first transfer of such Unit in such consecutive transaction and only to the extent there is no consideration to the interim owner.

Haymeadow PUD Annexation
and Development Agreement
Exhibit M

JOINDER

The undersigned, [INSERT NAME] DISTRICT, a Colorado quasi-municipal corporation and political subdivision of the State of Colorado, is referenced as a party having certain rights and obligations pursuant to that certain Agreement relating to the Annexation and Development of Property Known as the Haymeadow Parcel A, Parcel B and Parcel C Additions to the Town of Eagle, Colorado (the "Agreement") dated _____, 2014, and recorded _____, 2014, at Reception No. _____, in the office of the Clerk and Recorder of Eagle County, Colorado, as amended and supplemented from time to time. The undersigned, for itself and its successors and assigns, approves the foregoing Agreement, and hereby joins in same as though it had executed the Agreement as an original party, thereby agreeing to be bound by all obligations applicable to the undersigned under such Agreement, and being entitled to all rights granted to the undersigned under such Agreement, as contained therein.

[INSERT NAME] DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 201__
by _____ as _____ of [INSERT NAME]
DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado.

WITNESS my hand and official seal.
My commission expires: _____
[SEAL]

Notary Public

RIGHT OF FIRST REFUSAL AGREEMENT

THIS RIGHT OF FIRST REFUSAL AGREEMENT (this "RFR Agreement"), made this ___ day of _____, 2014, is by and between the TOWN OF EAGLE, COLORADO, a Colorado municipal corporation ("Grantor") and ABRKA PROPERTIES, LLC a Florida limited liability company ("Grantee").

WHEREAS, On the date hereof, Grantee had dedicated and conveyed to Grantor certain real property ("Property") legally described as _____;

WHEREAS, in accordance with the Agreement Relating to Annexation and Development of Property Known as the Haymeadow Parcel A, Parcel B and Parcel C Additions to the Town of Eagle, Colorado (the "ADA") dated _____, 2014, and recorded _____, 2014, at Reception No. _____, in the office of the Clerk and Recorder of Eagle County, Colorado, Grantor has agreed to grant a right of first refusal in the Property to Grantee; and

WHEREAS, any capitalized term used in this RFR Agreement not otherwise defined herein shall have the meaning as defined in the ADA.

NOW, THEREFORE, the parties agree as follows:

1. Grant of Right of First Refusal. Grantor, for Grantor and Grantor's successors, and assigns, hereby agrees that Grantor will not sell the Property, or any part thereof, without first offering same to Grantee for purchase. This RFR Agreement creates in Grantee a right of first refusal ("Right of First Refusal") to purchase the Property, or any part thereof, according to the terms and conditions hereof.

1.1. The Right of First Refusal granted in Paragraph 1 above shall be honored by Grantor and exercised in the following manner:

(a) If, at any time, Grantor receives a bona fide third-party offer to purchase or otherwise acquire title to the Property, or any part thereof, any contract which may be entered into between Grantor and such bona fide purchaser shall specifically provide that the transaction shall be subject to the Right of First Refusal set forth in this document.

(b) In the event that Grantor enters into such contract with a bona fide third-party purchaser, Grantee shall have the prior right to purchase and acquire title to the Property, or the portion thereof described in such contract, upon the same terms and conditions as therein provided or, at Grantee's option, for cash.

(c) Grantor shall submit to Grantee a duplicate original of an executed contract with the bona fide purchaser, together with duplicate originals executed by Grantor of a contract between Grantor and Grantee, containing the same terms and conditions as the purchase and sale contract with the third-party bona fide purchaser. If, after the receipt of such documents, Grantee shall fail to exercise Grantee's Right of First Refusal by signing and returning to Grantor, within 30 days of receipt, a signed copy of said contract, together with the earnest money payment therein provided, Grantor shall have the right to conclude the proposed sale and conveyance on the same terms and conditions, and no other, as in the contract with the bona fide third-party purchaser.

(d) Grantee's failure to exercise Grantee's Right of First Refusal, or Grantee's written disclaimer of such right, shall be deemed a waiver and cancellation of such Right of First Refusal if the proposed sale and conveyance to the same bona fide third-party purchaser is consummated. If the proposed sale and conveyance to the same bona fide third-party purchaser is not consummated, the Right of First Refusal herein set forth shall not be deemed waived or cancelled but shall remain in full force and effect.

1.2. If any offer made by Grantor according to the terms and conditions herein stated is rejected or is allowed to expire without acceptance by Grantee, Grantee agrees, within 10 days after receipt of a written request from Grantor, to give to Grantor or to any third person Grantor shall designate, a written statement properly signed and acknowledged in recordable form that:

(a) an offer has been made by Grantor in accordance with the terms and conditions of this RFR Agreement, together with disclosure of the offering price and the terms and conditions of a proposed sale;

(b) said offer has been rejected by Grantee or has been allowed to expire; and

(c) Grantor or any designated third person may rely upon such statement by Grantee as evidence of the submission and rejection or expiration of a valid offer made to Grantee pursuant to and in accordance with this RFR Agreement.

1.3. This Right of First Refusal shall apply to all transactions involving a conveyance of title to the Property, or any portion thereof, including but not limited to a purchase, an exchange or any other transfer of an interest in the Property for consideration, other than a lease of the Property for no less than 20 years.

2. Term of Existence

2.1. All rights and interests herein created and set forth in this RFR Agreement shall remain in existence and shall constitute a valid encumbrance upon the Property during the life of United States President Barak H. Obama, and his issue, living at the date of execution of this RFR Agreement, plus 21 years thereafter, but no longer; except that the same shall be extinguished by the occurrence of any one or more of the following events:

(a) a sale of all or any portion of the Property to Grantee pursuant to the exercise of the Right of First Refusal, as herein provided, and upon compliance by Grantor with all of the terms and conditions of this RFR Agreement; or

(b) a sale of all or any portion of the Property to any person other than Grantee upon compliance by Grantor with all of the terms and conditions of this RFR Agreement.

3. Personal to Grantee/Binding and Benefit/Successors and Assigns. All covenants, agreements and other provisions of this RFR Agreement, including but not limited to the burdens hereof, shall be binding upon the parties hereto, and their successors and assigns, and shall not run with the land but rather shall be personal to the Grantee, until the expiration as described in Section 2.1 above. This RFR Agreement shall be assignable by Grantee to any person or entity without Grantor's prior written consent.

5. Performance.

(a) Time of the Essence. Time is of the essence in regard to the obligations of Grantor and Grantee.

(b) Remedies for Grantee Default. If Grantee fails to perform any of Grantee's obligations under this RFR Agreement at the time and in the manner set forth, then Grantor may, as its sole remedy, terminate this RFR Agreement and the rights of Grantee hereunder.

(c) Remedies for Grantor's Default. If Grantor fails to perform any of Grantor's obligations under this RFR Agreement, (i) Grantee may elect to treat this RFR Agreement as terminated, and neither party will have any further obligations under this RFR Agreement, or (ii) Grantee may elect to treat this RFR Agreement as being in full force and effect, in which case Grantee's remedy will be an action for damages or for specific performance, or both.

(d) Attorneys' Fees. Should any action be brought to enforce or interpret this RFR Agreement, the prevailing party in such action will be entitled to receive all of such party's reasonable costs and expenses, including reasonable attorneys' fees, from the non-prevailing party.

6. General Matters.

(a) Headings. Headings used in this RFR Agreement are for convenience of reference only and shall not affect the construction of any provision of this RFR Agreement.

(b) Entire RFR Agreement. The entire agreement of the parties with respect to the Right of First Refusal is herein written and the parties are not bound by any agreements, understandings, conditions, or inducements otherwise than are expressly set forth and stipulated in this RFR Agreement. No change, alteration, amendment, modification, or waiver of any of the terms or provisions hereof shall be valid unless the same are in writing and signed by the parties.

(c) All offers, acceptances, and any other notices or statements contemplated or required by this RFR Agreement shall be sent by certified or registered United States mail, return receipt requested, to the intended recipient thereof at the following addresses:

If to Grantor:

[INSERT]

If to Grantee:

[INSERT]

With copies to:
Gregory Perkins, Esq.

710 W. Lionshead Cir., Suite B
Vail, Colorado 81657
greg@gperkinslaw.com
Facsimile: 866-393-9835

Alternatively, such materials may be sent to such other addresses of a party as may be designated in writing by such party.

(d) Any periods of time within which action is to be taken hereunder shall commence on the date notice thereof is received.

(e) This RFR Agreement is made in Colorado and shall be governed by and interpreted in the Colorado state courts in accordance with the law of Colorado.

(f) This RFR Agreement shall be recorded in the real property records of the Clerk and Recorder's Office of Eagle County, Colorado.

EXECUTED to be effective as of the date first above written.

TOWN OF EAGLE, COLORADO,
a municipal corporation acting by
and through its Board of Trustees

By: _____

Yuri Kostick, Mayor

ATTEST:

Sarah Braucht, Town Clerk

ABRIKA PROPERTIES, LLC, a
Florida limited liability company.

By: _____

STATE OF COLORADO)

) ss:

COUNTY OF EAGLE)

The foregoing instrument was acknowledged before me this ____ day of _____, 201__ by Yuri Kostick, Mayor and Sarah Braucht, Town Clerk, of the Town of Eagle, Colorado, a municipal corporation.

Witness my hand and official seal.

My commission expires: _____

(SEAL)

Notary Public

STATE OF COLORADO)

) ss:

COUNTY OF EAGLE)

The foregoing instrument was acknowledged before me this ____ day of _____, 201__ by _____.

Witness my hand and official seal.

My commission expires: _____

(SEAL)

Notary Public