

**TOWN OF EAGLE, COLORADO
RESOLUTION NO. 15
(Series of 2019)**

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF EAGLE,
COLORADO APPROVING THE SECOND AMENDMENT TO ANNEXATION AND
DEVELOPMENT AGREEMENT FOR THE HAYMEADOW DEVELOPMENT

WHEREAS, on March 25, 2014, the Town and Abrika Properties LLC ("Abrika") entered into 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" (the "ADA"), which ADA was recorded on May 30, 2014, at Reception No. 201408816;

WHEREAS, on February 27, 2018, the Town and Abrika entered into the First Amendment to the ADA;

WHEREAS, pursuant to Section 1.3, the ADA currently expires on June 7, 2019 (the "Term");

WHEREAS, pursuant to Section 6.2, the determination of adequacy will expire unless the Developer commences construction within 5 years from the date of Final Approval of the ADA, or March 25, 2019 (the "Expiration of Determination of Adequacy"); and

WHEREAS, the Town and Abrika desire to extend the Term and the Expiration of Determination of Adequacy in Sections 1.3 and 6.2, respectively, via an amendment to the ADA, as set forth in the attached Second Amendment to Annexation and Development Agreement.

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

Section 1. The Second Amendment between the Town and Abrika is hereby approved in substantially the form attached hereto, subject to final approval by the Town Attorney. Upon such approval, the Mayor is authorized to execute the Second Amendment on behalf of the Town.

INTRODUCED, READ, PASSED AND ADOPTED ON MARCH 12th, 2019.

ATTEST:


Jenny Rakow, Town Clerk



TOWN OF EAGLE, COLORADO


Anne McKibbin, Mayor

SECOND AMENDMENT TO ANNEXATION AND DEVELOPMENT AGREEMENT

This SECOND AMENDMENT TO ANNEXATION AND DEVELOPMENT AGREEMENT (the "Second Amendment") is entered into as of March __, 2019 (the "Effective Date"), by and between the TOWN OF EAGLE, COLORADO, a Colorado municipal corporation (the "Town"); and ABRIKA PROPERTIES, LLC, a Florida limited liability company ("Abrika") (each a "Party" and collectively the "Parties").

WHEREAS, on March 25, 2014, the Parties entered into 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" (the "ADA"), which ADA was recorded on May 30, 2014, at Reception No. 201408816;

WHEREAS, on February 27, 2018, the Parties entered into a First Amendment to the ADA (the "First Amendment");

WHEREAS, pursuant to Section 1.3, the ADA expires on June 7, 2019 (the "Term");

WHEREAS, the Town and Abrika desire to extend the Term and the Determination of Adequacy set forth in Sections 1.3 and 6.2, respectively.

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 Town and Abrika agree as follows:

1. The first sentence of Section 1.3 of the ADA is hereby amended to read as follows:

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 December 31, 2020, but if Start of Construction occurs prior to December 31, 2020, the Term 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.

2. Section 6.2 of the ADA is hereby amended to read as follows:

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 20 years after the date of Final Approval (the "DOA Period"). Notwithstanding the foregoing, (a) in the event that the Developer fails to Start Construction on or before December 31, 2020, the Conditional Positive Determination of Adequacy shall expire on December 31, 2020, 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.


3. All provisions of the ADA not expressly modified in this Second Amendment or the First Amendment shall remain in full force and effect.

4. The Parties agree and acknowledge that, if the ADA expires despite the extensions granted herein, the Town will credit Abrika's \$3,000,000 Plant Investment Fee prepayment toward the future development of the real property subject to the ADA.

IN WITNESS WHEREOF, Abrika and the Town have executed this Second Amendment as of the Effective Date.



TOWN OF EAGLE, COLORADO


Anne McKibbin, Mayor

ABRIKA PROPERTIES, LLC, a Florida limited liability company

By: CF Colorado Holdings LLC, a Florida limited liability company, its Managing Member

By: _____
Alan Cohen, Managing Member

STATE OF FLORIDA)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of March, 2019, by Alan Cohen, Managing Member of CF Colorado Holdings LLC, a Florida limited liability company, Managing Member of Abrika Properties, LLC, a Florida limited liability company.

WITNESS MY HAND AND OFFICIAL SEAL.

My commission expires: _____