

**BROWN RANCH
ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT ("Agreement") is made and entered into this ___ day of _____, 2023, by and between the CITY OF STEAMBOAT SPRINGS, a Colorado municipal corporation ("City") and the Yampa Valley Housing Authority, a multi-jurisdictional housing authority ("YVHA").

WHEREAS, YVHA owns the real property described in Exhibit A ("Brown Ranch"), which consists of approximately 420 acres; and

WHEREAS, Brown Ranch is contiguous with the city limits and within the Urban Growth Boundary; and

WHEREAS, YVHA filed a Petition for Annexation with the City on October 18, 2022, to annex Brown Ranch into city limits; and

WHEREAS, the City has determined that it would be in the best interest of the public health, safety, and welfare of its citizens to impose certain terms and conditions on YVHA in connection with the annexation of Brown to the City;

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

1. DEFINITIONS. As used in this Agreement, unless the context clearly requires otherwise:

"Annexation Ordinance" shall mean the ordinance adopted by the City Council of the City of Steamboat Springs pursuant to the Municipal Annexation Act of 1965 (Section 31-12- 101, et seq., C.R.S.) officially annexing the Property into the City of Steamboat Springs.

"Applicable City Ordinances" shall mean all ordinances of the City which regulate the development, subdivision and use of the Property, as in effect from time to time.

"Regulating Plan" shall mean document which establishes density, uses, patterns, open space and parks, and primary streets and their general locations within the Property, to be approved by the City pursuant to the requirements and procedures set forth in the TND Standards in effect as of the date this annexation becomes effective.

"YVHA" shall mean the Yampa Valley Housing Authority, and any entity owned in whole or part by the Yampa Valley Housing Authority, and any District of Master Homeowners Association formed by the Yampa Valley Housing Authority.

[TO SUPPLEMENT AS NEEDED]

2. GENERAL PLAN OF DEVELOPMENT

a. Unit Types & Numbers

YVHA may develop up to 2,264 residential units at Brown Ranch through full build-out. YVHA may develop up to 419,000 square feet of non-residential uses at Brown Ranch.

Brown Ranch shall generally consist of four neighborhoods, currently identified by letter. Neighborhood A shall consist of 400 to 480 Units. Neighborhood B shall consist of 330 to 360 Units. Neighborhood C shall consist of 1030 to 1070 Units. Neighborhood D shall consist of 480 to 510 Units.

The contemplated unit composition at full build-out will consist of 1,486 multi-family units (65.5% of total units), 484 single-family attached units (21.5% of total units), and 294 single-family detached units (13% of total units).

	PROGRAM	# OF UNITS BY NBH				TOTAL PER TYPE	
		NBH A	NBH B	NBH C	NBH D		
RESIDENTIAL	Multi-family	Rental	319	109	418	138	1486
		Condo	96	36	156	110	
		ADU	0	10	52	42	
		Sub-Total	415	155	626	290	
	Single Family Attached	Rental	8	50	143	43	484
		Owner	6	40	117	77	
		Sub-Total	14	90	260	120	
	Single Family Detached	Rental	0	11	18	8	294
		Owner	0	73	122	62	
		Sub-Total	0	84	140	70	
Total by NBH		429	329	1026	480	2264	

	PROGRAM	Building Type	Area in Square Feet				TOTAL PER TYPE
			NBH A	NBH B	NBH C	NBH D	
COMMERCIAL/COMMUNITY	Grocery	Mixed Use	15,000	-	-	-	15,000
	Retail Space (coffee, restaurant, etc.)	Mixed Use	16,000	16,000	32,500	31,500	96,000
	Office Space/ Non-Profit Center	Mixed Use	3,333	3,333	9,334	12,000	28,000
	Childcare accepting CCAP	Mixed Use	2,500	2,500	2,500	2,500	10,000
	Fire Station Site Area (3 FT Staff)	Free Standing	50000	-	-	-	50,000
	K-8 School Site Area (590 people)	Free Standing	-	-	200,000	-	200,000
	Indoor Field House	TBD	-	-	10,000	10,000	20,000
	Total by NBH			86,833	21,833	254,334	56,000

The unit numbers and composition outlined above are based upon current assumptions about housing need, community preferences, and available subsidies. It is YVHA's intention the unit numbers, composition, and size of non-residential uses will be updated over time to account for changes in local housing need. Based upon the same, YVHA may seek to amend the Regulating Plan consistent with the Applicable City Ordinances, including seeking to add additional Units or square feet of non-residential uses to changes in demand.

b. Phasing Plan

The Brown Ranch phasing plan is shown in the attached Exhibit B.

Unit composition and density may be shifted between phases during the development approval process. YVHA may, in response to market conditions, funding, development capacity, and site conditions, seek to amend the Regulating Plan consistent with the applicable City Ordinances.

c. Parks, Trails, and Open Space

YVHA shall provide at least 70.3 acres of mini parks, neighborhood parks, and community parks, as generally shown in the attached Exhibit C, or as may be amended through the development review process.

At least 125 acres of Brown Ranch shall be designated as Open Space through the development approval process, as generally shown on the attached Exhibit C. The specific location of Open Space shall be determined through the development review process.

YVHA shall provide trails as generally shown on the attached Exhibit C. The specific location and character of trails shall be determined through the development review process.

Parks, trails, and open space shall be phased with the development of each Neighborhood, and as the CDC requires.

Dedication and maintenance provisions for Brown Ranch parks, open space, and trails are provided for in Section 7c below.

Brown Ranch will not be subject to any further requirements for the provision of parks, open space, or trails as a condition of any City approval during the vesting term provided in Section ____, or any future extension of such term.

YVHA retains all development rights for the 114 acres of the YVHA property north of the Urban Growth Boundary. YVHA shall maintain the area of the YVHA Property north of the Urban Growth Boundary as open space for a minimum of twenty (20) years. YVHA shall develop the trails in this area as shown in Exhibit C.

d. Wildfire Mitigation

Health Equity, Sustainability, and Resiliency Guidebook will impose a private regulatory scheme on development within Brown Ranch. The Guidebook will include recommendations identified in the *Increasing Wildfire Resilience at Brown Ranch* report prepared by the Community Wildfire Planning Center. These strategies may include 1) incorporating design features that reduce wildfire susceptibility in the Home Ignition Zone; 2) managing open space vegetation in strategic locations to support fire suppression tactics and further support defensible space; 3) providing adequate setbacks on peripheral edges of all neighborhoods from hazardous fuels and

terrain features; 4) planning for the strategic location of trail networks to support fire suppression resource access and tactics; and 5) planning for evacuation opportunities.

Maintenance provisions for the wildfire mitigation measures are provided for in Section ___ below.

3. PRIVATE INFRASTRUCTURE PLAN

YVHA shall pay from YVHA revenue, including without limitation YVHA tax revenues, grant proceeds, contributions from the City, **including allocations of STR Tax funds**, and any other source in YVHA's discretion, all costs for the design and construction of all utility services necessary to serve the Brown Ranch, including, but not limited to, electricity, geothermal, telephone, gas, and cable television service, in accordance with applicable City or public utility company standards and specifications. YVHA shall dedicate to the City and applicable public utility companies without charge, free and clear of all liens and encumbrances, those easements and rights-of-way necessary for installation and maintenance of said utility lines.

Any contribution or payment for offsite electrical infrastructure will be agreed upon between YVHA and the electrical provider, and shall be paid from YVHA revenue, including without limitation YVHA tax revenues, grant proceeds, contributions from the City, **including allocations of STR Tax funds**, and any other source in YVHA's discretion. The construction of utility services shall be phased with the development of each Neighborhood, and as the CDC requires.

YVHA reserves the right to provide utility service, in whole or part, to Brown Ranch, through the establishment of a District. **The City will reasonably consent to and approve the formation of any such District.** Any District formed pursuant to this paragraph shall be allowed to use the utility easements and rights-of-way with Brown Ranch necessary for the installation and maintenance of utility lines.

The City will reasonably consent to and approve the formation of any other Districts, as defined in the Colorado Special District Act, which YVHA determines is beneficial to the development of Brown Ranch.

The City agrees to reasonably provide non-financial support for any filings or applications by YVHA for permits and other approvals as may be required by State and/or federal agencies. If the City is the actual applicant of any required permits (e.g., CDOT access permits), the City will reasonably cooperate with YVHA in acquiring same.

4. GENERAL PUBLIC INFRASTRUCTURE PLAN

YVHA shall pay from YVHA revenue, including without limitation YVHA tax revenues, grant proceeds, contributions from the City, **including allocations of STR Tax funds**, and any other source in YVHA's discretion, all costs for the design and construction of all public improvements to serve Brown Ranch, including, but not limited to, roads, curbs, gutters, sidewalks, sanitary and drainage sewers, water, and street lights, in accordance with applicable City or public utility

company standards and specifications. YVHA shall dedicate to the City and applicable public utility companies without charge, free and clear of all liens and encumbrances, those easements and rights-of-way necessary for installation and maintenance of said public improvements, including public streets, and in addition shall convey the public improvements to the appropriate entity upon completion and acceptance of the improvements.

YVHA shall construct stormwater systems within Brown Ranch in conformance with City Engineering Standards.

YVHA shall construct multi-modal transportation within Brown Ranch in conformance with City Engineering Standards.

The Parties agree that YVHA shall be entitled to reimbursement of certain costs of construction of certain public improvements. The City agrees that it will require, as a condition of annexation of any portion of the West Steamboat Area Plan adopted June 19, 2006 (the “Benefited Property”) that YVHA will be reimbursed by the developer of such portion of the Benefited Properties a proportionate share of the cost of such infrastructure which serves a Benefited Property. The proportionate share shall be reasonably determined by the City Council at the time of annexation and as a condition of annexation of a Benefitted Property based upon the benefits received by the Benefited Property, which shall be determined, without limitation, by reference to: the cost savings to the Benefited Property by YVHA’s construction of the additional infrastructure; age and physical condition of the infrastructure; and the length and capacity of utilities and roadways infrastructure used by the Benefited Property. Nothing in this Paragraph shall prohibit YVHA from making application to the City for a Public Improvements Reimbursement Agreement pursuant to the requirements of the City’s Community Development Code for reimbursement of expenses not otherwise reimbursable under this Paragraph. This provision shall not apply to any property annexed pursuant to an annexation ordinance adopted more than twenty (20) years from the effective date of the ordinance annexing the Brown Ranch.

The terms of the provision of City services related to the public infrastructure, and the maintenance of same, are provided for in Section ___ below.

The City agrees to reasonably provide non-financial support for any filings or applications by YVHA for permits and other approvals as may be required by State and/or federal agencies. In the event that the City is the actual applicant of any required permits (e.g., CDOT access permits), the City will reasonably cooperate with YVHA in acquiring same.

5. WATER & WASTEWATER SERVICE, OFF-SITE WATER & WASTEWATER FACILITIES

The City will provide water and wastewater services to Brown Ranch through its existing water and wastewater utility, which presently operates as an enterprise fund for purposes of the Taxpayers Bill of Rights (“TABOR”), Article X, Section 20 of the Colorado Constitution and which the City intends to continue to operate as an Enterprise Fund for purposes of TABOR.

a. Water Service

The parties acknowledge that the determination as to whether the City has a reliable and secure water supply to serve the Brown Ranch and whether the City can make the determination regarding adequacy of the City’s water supply required by C.R.S. 29-20-301, et. seq. and Section 25-78 of the City’s municipal code depends on the completion of a Water Demand Analysis, which is expected to be complete in May 2023. Based on current information, the parties acknowledge that the provision of water to Brown Ranch by the City will require the construction by the City of the following four additional elements to the City’s water infrastructure:

- i. The West Area Water Tank booster station, which must be constructed and accepted prior to the occupancy of any units at the Brown Ranch. This project will be constructed at City expense. The City will use all reasonable efforts to construct this project prior to 2025.
- ii. The US Highway 40 delivery pipeline, which must be constructed and accepted prior to the occupancy of any units at the Brown Ranch. This project is underway and will be constructed at City expense at an estimated cost of \$1,000,000. The City will use all reasonable efforts to construct this project prior to 2025.
- iii. Onsite distribution facilities. Construction of these facilities shall be the responsibility of YVHA as provided in Section ____.
- iv. New water treatment facility, diversion system, pumps, raw water delivery line, clearwell, and treated water distribution lines (together “Elk River Water Treatment Facility”), which must be constructed and accepted prior to the issuance of building permits at Brown Ranch that would cause Brown Ranch water demand to exceed 800 Equivalent Residential Units (EQRs). Estimated costs of construction are \$40,000,000-\$58,000,000. The parties’ current estimate is that construction could begin at the earliest in 2028 with the treatment facility completed and operational by 2030.

The parties acknowledge that the Elk River Water Treatment Facility will benefit the existing City water utility customer base by providing needed resiliency and redundancy to the City’s existing treatment facilities. Pursuant to the distribution modeling study completed by the City, Brown Ranch is allocated ____% of the need for the Elk River Water Treatment Facility.

The City shall be responsible for payment of that share of the costs of the Elk River Water Treatment Facility allocated to City water utility customers within the current district boundaries from revenue sources to be determined by the City, including without limitation City utility plant investment fees collected from City utility customers not located at the Brown Ranch.

YVHA shall be responsible for paying that share of the costs of the Elk River Water Treatment Facility allocated to Brown Ranch on the following terms:

- i. Units at Brown Ranch will be assessed utility plant investment fees (i.e., tap fees) on the same basis as other City water utility customers. Based upon current tap fees, which may increase subject to the study referenced above, and the planned number of units at Brown Ranch, this assessment will be approximately \$29,000,000.
- ii. Payment to the City of that portion of the taps fees which are attributable to water will be contingent on the City allocating and distributing to YVHA STR Tax funds for the payment of the same. In the event the City distributes STR Tax funds to YVHA for water tap fees, and water tap fees are not owed at that time (e.g., no units have been built at Brown Ranch at the time of distribution of tax funds), YVHA shall pre-pay for future water tap fees, for which YVHA shall receive a credit for future water tap fees.
- iii. YVHA shall have no responsibility for the payment of water tap fees for units at Brown Ranch, at the time of issuance of any building permit or otherwise, or for any payment for the Brown Ranch share of the costs of the Elk River Water Treatment Facility, unless and until the City allocates and distributes to YVHA STR tax funds for the payment of same.

Brown Ranch will not be subject to any further water related payments as a condition of any City approval or the issuance any building permit during the vesting term provided in Section ____, or any future extension of such term.

The City will use all reasonable efforts to acquire a site for the Elk River Water Treatment Facility prior to water demand at Brown Ranch exceeding 300 EQRs. The City will use all reasonable efforts to begin construction of the Elk River Water Treatment Facility prior to water demand at Brown Ranch exceeding 600 EQRs. The City will use all reasonable efforts to complete construction of the Elk River Water Treatment Facility prior to demand at Brown Ranch exceeding 800 EQRs.

b. Water Conservation

YVHA shall implement a water conservation and efficiency plan outlining commitments. The plan shall meet or exceed the City's current policy of a 10% reduction in treated water use in ten years. The parties' staffs will collaborate to develop the water conservation and efficiency plan to include, without limitation, the following elements:

- i. Significant reduction in private yards in favor of common spaces that are centrally managed;
- ii. Integrate water conservation with land use planning;
- iii. water budget agreement and monitoring plan;
- iv. Water-efficient building practices such as low flow fixtures;
- v. Site design that preserves areas important for water quantity or quality;
- vi. Water re-use capabilities.

The water conservation and efficiency plan may be amended from time to time with the approval of the City Public Works Director, which approval shall not be unreasonably withheld.

c. Water Rights Dedication

The annexation of Brown Ranch shall be exempt from the requirements of Sec. 25-77 (Water Rights Dedication Policy) of the Municipal Code.

d. Wastewater Service

The parties acknowledge that the provision of wastewater services to Brown Ranch by the City will require the following offsite improvements:

- i. Connection from onsite collection facilities in the Brown Ranch “West Basin” to the existing City trunk line running from Sleepy Bear/KOA to the existing wastewater treatment plant. The parties acknowledge that existing facilities provide the necessary connection from the Brown Ranch “East Basin.” Costs of constructing these facilities shall be the responsibility of YVHA.
- ii. Expanding the capacity of the existing wastewater treatment facility.

Pursuant to state law, design of the expansion of the wastewater treatment facility must commence when the wastewater treatment facility is at 80% capacity, and construction must commence when the wastewater treatment facility is at 90% capacity. The wastewater treatment facility is currently at 73% capacity.

The expansion of the wastewater treatment facility will be paid for by the City.

Units in Brown Ranch will pay wastewater tap fees on the same basis as other City wastewater utility customers. Wastewater tap fees may be paid using STR Tax funds.

Brown Ranch will not be subject to any further sewer related payments as a condition of any City approval or the issuance any building permit during the vesting term provided in Section ___, or any future extension of such term.

6. OTHER OFFSITE INFRASTRUCTURE

Except as otherwise provided in this Annexation Agreement as to offsite water and wastewater improvements, payment for any contribution from YVHA for offsite infrastructure improvements, including but not limited to any contribution for improvements to existing rights-of-way pursuant to CDC §602.F, shall be contingent on the City allocating and distributing to YVHA STR Tax funds for the payment of same.

If the City distributes STR Tax funds to YVHA for offsite infrastructure improvements, but no contribution is required from YVHA at that time (e.g., YVHA has not platted any part of

Brown Ranch), YVHA will prepay for future required contributions based upon Brown Ranch's estimated proportionate share of the estimated cost of the offsite improvements.

YVHA shall have no responsibility for the payment of any required contribution for offsite infrastructure improvements unless and until the City allocates and distributes to YVHA STR tax funds for the payment of same.

7. CITY SERVICES/OPERATIONS/MAINTENANCE RESPONSIBILITIES

Subject to the following subsections, the City hereby agrees to provide City services in the same manner and commensurate with the level of service provided to citizens generally.

a. Streets

The City shall accept the Brown Ranch internal street system for maintenance in accordance with the provisions of the Community Development Code and the City's Engineering Standards. YVHA shall design and construct the Brown Ranch internal street system in accordance with standard street cross sections and specifications as set forth in the City's Engineering Standards. City maintenance shall include snow removal in accordance with standard City practice; maintenance, repair, and replacement of pavement and appurtenances; and maintenance, repair, and replacement of stormwater and drainage facilities located within public rights of way. Except as otherwise expressly provided in this agreement, the City shall provide the same level of service for Brown Ranch street maintenance that the City provides in other areas of the City.

Whether the City will accept Brown Ranch alleys for maintenance purposes will depend on the City's approval of the design of each alley that YVHA requests the City to maintain, including whether YVHA proposes to grant easements or other property rights adequate to accommodate the storage of snow removed from alleys. Adequate snow storage is mutually agreed to include utility and snow storage easements as described in the Engineering Standards, plus pocket snow storage easements equal to or greater than 1 square foot for every 5 square feet of pavement surface. Pocket snow storage easements shall be located immediately adjacent to the alley, at intervals no less than once per block. Pocket snow storage easements must be free and clear of any obstructions that limit the use of the easement as intended. Square-shaped pocket snow storage easements are preferable, though no easement dimensions may be less than 18 feet in width.

The City will make this determination in connection with its CDC review of the subdivision plat or plats that propose the dedication of alleys and acceptance of the alleys by the City for maintenance purposes. YVHA acknowledges that the CDC does not address this issue and that the City's Public Works Director shall have the discretion to approve or deny alley maintenance requests based on the application of the terms contained herein.

The City generally provides a level of snow removal services that depends on storing snow in road rights of way and/or easements adjacent to the roadway. The City provides a level of service in some commercial areas, such as the downtown commercial district, that incorporates the removal and transportation of snow to a central snow storage facility. The City will provide this

level of service in limited commercial or school zones at the Brown Ranch, as depicted as Mixed-Use Village Core in the attached Exhibit B. YVHA shall provide snow storage for snow removed from these zones at internal Brown Ranch sites. Snow storage for Neighborhood A is depicted and described in Exhibit D. Future commercial and school zone snow storage will be provided for in future plats.

The City's assumption of maintenance obligations for all or parts of the Brown Ranch street system will require the City to implement a sixth plow route in order to maintain existing service levels. Capital costs to implement a sixth plow route, including acquisition of a new motor grader with wing, sand truck with plow, loader with bucket and black, and a storage facility, are estimated at \$847,000 in 2023 dollars. These capital costs will be paid for by YVHA from YVHA revenue, including without limitation YVHA tax revenues, grant proceeds, contributions from the City, including allocations of STR Tax funds, and any other source in YVHA's discretion. Alternatively, YHVA may defer the payment of the foregoing capital costs and hire a third-party contractor to provide plow service to Brown Ranch for an indeterminate period of time. The City will commence plow service at Brown Ranch upon payment by YVHA of the requisite capital costs.

b. Transit

YVHA shall construct, at its expense, transit infrastructure and facilities within Brown Ranch as provided for in Section 4.

The City shall provide transit service to Brown Ranch commensurate with the level of service provided to other bus lines in the City.

The City shall be responsible for the operational costs of providing transit service to Brown Ranch. The City shall be responsible for the acquisition of any additional busses. The City shall be responsible for the maintenance of transit infrastructure and facilities within Brown Ranch.

c. Parks, Trails, and Open Space

YVHA shall construct, at its expense, the Neighborhood Parks and Greenways identified in Section 2.c and Exhibit C. The Neighborhood Parks and Greenways will be dedicated to the City following construction and accepted by the City for Maintenance. YVHA shall dedicated to the City land for the Community Parks identified in Section 2.c and Exhibit C. Construction and maintenance of the Community Parks shall be the responsibility of the City.

YVHA shall construct, at its expense, the trails identified in Section 2.c and Exhibit C. The trails within Brown Ranch will be dedicated to the City following construction and accepted by the City for maintenance.

YVHA shall construct, at its expense, the open space identified in Section 2.c and Exhibit C. Open space within Brown Ranch will be dedicated to the City and accepted by the City for maintenance.

Maintenance of sidewalks shall be the responsibility of the adjoining property owner, as provided for in the Code.

d. Police, Fire, and EMS Services

The Steamboat Springs Police Department and Steamboat Springs Fire Rescue shall provide police, fire, and EMS services to Brown Ranch.

8. AFFORDABILITY/ATTAINABILITY OF HOUSING

Pursuant to C.R.S. 29-1-204.5 and the Intergovernmental Agreement Establishing the Yampa Valley Housing Authority, YVHA will develop Brown Ranch in accordance with its mission to develop affordable and attainable housing for low- and moderate-income households and for the local workforce. All units sold or rented within Brown Ranch will be subject to restrictions requiring the owner or renter to work for an employer physically located within Routt County, use the unit as their sole primary residence (to prevent ownership by second homeowners), and short-term rentals will be prohibited throughout Brown Ranch.

The 2021 Housing Demand Study has identified the current housing needs in Routt County based upon income levels. Over the course of the full build-out of Brown Ranch, the unit and income mix will be allocated to address the housing needs identified in the Demand Study. Development of Brown Ranch will comply with the affordability requirements of the WSSAP.

YVHA will periodically update the Demand Study to ensure that housing needs are being appropriately addressed. Updates to the Demand Study will be presented to City Council through YVHA's annual report.

Much of the housing at Brown Ranch will be financed using state and federal grants, tax credits, etc. Housing projects using these financing mechanisms will be subject to the affordability requirements of the relevant program.

For housing projects in Brown Ranch which are not subject to specific affordability requirements pursuant to the preceding paragraph, for-sale Units will be encumbered by the Deed Restriction attached hereto as Exhibit E, at the appropriate AMI levels for the Unit, and for-rent Units will be encumbered by the Use Covenant attached hereto as Exhibit F, at the appropriate AMI levels for the Unit. The Deed Restriction and Use Covenant may be reasonably modified over the course of the development of Brown Ranch to address changes in circumstances, law, or best practices.

All residential developments within Brown Ranch will be subject to the foregoing affordability and attainability measures, except that YVHA may sell approximately 4.8 acres the southeast area of Brown Ranch, shown on Exhibit G, without any affordability requirement. If the event that YVHA sells or otherwise conveys any other portion of Brown Ranch to a third-party developer, the conveyance will be subject to the property being developed with affordability, attainability, and workforce requirements.

YVHA may convey land in Brown Ranch for non-residential purposes to community partners and for projects with a community benefit (e.g., for the development of a special use sports facility). Any such conveyance will be subject to a use restriction by which the transferee would be required to develop the property for a specific purpose, and the transferee would be restricted from reselling the property.

The City agrees that the foregoing satisfies the affordability requirements of the West Steamboat Springs Area Plan (WSSAP).

9. SHORT-TERM RENTAL TAX

City Council agrees to annually review the allocation of the Short-Term Rental Tax funds. City Council agrees to target allocation of at least 75% of the Short-Term Rental Tax funds to Brown Ranch and YVHA.

The Parties hereby agree and acknowledge that all costs and expenses of the development of Brown Ranch are eligible for use of the Short-Term Rental Tax funds.

10. POST-ANNEXATION LAND USE APPROVALS

The City shall approve text amendments to the CDC, prior to annexation, at the time of annexation, or within a reasonable timeframe thereafter, which shall provide for the following:

1. New zone districts will be established, to be referred to as Brown Ranch Transect Zones (“BRTZs”), with the dimensional standards of these zones district reasonably agreed to by YVHA and City Staff in order for Brown Ranch to be developed according to the Development Plan.

2. All Residential Use Classifications, all Eating and Drinking Establishments, all Vehicle Parking, all Civic, Public, and Institutional Use Classifications, excluding Utilities, use categories shall be designated as a Use-by-right in the BRTZs.

3. CDC § 713 and 714, Preliminary Plat and Final Plat applications, shall specify that for properties zoned BRTZ the applications will be reviewed and approved pursuant to Administrative Review.

4. CDC § 739, Collateral, shall provide for an exemption from the collateral requirement for Final Plats which include properties zoned BRTZ.

5. CDC § 602.L, Open Space, Parks, and Amenity Space, § 605.G, Parks and Open Space, and § 606, TND Parks and Open Space Standards, shall provide for an exemption from the requirements of those Sections for Preliminary Plats and Final Plats which include properties zone BRTZ.

6. Notwithstanding the provisions of CDC § 709(3)(b) and (c), § 708 and 709 shall specify that Conceptual Development Plans and Development Plan applications which include properties zoned BRTZ shall be reviewed and approved pursuant to Administrative Review.

7. CDC § 413, Phasing, shall provide for an exemption from the phasing standards for land use applications including properties zoned BRTZ. However, no Certificates of Occupancy will be granted for any development until critical improvements have been constructed.

8. Table 702-1 shall specify that the Decision Maker for Major Adjustments and Major Variances shall be the Planning Director.

9. CDC § 719.D(3) shall specify that for Variances for applications which include properties zoned BRTZ, in addition to Unnecessary Hardship, Practical Difficulty, and Acceptable Alternative, the criteria for approval includes:

The proposed variation is necessary to achieve the affordability and/or attainability goals of the proposed development.

11. DEDICATIONS OF LAND

YVHA shall dedicate to the City, or to the appropriate governmental entity, approximately 50,000 square feet of property for a fire station, generally in the areas shown in the Development Plan. The dedications will occur upon commencement of Phase 2. YVHA will dedicate the parks, trails, and open space identified in Section 3.c, and the City will accept the same for maintenance. The dedication of parks and trails will occur upon completion of construction, and the dedication of open space will occur upon platting of adjacent land. YVHA intends to partner with the Steamboat Springs School District for the development of a new school.

12. SUSTAINABILITY MEASURES

YVHA has articulated a sustainability framework in the Brown Ranch Community Development Plan with sustainable design considerations at both the development scale and building scale. The sustainability measures shall include, but not be limited to:

- i. Developing Health Equity, Resiliency, and Sustainability Design Guidelines that establish minimum criteria for all vertical development at Brown Ranch and are aligned with actions identified in the Routt County Climate Action Plan.
- ii. Exploring and innovating when feasible with respect to energy conservation, geothermal heating and cooling, photovoltaic energy and storage, energy-efficient building envelopes, energy-efficient fixtures and building systems, solar orientation and passive solar gain, meeting the highest standards for indoor water efficiency, and minimizing the need for outdoor irrigation.
- iii. Optimizing and planning for electric vehicle and bicycle transportation.
- iv. Preserving and restoring the section of the Slate Creek riparian corridor that passes through Brown Ranch.

13. VESTED PROPERTY RIGHTS

a. **Vested Property Rights.** The City will approve the creation of vested property rights for the Property pursuant to the Vested Property Rights Act, C.R.S. §24-68-101 et seq. In the event of conflict between this Agreement and the Vested Property Rights Statute or Municipal Code, this Agreement shall prevail.

b. **Vesting Term.** The term of vesting shall be 40 years commencing upon the date of recording the Annexation Ordinance and Map.

c. **Site-Specific Development Plans.** YVHA and the City agree that the Regulating Plan constitutes an approved “site specific development plan” as defined in the Vested Property Rights Statute, and that pursuant thereto, YVHA and its successors and assigns shall have vested rights to undertake and complete the development and use of the Property under the terms and conditions thereof during the vesting term established in Paragraph (b) above. The vesting term shall be memorialized in a Development Agreement in connection with the approval of the Regulating Plan (“Regulating Plan Development Agreement”).

d. **Rights Not Vested.** The establishment of rights vested under this Agreement, the Regulating Plan, and Regulating Plan Development Agreement shall not preclude the application by the City of City ordinances and regulations, including, without limitation, the following:

- i. City building, fire, plumbing, engineering, electrical, and mechanical codes and other similar technical codes and standards of the City;
- ii. City architectural, landscaping, and other development standards that are not inconsistent with the uses and densities permitted by the approved Regulating Plan;
- iii. Applicable federal regulations;
- iv. Any other general City ordinance or regulation that does not conflict with the uses and densities permitted by the approved Regulating Plan.

14. TERM

The term of this Agreement shall commence on the effective date (“Effective Date”) of the City ordinance annexing the Property and approving this Agreement (the “Annexation Ordinance”) and shall continue until the obligations of the Developer hereunder have been completed, satisfied, or financially secured to the satisfaction of the City (the “Term”), but not less than the period of vesting set forth in Section _____. 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 the (a) annexation of the Property to the City; (b) any common law vested rights obtained prior to such termination; (c) any rights arising from City permits, approvals, or other entitlements for the Property or the Development which were granted or approved concurrently with, or subsequent to the approval of this Agreement, the TND Zone District, and the Regulating Plan; (d) the parties’ rights pursuant to Section _____ concerning the prevailing party’s right to fees and costs in the event of litigation. Termination

of this Agreement shall not be construed to cause the termination of any of the agreements entered into pursuant to this Agreement which are of longer duration than this Agreement.

15. ANNEXATION CONTINGENCIES

Final approval of the Annexation Ordinance shall not be deemed to have occurred if on or before the thirtieth (30th) day following the effective date of the Annexation Ordinance either a) legal proceedings are commenced challenging the Annexation Ordinance or b) a petition is submitted to the City Clerk for a referendum on the Annexation Ordinance. Either party may, but shall have no obligation, to defend legal proceedings concerning the validity of the Annexation Ordinance.

In the event of a legal challenge and/or referendum, final approval shall occur upon final and non-appealable resolution of legal proceedings and/or referendum results affirming annexation of the Property. The annexation of the Property to the City shall not be effective until the occurrence of final approval.

If a referendum challenge to the Annexation Ordinance succeeds, this Agreement and all provisions contained herein shall be null and void and of no further effect. In the event the Annexation Ordinance or any portion thereof is voided by the final action of any court, this Agreement and all provisions contained herein shall be null and void and of no further effect unless the parties agree in writing to ratify the Agreement and seek to cure the legal defect(s) that resulted in the court action. If the parties agree in writing that such a cure is successful, YVHA may re-apply for annexation.

YVHA may withdraw the petition for annexation and terminate this Agreement if any legal challenge remains unresolved one (1) year after the effective date of the Annexation Ordinance. City shall not be responsible for processing applications for land use approvals relating to the Property and YVHA shall not be responsible for making payment, constructing improvements, or dedicating interests in real property to the City during the pendency of any legal challenge to or referendum regarding the Annexation Ordinance.

16. MORATORIA, GROWTH CONTROL, AFFORDABLE HOUSING AND/OR INCLUSIONARY ZONING MEASURES

No development moratorium or growth control limitation shall be applied against the Property unless the same is applied throughout the City generally, and which does not, in its structure or application, have a disproportionate impact upon the Property as compared to other properties. In addition, beyond the commitments in this Agreement, YVHA shall not, during the vesting term set forth in Subsection ____, be subject to any further affordable housing contributions and/or assessments, including but not limited to, affordable housing contributions, inclusionary zoning or other similar ordinance or rule intended to address the City's housing problem.

17. MISCELLANEOUS

a. **Effective Date.** This Agreement is contingent upon the City approval of the annexation and shall become effective as provided for in Paragraph ___.

b. **Parties' Authority.** The City and YVHA represent that each has the authority to enter into this Agreement according to applicable Colorado law and the City's Home Rule Charter and Ordinances, and each represents that the terms and conditions hereof are not in violation of any agreement previously entered into by such party. This Agreement shall not become effective until a resolution or other necessary authorizations for the execution of the Agreement are effective.

c. **Recording.** This Agreement shall be recorded in the Routt County Clerk and Recorder's Office in order to put prospective purchasers of the Property or other interested parties on notice as to the terms and conditions contained herein.

d. **Entire Agreement.** This Agreement and the exhibits hereto represent the entire understanding between the parties, and no other agreement concerning the Property, oral or written, made prior to the date of this Agreement, which conflicts with the terms of this Agreement shall be valid as between the parties.

e. **Modification.** This Agreement may be modified by the written agreement of the City and YVHA. No approval of a modification to this Agreement shall be required of any owner or person or entity holding any interest in any portion of the Property unless such right of approval has been specifically assigned to such owner, person, or entity in a written instrument of assignment, but nothing herein shall prohibit the City from requiring the approval of any such amendment in appropriate cases by other owners within the Property as a condition of the City agreeing to such amendment. An amendment to the TND zone district regulations, Regulation Plan, or City ordinances or other City regulations shall not constitute or require an Amendment to this Agreement. All amendments to this Agreement shall be in writing, shall be recorded with the County Clerk and Recorder of Routt County, Colorado, shall be covenants running with the land, and shall be binding upon all persons or entities having an interest in the Property, unless otherwise specified in the amendment.

f. **Additional Remedies.** If at any time any material part hereof has been breached by YVHA, the City may, in addition to other remedies, withhold approval of any or all building or other permits applied for by YVHA on its Property, or withhold issuance of certificates of occupancy, until the breach or breaches has or have been cured.

g. **Binding Effect.** Once the contingencies set forth in Section ___ have been satisfied, the agreements and covenants as set forth herein shall be binding upon YVHA and its successors and assigns, and shall constitute covenants or servitudes that shall touch, attach to, and run with the land that constitutes the Property. The burdens and benefits of this agreement shall bind and inure to the benefit of all persons who may hereafter acquire an interest in the Property, or any part thereof. YVHA shall as a condition of approval of the Annexation Ordinance execute and record

a document acknowledging and ratifying the binding effect of this Annexation Agreement on its successors and assigns to the Property.

h. **Severability.** In case one or more of the provisions contained in this Agreement shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

i. **Incorporation of Exhibits.** Exhibits A through G, inclusive, which are attached hereto, are incorporated herein by reference.

j. **Attorney's Fees.** If any action is brought in a court of law by either party to this Agreement concerning the enforcement, interpretation or construction of this Agreement, the prevailing party, either at trial or upon appeal, shall be entitled to reasonable attorney's fees, as well as costs, including expert witness' fees, incurred in the prosecution or defense of such action.

k. **Notices.** Any notices required or permitted hereunder shall be sufficient if personally delivered or if sent by certified mail, return receipt requested, addressed as follows:

City: Dan Foote
City Attorney
City of Steamboat Springs
137 10th St.
Steamboat Springs, CO 80487

with copy to: Gary Suiter
(which shall not City Manager
constitute notice) City of Steamboat Springs
137 10th St.
Steamboat Springs, CO 80487

YVHA: Yampa Valley Housing Authority
Attn: Jason Peasley
2100 Elk River Road
Steamboat Springs, CO 80477

with copy to: Elevation Law Group, P.C.
Attn: George M. Eck III
P.O. Box 770908
Steamboat Springs, CO 80487

Notices mailed in accordance with the provisions of this Paragraph shall be deemed to have been given on the 2nd day following mailing. Notices personally delivered shall be deemed to have been given upon delivery. Nothing herein shall prohibit the giving of notice in the manner provided for in the Colorado Rules of Civil Procedure for service of civil process

l. **Waiver.** The failure of either party to exercise any of its rights under this Agreement shall not be a waiver of those rights. A party waives only those rights specified in writing and signed by either party waiving such rights.

m. **Applicable Law.** This Agreement shall be interpreted in all respects in accordance with the laws of the State of Colorado.

n. **Counterparts.** This Agreement may be executed in several counterparts and/or signature pages and all counterparts and signature pages so executed shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties are not signatories to the original or the same counterpart or signature page.

o. **Paragraph Headings.** Paragraph headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

p. **Terminology.** Wherever applicable, the pronouns in this Agreement designating the masculine or neuter shall equally apply to the feminine, neuter and masculine genders. Furthermore, wherever applicable within this Agreement, the singular shall include the plural, and the plural shall include the singular.

q. **Assignment.** The rights and obligations of YVHA under this Agreement may not be assigned to a party unaffiliated with YVHA without prior written approval of the City, which may be granted or withheld by the City Council acting in its sole and exclusive discretion. Such approval shall not be unreasonably withheld or delayed unless the City Council reasonably believes such denial is justified based upon the reputation, credit, standing, or other similar qualifications of the proposed assignee. The express assumption of any of YVHA's obligations under this Subsection with the written consent of the City will thereby relieve YVHA of such obligations with respect to the matter so assumed and assigned.

r. **No Third-Party Beneficiaries.** Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and YVHA, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party. It is the express intent of the City and YVHA that any party other than the City or YVHA receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

s. **Colorado Constitution, Article X, Section 20.** This Agreement is not intended by the parties to create, and does not create, any multi-fiscal year financial obligation of the City or YVHA. All financial obligations of the City or YVHA hereunder are expressly subject to the annual appropriation of funds by the City Council or the Board of Directors, acting in their sole discretion.

IN WITNESS WHEREOF, the parties have executed this Agreement the date first written above.

[Signature pages follow]