



revenues for the development of affordable and attainable housing at Brown Ranch and related on- and off-site infrastructure, including, without limitation, a public safety facility, electrical infrastructure, multi-modal transportation facilities, parks, and other on- and off-site infrastructure; and

**WHEREAS**, the City Council finds that the waiver provisions of Section 25-77 of the Steamboat Springs Revised Municipal Code relating to the City’s Water Rights Dedication Policy apply to the annexation of Brown Ranch and that it is necessary and appropriate to the public health, safety, and welfare to waive the requirements of Section 25-77; 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 Ranch 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:

“AMI” shall mean Area Median Income.

"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 Brown Ranch, as in effect from time to time.

“Regulating Plan” or “Framework Regulating Plan” shall mean the 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 Community Development Code in effect as of the date this annexation becomes effective, or any amended Regulating Plan approved by the City pursuant to the Community Development Code provisions adopted after the effective date of the annexation.

“YVHA” shall mean the Yampa Valley Housing Authority, a Colorado multi-jurisdictional housing authority formed by the City of Steamboat Springs and Routt County.

“YVHA Affiliate” shall mean any entity owned in whole or part by the Yampa Valley Housing Authority, any District or Master Homeowners Association formed by the Yampa Valley Housing Authority, and any entity that is an owner of any part of the Brown Ranch and is engaged in a joint venture with YVHA to develop housing pursuant to this agreement.

## 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 395,000 square feet of non-residential uses at Brown Ranch, excluding the Public Safety Facility, the size of which is yet to be determined.

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), as generally set forth in the Brown Ranch Community Development Plan.

	PROGRAM	# OF UNITS BY PHASE			TOTAL PER TYPE	
		Phase 1	Phase 2	Phase 3		
RESIDENTIAL	Multi-family	Rental	593	221	221	1486
		Condo	179	136	136	
		<b>Sub-Total</b>	<b>772</b>	<b>357</b>	<b>357</b>	
	Single Family Attached	Rental	126	46	46	484
		Owner	104	81	81	
		<b>Sub-Total</b>	<b>230</b>	<b>127</b>	<b>127</b>	
	Single Family Detached	Rental	28	11	10	294
		Owner	94	76	75	
		<b>Sub-Total</b>	<b>122</b>	<b>87</b>	<b>85</b>	
	<b>Total by Phase</b>	<b>1124</b>	<b>571</b>	<b>569</b>	<b>2264</b>	

	PROGRAM	Building Type	Area in square feet			Total per type
			Phase 1	Phase 2	Phase 3	
COMMERCIAL / COMMUNITY	Grocery	Mixed Use	15,000			15,000
	Retail (coffee, restaurant, etc.)	Mixed Use	48,000	22,000	26,000	96,000
	Office Space/ Non-Profit Center	Mixed Use	10,000	8,000	10,000	28,000
	Childcare accepting CCAP	Mixed Use	5,000		5,000	10,000
	Public Safety Facility (Size TBD: 50,000 SF - 87,000 SF).	Free Standing	X*		-	X*
	School (site area)	Free Standing	-	200,000	-	200,000
	Recreational Special Use Facility	TBD	46,000	-		46,000
		<b>Total by Phase</b>		78,000*	230,000	87,000

The unit numbers and composition outlined above are based upon current assumptions about housing needs, community preferences, and available subsidies. It is YVHA's intention that the unit numbers, composition, and size of non-residential uses will be updated over time to account for changes in local housing needs. 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 based upon changes in demand.

## **B. Phasing Plan**

The Brown Ranch phasing plan is shown in the attached Exhibit "B". The sequence of development of the 1,124 units in Phase 1 is subject to revision by YVHA. However, the parties anticipate that the neighborhoods nearest US Hwy 40 will be the first element of Phase 1 to be developed.

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**

1) YVHA shall provide at least 62.71 acres of Neighborhood Parks, Mini-Parks, Greenways, and Community Parks, as generally shown in the attached Exhibit "C", or as may be amended through the development review process. 39.66 acres shall be Community Parks and 23.05 acres shall be Neighborhood Parks, Mini-Parks, or Greenways. YVHA is also providing 8.5 acres for a private indoor sports facility as referenced in Paragraph 7.C.4. The phasing of park dedications shall be as provided for in Section 11.B.

2) The City's PROSTR Plan states "To continue to provide the same level of service for community parkland as existed in 2017... there would need to be one large multi-purpose community park constructed that is at least 46 acres in size. This park would serve the entire community[.]" The City has identified a 187.87 adjoining parcel to the northeast of Brown Ranch. YVHA agrees to provide utilities and secondary access to the boundary between Brown Ranch and the adjoining parcel as provided for in Section 11.B.1.

3) 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. The phasing of Open Space dedications shall be as provided for in Section 11.B.

4) 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.

5) Construction of parks, trails, and open space shall be phased with the development of each neighborhood in accordance with the CDC, and as set forth in Subsection 7.C below. The parties agree to jointly develop a Brown Ranch Parks Design & Construction Manual to include design

guidelines and construction specifications for the planning, design, and construction of greenways, open space, parks, and trails. The dedication and maintenance provisions for Brown Ranch parks, open space, and trails are provided for in Subsections 7.C and 11.B below.

6) The City shall not require the dedication of additional real property for the purpose of parks, open space, or trails, nor shall the City require the relocation of any of the parks, open space, or trails shown in Exhibit C as a condition of any City approval during the vesting term provided in Section 13, or any future extension of such term, unless there is a material change to the General Plan of Development. The City may enforce CDC or other City requirements relating to parks, open space, or trails that do not relate to minimum land area requirements or location.

#### 7) North UGB Open Space

- a) YVHA retains all development rights for the 114 acres of the YVHA property north of the Urban Growth Boundary (“North UGB Open Space”).
- b) YVHA shall maintain the North UGB Open Space as open space for a minimum of twenty (20) years commencing on the later of i) completion of construction of 450 residential units or ii) YVHA’s completion of construction of the trail system in the North UGB Open Space. YVHA shall provide utilities and paved road access to the North UGB Open Space when platting all or part of any adjacent neighborhood(s). YVHA shall develop the trails in North UGB Open Space as shown in Exhibit “C” within four years of issuance of the first building permit for the project and shall execute a license agreement in substantially the form of the attached Exhibit I granting public access to the North UGB Open Space upon completion of construction of the trail system.

#### **D. Wildfire Mitigation**

YVHA’s 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. The provisions of the Guidebook shall be subject to and shall not supersede federal, state, or local wildfire mitigation regulations.

YVHA shall be responsible for maintenance of the wildfire mitigation measures except as otherwise provided for in Section 7.C.

### **3. INFRASTRUCTURE PLAN FOR UTILITIES OTHER THAN CITY UTILITIES**

#### **A. YVHA Obligation**

1) YVHA shall pay from YVHA revenue, including without limitation YVHA tax revenues, grant proceeds, contributions from the City, and any other source in YVHA’s discretion, all costs for the design and construction of all utility services, other than City utilities, necessary to serve the Brown Ranch, including, but not limited to, electricity, geothermal, telephone, gas, broadband, 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, and free and clear of all liens and encumbrances, those easements and rights-of-way necessary for installation and maintenance of said utility lines.

2) 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, 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.

3) YVHA reserves the right to provide utility service, in whole or part, to Brown Ranch through the establishment of a special district or districts (“District”). Any District formed pursuant to this paragraph shall be allowed to use the utility easements and rights-of-way within Brown Ranch necessary for the installation and maintenance of utility lines.

The City agrees that the formation of a District or Districts by YVHA may be beneficial to the development of Brown Ranch and supports the formation of Districts. City approval of a service plan or service plans will depend on the details of the service plan and the services to be provided. The approval by the City of a service plan or plans or other action by the City relating to the formation of Districts by YVHA shall be made in the sole discretion of the City Council based on the criteria set forth in the City’s Municipal Code, Chapter 13, Article VII.

4) The City agrees to provide reasonable 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 PLAN FOR ONSITE INFRASTRUCTURE**

#### **A. YVHA Obligation.**

1) YVHA shall pay from YVHA revenue, including without limitation YVHA tax revenues, grant proceeds, contributions from the City, and any other source in YVHA’s discretion, all costs for the design and construction of all onsite public and private infrastructure 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, and 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.

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

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

### **B. Reimbursement.**

1) The Parties agree that YVHA shall be entitled to reimbursement of certain costs of construction of certain public improvements paid from YVHA revenues. YVHA shall not be entitled to reimbursement for costs paid using STR tax funds or other City revenues. The City agrees that it will require, as a condition of annexation of any property that is subject to the WSSAP (a “Benefited Property”), that YVHA will be reimbursed by the developer of such Benefited Property a proportionate share of the cost of such infrastructure which serves the 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 Benefited 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.

2) 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 CDC for reimbursement of expenses not otherwise reimbursable under this Paragraph.

3) This provision shall not apply to any property annexed pursuant to an annexation ordinance adopted more than twenty (20) years after the effective date of the ordinance annexing the Brown Ranch.

4) This provision shall not apply to the annexation, if any, of a Regional Park site by the City.

### **C. Maintenance.**

The terms of the provision of City services related to the public infrastructure, and the maintenance of same, are provided for in Sections 5 and 7 below. The City agrees to provide reasonable 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 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. 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.

**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 as required by C.R.S. 29-20-301, et. seq., and Section 25-78 of the City’s Municipal Code depends on the future completion of a Water Demand Analysis. 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:

- 1) 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 the City’s expense at an estimated cost of \$1,200,000. The City will use all reasonable efforts to construct this project prior to 2026.
- 2) 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 the City’s expense at an estimated cost of \$1,000,000. The City will use all reasonable efforts to construct this project prior to 2025. This project will be constructed in conjunction with the Core Trail West project, which is not currently funded. The City has received partial grant funding for this project, is in the process of acquiring easements, and expects to commence construction in 2024.
- 3) Onsite distribution facilities. Construction of these facilities shall be the responsibility of YVHA as provided for in Section 4.
- 4) 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). The 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 City does not own a site for the Elk River Water Treatment Facility, or the necessary easements or other property rights for distribution of treated water to Brown Ranch. The parties acknowledge that the City owns certain water rights, with authorized points of diversion and related storage rights, that are adequate to provide



sufficient raw water to the proposed Elk River Water Treatment Facility to allow for the full development of Brown Ranch.

5) 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. Brown Ranch is allocated approximately 66% of the need for the Elk River Water Treatment Facility. The parties agree to update this estimate pursuant to the process set forth in Section 6.B.4.

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, from the Steamboat II Metropolitan District, and from any other customers using the Elk River Water Treatment Facility.

6) 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:

- a) Plant investment fees (i.e. taps fees) shall include a surcharge collected by the City for development at Brown Ranch attributable to the Elk River Water Treatment Facility, the amount of which shall be determined and adjusted from time to time by the City through periodic rate studies.
- b) Plant investment fees shall be paid by YVHA at time of building permit application in accordance with City regulations. The City will accept prepayment of plant investment fees. Prepayments shall be designated to specific units, neighborhoods, or project phases. YVHA shall be responsible for any increase in plant investment fees occurring after the prepayment and prior to the issuance of related building permits.
- c) YVHA may pay plant investment fees using STR funds, provided that payments in any fiscal year shall not exceed 10% of the Utility Fund budget for that fiscal year.

7) 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 13, or any future extension of such term unless, there are material changes to the General Plan of Development that increase demand on the City water supply infrastructure. The City reserves the right to revise plant investment fees in accordance with the provisions of the City's utility code. The City shall use the same methodology for assessing fees for Brown Ranch water service as it applies to the rest of the City's water utility service area.

It is the present intention of the City to use all reasonable efforts:

- a) to acquire a site for the Elk River Water Treatment Facility prior to water demand at Brown Ranch exceeding 300 EQRs;
- b) to begin construction of the Elk River Water Treatment Facility prior to water demand at Brown Ranch exceeding 600 EQRs; and

- c) to complete construction of the Elk River Water Treatment Facility prior to demand at Brown Ranch exceeding 800 EQRs.

Completion of the Elk River Water Treatment Facility will require the City to acquire a site, easements, and other real property interests for the construction of the Elk River Water Treatment Facility and related distribution lines, and to issue bonds via the City's Utility Fund to defray construction costs. Site acquisition and issuance of bonds are subject to the legislative discretion of future City Councils.

## **B. Water Conservation**

YVHA shall implement a water conservation and efficiency plan outlining YVHA's commitments to conserving water at Brown Ranch. The plan shall meet or exceed the City's current policy of a 10% reduction in treated water use in ten years. The City shall provide a water budget that is acceptable to YVHA for use as a baseline to evaluate the YVHA water conservation and efficiency plan. The parties' staffs will collaborate to develop the water conservation and efficiency plan to include, without limitation, the following elements:

- 1) Significant reduction in private yards in favor of common spaces that are centrally managed;
- 2) Integrate water conservation with land use planning;
- 3) Water budget agreement and monitoring plan;
- 4) Water-efficient building practices such as low flow fixtures;
- 5) Site design that preserves areas important for water quantity or quality;
- 6) Water re-use capabilities.

The water conservation and efficiency plan may be amended from time to time, in accordance with state guidelines, which currently provide for updates every seven years. Amendments shall be subject to the approval of the City Public Works Director, which approval shall not be unreasonably withheld. In determining whether to approve a plan amendment, the Public Works Director shall consider whether the plan incorporates water conservation best practices as of the date of the amendment, whether best practices are appropriate to local conditions, and whether incorporation of best practices is consistent with YVHA and the City's goals of developing affordable and attainable housing.

## **C. Water Rights Dedication**

1) Section 25-77 of the City's Revised Municipal Code requires the owner of property seeking new water service from the City to prepare a water demand report and to dedicate to the City a water supply equal to 110% of the water rights necessary to meet the requirements identified in the water demand report. Section 25-77 further gives the City Council discretion to accept cash in lieu of water rights in an amount equal to the cost of acquisition of the water rights described above, if the City has sufficient water rights to meet the estimated water requirements for the property to be served, and the cash payment is used to meet the City's most pressing water supply needs. City Council has the power to waive this requirement if the waiver is consistent with and furthers the purpose of the water rights dedication policy and is rationally related to the water demand of the proposed development.

2) YVHA does not own water rights necessary to meet the requirements identified in the water demand report. The City estimates that the applicable cash in lieu payment would equal approximately \$10,500,000.

3) The City's most pressing water supply need is funding for the development of its water rights on the Elk River, supplemented by leased water at Steamboat Lake. The parties agree that the proposed annexation and development of Brown Ranch will further the development of the City's Elk River water rights by providing the majority of funding for the acquisition of property rights for and the construction of the Elk River Water Treatment Plant through the plant investment fund surcharge referenced in Paragraph 5.A.6. The City's existing Elk River water rights are adequate to serve the proposed development of Brown Ranch.

4) For the foregoing reasons, the City Council finds that a waiver of the cash in lieu requirement in favor of the Elk River Water Treatment Plant investment fee surcharge is consistent with and furthers the purpose of the water rights dedication policy, and is rationally related to Brown Ranch water demand, and hereby waives the cash in lieu requirement.

#### **D. Wastewater Service**

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

1) 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. YVHA shall confirm during the development process that the existing facilities are adequate to convey wastewater, and YVHA shall be responsible for upgrading any existing facilities that are inadequate to convey anticipated flows.

2) 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 95% capacity. The wastewater treatment facility is currently at 73% capacity. The expansion of the wastewater treatment facility will be paid for by the City.

3) Units in Brown Ranch will pay wastewater plant investment fees on the same basis as other City wastewater utility customers. The City will accept prepayment of plant investment fees. Prepayments shall be designated to specific units, neighborhoods, or project phases. YVHA shall be responsible for any increase in plant investment fees occurring after the prepayment and prior to the issuance of related building permits. YVHA may pay plant investment fees using STR funds provided that payments in any fiscal year shall not exceed 10% of the Utility Fund budget for that fiscal year.

4) 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 13, or any future extension of such term, except in the case of a material change to the General Plan of Development that increases demand on City wastewater infrastructure. The City reserves the right to revise wastewater plant investment fees in accordance with the provisions of the City's utility code. The City shall use the same methodology for assessing fees for Brown Ranch wastewater service as it applies to the rest of the City's water utility service area.

## **6. OTHER OFFSITE INFRASTRUCTURE**

### **A. YVHA Share.**

YVHA shall be obligated to pay its proportionate share of the cost of offsite infrastructure necessary to offset the impacts of the development of Brown Ranch. Offsite improvements include, without limitation, energy, communications, transportation, and public safety infrastructure (the "Offsite Improvements"). The parties acknowledge that although the Combined Public Safety Facility is located within Brown Ranch, it provides benefits to both Brown Ranch and to existing City residents, and that its costs should be allocated between the parties on that basis in the same manner as Offsite Improvements. The parties agree that the development of Brown Ranch at full build out will create demand necessitating the public infrastructure improvements identified in Exhibit "E," and that YVHA's share of the cost of these improvements shall be as identified in Exhibit "E".

### **B. Use of STR Tax Revenues for Offsite Infrastructure**

1) Exhibit E shows that YVHA's estimated proportionate share of the Offsite Improvements in which the City has an associated cost ("City Projects") is \$20,206,447. This figure excludes the Combined Public Safety Facility, the Elk River Water Treatment Facility, and the expansion of the wastewater treatment plant, the funding for which is provided for elsewhere in this agreement. YVHA shall pay to the City the first \$20,206,447 of STR Tax funds allocated to it for the purpose of design and construction of Offsite Improvements that are to be constructed by the City.

- a) Funds restricted for this purpose shall be held with other City funds, but shall be accounted for as restricted funds and shall be used for no purpose other than the construction of Offsite Improvements. The City may consolidate these funds to prioritize the construction of Offsite Improvements.
- b) YVHA payments shall be accomplished by the City's restricting the use of the relevant funds through internal City accounting procedures.

2) YVHA's estimated proportionate share in the preceding paragraph, and the cost estimates and improvements identified in Exhibit E, are subject to revision by the parties as provided below, and are subject to reconciliation with actual project costs.

3) The Parties acknowledge that the timing for the need and construction of the Offsite Infrastructure may be unknown at this time, may change based upon the speed of the development of Brown Ranch, and upon other factors.

- a) The Parties anticipate that STR tax funds allocated to YVHA will be applied to projects in the following order:
  - i) US Hwy 40 Improvements.
  - ii) Core Trail Improvements.
  - iii) Combined Public Safety Facility Funding (this reference is not intended to supersede the payment schedule set forth in Subsection 7.D).
  - iv) Community Parks.
  - v) On-site Infrastructure Funding.
  - vi) Vertical Construction Funding.
- b) The Parties may agree to defer payment by YVHA of STR Tax funds to the restricted funds for Offsite Infrastructure as provided for in Section B.1. above, and instead allocate the STR Tax funds to YVHA for on and off-site infrastructure projects undertaken by third party utility providers, for onsite infrastructure projects undertaken by YVHA, and/or for vertical construction of housing units. This decision will be made jointly by the Parties on a yearly basis, as provided for in B.4. below.
- c) Upon completion of the 200<sup>th</sup> residential unit, YVHA shall form a Brown Ranch Homeowners Association, Resident Advisory Board, or equivalent to advise YVHA and the City on the need and priorities related to Community Parks and other publicly accessible onsite infrastructure.

4) The Parties shall review and update the project list and cost estimates, or actual costs for completed projects, set forth Exhibit E by August 1 of each year to provide the City with the most accurate information available to incorporate in the City’s Capital Improvement Program (“CIP”) budgeting process, to prioritize the development of Offsite Infrastructure, and calculate YVHA cost shares on the basis of the most current data and to account for payments for projects by YVHA of STR Tax funds allocated to it, or payments by YVHA for projects using other funding sources, including grant funding, and to determine if STR Tax funds should be directly allocated to YVHA for on and off-site infrastructure projects undertaken by third party utility providers, for onsite infrastructure projects undertaken by YVHA, and/or for vertical construction of housing units.

In determining the sequence and priority Offsite Infrastructure the parties shall take into account the following factors:

- a) Maximizing each party’s access to and use of grant funds;
- b) Promoting the timely development of affordable and attainable housing at Brown Ranch;
- c) Promoting the efficient and cost-effective development of Brown Ranch;
- d) Applicable regulatory requirements, including CDC requirements.

The parties shall negotiate in good faith to reach a mutually agreeable resolution of any disputes.

The City agrees to provide YVHA with a schedule of STR funds held by the City for restricted purposes pursuant to this Annexation Agreement on an annual basis during the review contemplated by this subsection.

5) YVHA shall be responsible for payment of all costs of the Offsite Improvements that are to be constructed by third parties such as the Yampa Valley Electric Association or other utility providers and that are assessed to the Brown Ranch project by the third party or third parties. The City shall not be responsible for the costs of any third-party infrastructure.

### **C. City Share**

The City shall be responsible for identifying funding sources for that portion of the costs of constructing Offsite Improvements not attributable to YVHA from the City's Capital Improvements Fund, other developer contributions, grant funding, and other sources. The City does not guarantee a completion date for Offsite Improvements. Their completion is expressly conditioned on the appropriation of funds by the City to satisfy the City cost share. However, the City shall consult with YVHA as to the timing and prioritization of construction of Offsite Improvements.

### **D. Other Uses of STR Tax Funds**

After YVHA has paid to the City its proportionate share of the Offsite Improvements as provided for in Section 6.B., YVHA shall use the STR Tax revenues allocated to it for on- and off-site infrastructure projects undertaken by third party utility providers, for onsite infrastructure projects undertaken by YVHA, and for vertical construction of housing units.

YVHA acknowledges that the City's use of STR Tax revenues is restricted by the terms of the ballot question approving the STR Tax and that it is necessary for the City account for the proper use of STR Tax funds. YVHA agrees to maintain all books, accounts, records, payment ledgers, invoices, and other documents relating to the use of STR Tax funds for a period of three (3) years from the expenditure of STR Tax funds and to permit the City to inspect these documents upon request of the City's Finance Director. YVHA agrees that if any STR Tax funds are to be paid to YVHA Affiliates or business partners, that the transfer of STR Tax funds shall be conditioned on the YVHA Affiliate or business partner agreeing to these record-keeping and inspection requirements.

## **7. CITY SERVICES/OPERATIONS/MAINTENANCE RESPONSIBILITIES**

The City hereby agrees to provide City services to Brown Ranch on the terms and conditions set forth below.

### **A. Streets**

1) The City shall accept the Brown Ranch internal street system for maintenance in accordance with the provisions of the CDC and the City's Engineering Standards. The parties estimate the City's annual operating costs for the maintenance of the YVHA street system to be \$800,000 in 2023 dollars. The cost of this service is included in the \$1,203 per unit calculation for the Annual Operating Contribution in Subsection 7.E. 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.

2) 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. Service levels shall be in accordance with standards and practices applicable to pavement repair, pavement overlay schedules, maintenance and replacement of stormwater and drainage facilities, and prioritization of snow removal in accordance with street classification.

3) YVHA acknowledges that minimum City standards for right of way widths represent a compromise between the efficient use of land and the effective operation of roadways for multi-modal transportation and parking uses. Staff recommends that YVHA incorporate into the planning of its internal street system the effect of winter conditions, snow removal operations, and snow storage on roadway width; the availability of on street parking; and sidewalk maintenance. The use of minimum City standards may result in operational compromises and increased costs for snow plowing and removal during some winter seasons.

#### 4) Alley Maintenance

- a) 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.
- b) 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.

5) 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 in locations to be determined during the subdivision review process. YVHA shall provide snow storage for snow removed from these zones at internal Brown Ranch sites in locations to be identified during the subdivision review process.

## 6) Additional Plow Route Equipment

- a) 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 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, and any other source in YVHA's discretion.
- b) 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 after receiving delivery of the equipment described above and hiring and training operators. The City estimates the lead time for equipment and personnel to be fourteen months (current lead time, to be updated as circumstances change) from payment by YVHA of the requisite capital costs.

## B. Transit

- 1) The parties acknowledge that existing City policy will require YVHA to assume responsibility for onsite capital costs of transit facilities necessary to the provision of transit services. The City will be responsible for operational costs and maintenance of shelters, shelter pads, and pullout lanes. City shall also be responsible for acquisition of buses. Adjacent property owners will be responsible for the maintenance of sidewalks providing access to transit stops.
- 2) The City's existing revenue sources are adequate to extend service to Brown Ranch. The City will extend service by relocating the existing western terminus of SST routes from the current KOA site to the Slate Creek Road entrance to Brown Ranch (hereafter "US Hwy 40 Service"). The City agrees to provide the US Hwy 40 Service to Brown Ranch. Frequency of service, bus capacity, and other operational decisions shall be subject to the discretion of City Council pursuant to the City's annual budget process. The City shall also provide micro transit service within Brown Ranch commencing upon YVHA's agreement to fund micro transit service.
  - a) The estimated costs to provides the US Hwy 40 level of service are as follows:
    - i) Capital costs in the amount of \$1,000,000 for the relocation of the western terminus of SST routes, which are the responsibility of YVHA as part of the onsite infrastructure identified in section 7.B.1 above;
    - ii) Annual operating costs increase would be negligible;
  - b) The City agrees to assume the responsibility for any increase in operating costs to provide US Hwy 40 Service.
  - c) Contracted micro transit service to connect the SST routes to internal Brown Ranch sites is estimated to cost \$400,000 annually. The service will be an on call service with up to two vehicles operating up to eleven hours per day. YVHA may request reduced service levels if demand does not justify the two vehicle, eleven hour level of service. City shall provide or contract for this service. YVHA shall reimburse the City for the cost of this



service as provided in Subsection 7.E. The cost of this service is included in the \$1,203 annual impact per unit.

### **C. Construction and Maintenance of Parks, Trails, and Open Space**

1) Neighborhood Parks, Mini-Parks, and Greenways. YVHA shall construct, at its expense, the Neighborhood Parks, Mini-parks, and Greenways identified in Section 2.C and Exhibit “C”. YVHA shall dedicate the Neighborhood Parks, Mini-Parks and Greenways to the City. YVHA shall retain maintenance responsibility for Neighborhood Parks, Mini-Parks, and Greenways. Greenways are intended to be amenity rich parks. YVHA shall construct Greenways to meet parkland needs in neighborhoods by providing small play areas, shade pavilions, and open play areas.

2) Community Parks and Regional Park. YVHA shall dedicate to the City land for the Community Parks identified in Section 2.C and Exhibit “C”. Construction and maintenance of the Community Parks and Regional Park shall be the responsibility of the City.

3) Trails. YVHA shall construct, at its expense, the trails identified in Subsection 2.C and Exhibit “C”. Except as to the North UGB Open Space, YVHA shall dedicate trails within Brown Ranch to the City following construction and acceptance of the trails by the City for maintenance.

4) Sports Barn. YVHA shall enter into an agreement with the Steamboat Sports Barn, Inc., a Colorado nonprofit corporation for the development of an indoor field sports facility on approximately 8.5 acres of the Brown Ranch. The site of the facility will include outdoor playground(s) with a minimum aggregate size of 15,000 square feet and shade structure(s) with a minimum aggregate size of 800 square feet. YVHA and Steamboat Sports Barn, Inc. shall hold the playground(s) and shade structure(s) portion of the Sports Barn site open to the public. YVHA and Steamboat Sports Barn, Inc. shall cause a building permit to be issued for the construction of the facility within 5 years of the effective date of the Annexation Ordinance, and shall complete the construction of the facility within 8 years of the effective date of the Annexation Ordinance. If YVHA and Steamboats Sports Barn, Inc. have not completed the foregoing within the timeframes provided, YVHA shall develop the site as a neighborhood park pursuant to the terms of this Agreement. Operation and management of the facility shall be the responsibility of Steamboat Sports Barn, Inc. and/or YVHA. The City shall have no responsibility for construction, operation, or maintenance of the facility.

5) Open Space. YVHA shall construct, at its expense, the open space identified in Section 2.C and Exhibit C. Construction of Open Space shall comply with the provisions of the CDC and shall include construction of a trailhead, vault toilet, system signage and parking. Except as provided in Section 2.C with respect to the North UGB Open Space parcel, open space within Brown Ranch will be dedicated to the City and accepted by the City for maintenance.

6) The parties will work together to coordinate construction activities to allow for efficient use of cut and fill materials to the extent possible. YVHA agrees to consult with the City’s designee with respect to YVHA’s grading contract and to allow the City to add units to any YVHA unit price contract at City expense.

7) Phasing. Except as provided in Section 2.C with respect to the North UGB Open Space, YVHA shall construct the Neighborhood Parks, Mini-Parks, Greenways, Open Space, and Trails simultaneously with the platting and development of any adjacent residential property and in accordance with CDC requirements.

8) Maintenance of sidewalks shall be the responsibility of the adjoining property owner, as provided for in Chapter 20, Article II of the Revised Municipal Code.

#### **D. Police, Fire, and EMS Services**

1) The Steamboat Springs Police Department and Steamboat Springs Fire Rescue shall provide police, fire, and EMS services (“Public Safety Services”) to Brown Ranch.

2) Provision of Public Safety Services to Brown Ranch will require the construction of a combined public safety facility. YVHA agrees to dedicate the site for this facility at a mutually agreed upon location to the City and the Steamboat Springs Area Fire Protection District (“SSAFPD”) as part of the initial final plat of the first phase of development, currently anticipated to be the neighborhood closest to US Highway 40, as provided in Section 11. The combined public safety facility shall include the following design and programming elements:

- a) Approximately 22,000 sq/ft station that includes:
  - i) 6 Fire Apparatus Bays – 5,900 sq/ft
  - ii) Police Space – 2,040 sq/ft (two vehicle bays – 840 sq/ft);
- b) Parking spaces adequate to meet facility needs with consideration given to YVHA’s regional parking strategy;
- c) Flat paved space for Fire/PD training – 1,000-1200 sq/ft; and
- d) Access and maneuvering areas accommodating fire vehicle turning radii.

The parties anticipate that accommodating the design and programming elements described above will require a site of approximately 50,000 sq.ft. to 87,000 sq.ft. YVHA agrees to dedicate to the City and SSAFPD and the City agrees to accept from YVHA the dedication of a site large enough to accommodate a combined public safety facility with the design and programming elements described above.

The City and SSAFPD shall be responsible for design of the combined public safety facility and to provide a schematic design prior to the dedication of the site required by this Paragraph 2). The schematic design shall be used to determine the necessary land area, location, and configuration of the combined public safety facility.

3) The public safety station (police and fire) is estimated to cost approximately \$21,550,000. YVHA agrees to provide 75% of the total construction costs for a currently estimated total of approximately \$16,087,200 (estimates are 2023 dollars and are expected to increase with inflation). YVHA’s cost share shall be reduced by the value of that portion of the land dedicated by YVHA that is attributable to the City/Fire District share of the total construction costs, i.e. 25%. The value shall be determined by an appraisal provided by an appraiser selected by the

mutual agreement of the parties. YVHA shall provide its funding for the public safety building prior the earlier of building permits being issued for 740 units.

4) YVHA shall provide the City of Steamboat Springs and the SSAFPD with a share of the necessary funds to purchase the fire apparatus and start up equipment identified in Exhibit "F". Current estimates for apparatus and equipment are \$3,218,400 with YVHA proportion estimated at \$2,509,648 or 78% of total costs as defined in Exhibit "F" (estimated costs are in 2023 dollars and are expected to increase with inflation). YVHA shall provide its share of funding for fire apparatus and equipment on the same schedule as its share of construction costs for the public safety building.

5) YVHA shall provide the City of Steamboat Springs the funds to purchase necessary police vehicles and start up equipment estimated at \$438,000 (estimated cost is in 2023 dollars and is expected to increase with inflation). YVHA shall provide these funds at the same time as it funds the YVHA share of the public safety facility and fire equipment.

#### **E. Fiscal Sustainability/General Fund Operations**

1) The parties' fiscal impact analysis identifies a \$1,203 annual impact per unit to the City's general fund that results from extending City services (general government, streets, transit, fire, police, parks) to Brown Ranch. This deficit is net of revenues the City expects to receive directly or indirectly from the Brown Ranch development.

2) YVHA agrees to reimburse the City to offset the Brown Ranch impact to the general fund on an annual basis. The payment shall be in the amount of \$1,203 per residential unit that has been issued a certificate of occupancy in the Brown Ranch (the "Annual Operating Contribution"). The Annual Operating Contribution shall be payable on January 31 of each year based on the number of units with Certificates of Occupancy or Temporary Certificates of Occupancy as of the previous December 31. The amount of the Annual Operating Contribution shall be adjusted on January 1 of each year in accordance with the Consumer Price Index published by the United States Department of Commerce ("CPI-U") then applicable to Routt County (currently, the Denver-Aurora-Lakewood statistical area) beginning on January 1, 2024 and using the 2023 CPI.

3) If the City imposes a new or increased property tax or if the City imposes a fee to offset the cost of providing services included in the Annual Operating Contribution, the Annual Operating Contribution shall be reduced by the revenue attributable from Brown Ranch to the City due to said new or increased property tax or fee (i.e., if a new property tax or fee generates to the City an average of \$100 per unit within Brown Ranch, the Annual Operating Contribution shall be reduced to \$1,103). If the provision of City service(s) to Brown Ranch are assumed by other governmental entities, the Annual Operating Contribution will be reduced by the line item in the fiscal impact analysis corresponding to that service, adjusted for inflation.

4) The City may elect to reduce service levels for services other than public safety services (i.e. police and fire) in any year for which YVHA does not make the Annual Operating Contribution required by this Subsection 7.E. City shall not reduce service levels without a) providing YVHA

with written notice of default, b) providing YVHA not less than ninety (90) days to cure the default, and c) obtaining City Council approval of the reduced service levels at a public hearing.

## **8. AFFORDABILITY/ATTAINABILITY OF HOUSING**

### **A. General.**

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 all types of short-term rentals will be prohibited throughout Brown Ranch.

The annexation of Brown Ranch is subject to the affordable and attainable housing provisions of the West of Steamboat Springs Area Plan (“WSSAP”), which establishes a policy of permanent affordability for affordable and attainable housing. WSSAP establishes a minimum requirement that 20% of units in WSSAP be affordable to households at 80% AMI. WSSAP requires that the City ensure that new housing that is required by WSSAP or that receives significant public subsidies remains affordable in the future.

### **B. Housing Demand Study.**

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. YVHA is uniquely qualified to prepare and update the Demand Study. This obligation is not assignable and shall not be assumed by any assignee or successor to YVHA’s interest in all or part of the Brown Ranch.

### **C. Affordability Guarantees for Grant Units.**

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.

### **D. Affordability Guarantees for Units not Subject to Grant Requirements.**

For sale units in housing projects in Brown Ranch that are not subject to specific affordability requirements pursuant to the preceding paragraph, shall be encumbered by the Deed Restriction attached hereto as Exhibit “D1”, at the appropriate AMI levels for the Unit, and for-rent Units shall

be encumbered by the Use Covenant attached hereto as Exhibit “D2”, 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.

#### **E. Subordination.**

Deed restrictions applicable to for sale units or lots shall be senior to all liens and encumbrances other than first mortgages or deeds of trust securing purchase money loans. Deed restrictions may be subordinated to first mortgages or deeds of trust securing money purchase loans on the condition that YVHA shall have an option to purchase in the event of foreclosure in substantially the form set forth in Article VIII of Exhibit “D1”.

Deed restrictions or use covenants shall not be subordinated to vertical or horizontal construction financing. If YVHA is unable to fund a project without subordination of deed restrictions or use covenants, YVHA may request a waiver of this provision. Waivers may be granted only by the City Council and may be granted or denied in the City Council’s sole discretion.

#### **F. Implementation.**

1) Upon Annexation YVHA agrees that each parcel will be developed with terms and conditions of the proposed affordability and attainability requirements include the following elements, where allowed by Federal Law:

- a) Local employment;
- b) AMI qualification limits;
- c) Primary residence requirement;
- d) Appreciation caps (sales units)/rental rate caps (rental units)
- e) Prohibition on short term rentals;
- f) Prohibition on ownership of improved residential real property;
- g) Provision ensuring permanence of affordability/attainability requirements;
- h) Enforcement procedures, including at time of application and during occupancy.

Both Parties acknowledge that Fair Housing Laws may prohibit one or more of these elements. YVHA will use best efforts to achieve all affordability elements within each neighborhood.

2) Affordability and Attainability Development Agreements. As a condition of any Development Plan or Final Plat approval, YVHA and any other owner of the subject property shall execute a Development Agreement with the City that includes:

- a) A statement identifying whether the lot(s) or unit(s) being approved will be subject to the grant specific affordability and attainability requirements referenced in Subsection C, the deed restriction referenced in Subsection D, or the Use Covenant referenced in Subsection D.

- b) The terms of the affordability and attainability requirements that are to be imposed on the lot(s) or unit(s) except that identification of AMI targets for the lot(s) or unit(s) may be deferred or subject to revision in the documents referenced in Subparagraph c);
- c) The timing and procedure for implementing the affordability and/or attainability requirements along with final AMI target requirements.
  - i) In the case of lots or units that are to be offered for sale, the development agreement shall provide that the Deed Restriction referenced in Subsection D or a deed restriction implementing the grant requirements referenced in Subsection C shall be recorded simultaneously with the final plat or prior to issuance of a Building Permit.
  - ii) In the case of lots or units that are to be owned by YVHA or jointly by YVHA and YVHA affiliates, the development agreement shall provide for the imposition of the Use Covenant referenced in Subsection D or any covenant imposing the grant requirements referenced in Subsection C prior to issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy.

3) Permanence. The parties acknowledge that for purposes of Subparagraph 2.f), permanence means a perpetual restriction on the use and occupancy of the subject property. However, the parties agree and acknowledge that perpetual restrictions may not be consistent with the financing structure of Low-Income Housing Tax Credits (“LIHTC”) projects. The parties expect that:

- a) LIHTC projects will be an essential component of its strategy to develop housing for very low and low income (30% to 60% AMI) households;
- b) YVHA will retain an equity interest in LIHTC projects;
- c) YVHA will hold a right of first refusal to purchase LIHTC projects on the expiration of the project affordability and attainability requirements;
- d) LIHTC projects will constitute approximately thirty (30) percent of the rental units to be developed at the Brown Ranch; and
- e) LIHTC projects will include a minimum term of forty (40) years for their affordability and attainability requirements.

The City will deem affordability and attainability requirements for LIHTC projects to be permanent for purposes of Subparagraph 2.f) in the circumstances described above if each of the circumstances above applies to the LIHTC project and if YVHA agrees to give the City one (1) years’ notice of expiring affordability and attainability requirements for LIHTC projects and to consult with the City regarding the YVHA’s decision whether to exercise its right of first refusal.

The City acknowledges the need for flexibility to allow YVHA to access all available grant sources to fund development of affordable and attainable housing at Brown Ranch. The City Council may apply the principles described above on a case-by-case basis to approve other types of deed restrictions applicable to Very Low and Low Income grant projects.

4) No Waiver. YVHA acknowledges that the development of permanent affordable and attainable housing is a material inducement to the City’s annexation of the Brown Ranch and to the concessions made by the City in this Annexation Agreement. No City official is or shall be authorized to waive the requirement of execution of the Development Agreement(s), deed restrictions, and/or use covenants required by this subsection and no party shall be entitled to rely

on any Final Plat, Development Plan, Certificate of Occupancy or Temporary Certificate of Occupancy, or Building Permit approved in violation of this Subsection. Any lease or sale of a unit or lot developed in violation of this Subsection shall be voidable by the City. Any Final Plat, Development Plan, Certificate of Occupancy, Temporary Certificate of Occupancy, or Building Permit issued or approved in violation of this Section may be revoked by the City after a hearing before the City Council.

5) Excepted Parcels. All residential developments within Brown Ranch will be subject to the foregoing affordability and attainability measures, except that YVHA may sell approximately five and one quarter (5.25) acres in the southeast area of Brown Ranch, shown on Exhibit G, and may sell or develop as market rate housing approximately nineteen and fifty-five one hundredths (19.55) acres in the southwest area of Brown Ranch, shown on Exhibit G, without any affordability or attainability requirements. Housing units developed on the latter parcel shall be included in the overall unit count set forth in Subsection 2.A. 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 the City or community partners and for projects with a community benefit (e.g., for the development of schools or 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. Maintenance of property conveyed to third parties shall be allocated between YVHA and the third party.

The City agrees that the foregoing provisions satisfy the affordability and attainability requirements of the West Steamboat Springs Area Plan (WSSAP).

## **9. SHORT-TERM RENTAL TAX**

### **A. Allocation.**

The City agrees to allocate 75% of the Short-Term Rental Tax funds to YVHA's share of the costs of affordable and attainable housing at Brown Ranch, including infrastructure other than water and wastewater infrastructure, except to the extent Short-Term Rental tax funds may be allocated to the Utility Fund without jeopardizing the enterprise status of the Utility Fund. The allocation shall be based on actual collections. The Parties hereby agree and acknowledge that all costs and expenses of the development of Brown Ranch shown in the attached Exhibit "E" are eligible for use of the Short-Term Rental Tax funds. This allocation is limited to the proceeds of the City's Short-Term Rental tax and shall not constitute an obligation of any kind with respect to the City's general fund.

The parties acknowledge and agree: that the City imposed the Short-Term Rental tax with voter approval for the purpose of facilitating the development of affordable and attainable housing; that voter approval of the commitment of Short-Term Rental tax revenues set forth in Paragraph B.3, below, specifies that those revenues will be allocated to YVHA; that YVHA is uniquely positioned to implement this goal due to its mission and status as a multi-jurisdictional housing authority

whose board is appointed by the City and Routt County. YVHA's right to receive or be credited with Short-Term Rental tax revenues shall not be assignable, shall not be enforced by YVHA's assigns or successors in interest to the Brown Ranch property, if any, and may be terminated by the City upon YVHA's sale of the Brown Ranch property to any person or entity other than a YVHA affiliate or resident of a housing unit.

## **B. Multiple-Fiscal Year Obligation**

The City shall satisfy the City's commitment to contribute Short-Term Rental tax revenues as follows:

- 1) Fiscal Year 2023 supplemental appropriation in the estimated amount of \$7,500,000 (i.e. 75% of Fiscal Year 2023 STR tax revenues).
- 2) Fiscal Year 2024 appropriation in the estimated amount of \$ 9,750,000 (i.e. 75% of Fiscal Year 2024 STR tax revenues and any Fiscal Year 2023 STR Tax revenues not appropriated in 2023 per Paragraph 1).
- 3) Submission of a multiple-fiscal year financial obligation for voter approval of the allocation of 75% of STR tax revenues for Fiscal Years 2025-2042, inclusive.
- 4) If YVHA does not complete construction and obtain certificates of occupancy for 420 affordable and attainable housing units within 6 years of the effective date of the Annexation Ordinance, the City, after notice to YVHA and at a public hearing, may reduce its obligation hereunder for each of Fiscal Years 2030-2035 in proportion to the number of units that are completed. For example, if YVHA completes 378 units, then the City's obligation for Fiscal Years 2030-2035 may be reduced to 90% of the original commitment.
- 5) If YVHA does not complete construction and obtain certificates of occupancy for 1,100 affordable and attainable housing units within 12 years of the effective date of the Annexation Ordinance, the City, after notice to YVHA and at a public hearing, may terminate its obligation hereunder for each of Fiscal Years 2036-2042.
- 6) The revenues for Fiscal Years 2033-2042 are committed to Phases 2 and 3 of the project. The City shall not be obligated to allocate STR tax revenues from 2033-2042 to YVHA until the construction of Phase 1 is complete. In addition, the City shall not be obligated to allocate STR tax revenues from 2033-2042 to Phases 2 or 3 of the project until YVHA confirms the availability and source(s) of funding for the balance of Phase 2 and 3 capital costs. If YVHA has not confirmed the availability and source(s) of funding by December 31, 2037, the City, after notice to YVHA and at a public hearing, may terminate its obligation hereunder for each of Fiscal Years 2036-2042.
- 7) Notwithstanding the foregoing, if the total allocation of STR tax revenues for fiscal years 2023-2032 to YVHA is less than \$100,000,000, the City shall continue its allocation hereunder in Fiscal Years 2033-2042 (the "Extended Phase 1 Allocation") until the total allocation to YVHA reaches either:



- a) \$100,000,000, or
- b) in the event that YVHA does not satisfy the unit delivery requirement in Paragraph 4, \$100,000,000 less the reduction provided for in Subparagraph 4 for Fiscal Years 2033-2035.

8) The deadlines set forth in Paragraphs 4) and 5) of this Subsection shall be extended to account for delays in the construction of units caused by the City's denial of land use approvals or building permits pursuant to Paragraph 10.B.5), below.

9) The City shall not reduce the rate of the Short-Term Rental tax in any year for which the Short-Term Rental tax revenues are committed pursuant to this Section. The City may reduce the rate of the Short-Term Rental tax in any year in which the commitment is reduced per paragraph 4), but the amount of the commitment shall be calculated based on the revenues that would have been collected at the 9% rate. The City may reduce the rate of the Short-Term Rental tax without restriction in any year in which the commitment is terminated per paragraph 5).

### **C. Uncommitted STR Tax Funds**

YVHA acknowledges that the City's commitment to contribute STR tax revenues to the Brown Ranch project other than those committed per the procedures described in Subsection 9.B is subject to the appropriation of funds by the City Council for this purpose. Future City Councils shall determine whether additional funds will be allocated to the development of Brown Ranch on the basis of considerations including, without limitation, YVHA's progress in developing Brown Ranch and addressing the City's shortage of affordable and attainable housing; the availability of grant funding from other sources to defray infrastructure costs; the existence of other opportunities for the City to incentivize or contribute to the development of or conversion of existing housing stock to affordable or attainable housing; and future Council's determinations as to what uses of STR Tax funds will best serve the purposes for which the STR Tax was imposed.

## **10. POST-ANNEXATION LAND USE APPROVALS**

### **A. Zoning.**

The City shall approve text amendments to the CDC, prior to annexation, at the time of annexation, or within a reasonable timeframe thereafter, or otherwise modify its land use review practices, to establish the procedures set forth in this Section. YVHA acknowledges that the zoning of the Brown Ranch and the amendment of CDC procedures is a legislative act subject to the legislative discretion of the City Council and that the City cannot contract for the zoning of Brown Ranch or the amendment of the CDC. No assurances of zoning have been made to or relied upon by YVHA.

1) Revised Transect Zones. The City is in the process of creating new TND Transect Zones T4-NX and T5-VC. The City and YVHA will work together to agree on dimensional standards for the new transect zones that will allow Brown Ranch to be developed according to the General Plan of Development.

2) The parties anticipate that Transect Zones T4-NX and T5-VC will be adopted by the City Council prior to the end of 2023. If the Transect Zones are adopted and effective as of the effective date of the ordinance annexing Brown Ranch or are expected to be adopted within forty-five (45) days of the effective date of the annexation ordinance, City staff shall propose the initial zoning of the Brown Ranch to be TND with Transect Zones including, but not limited to, T4-NX and T5-VC. Zoning may also include OR.

3) If Transect Zones T4-NX and T5-VC are not anticipated to be adopted and effective within forty-five (45) days of the effective date of the annexation ordinance, City staff shall propose the initial zoning of the Brown Ranch using the existing TND transect zones T3-NG2, T4, T5. Once Transect Zones T4-NX and T5-VC are adopted, City staff shall propose and support a zoning map amendment that rezones the Brown Ranch by replacing the original TND transect zones with Transect Zones including, but not limited to, T4-NX and T5-VC. Zoning may also include OR.

4) City zoning review of the Brown Ranch shall include a skyline study and evaluation and adoption of a Skyline Overlay Zone, if appropriate, prior to approval of the first Preliminary Plat. Zoning shall also include Short-Term Rental and Airport Overlay Zones.

## **B. Subdivisions and Development Plans.**

1) CDC § 739, Collateral, shall be interpreted by the Planning and Community Development Director (the “Director”) to allow for the waiver of collateral requirements for final plats and building permits if all lots in the proposed subdivision are to be developed by YVHA and/or a YVHA affiliate. YVHA agrees that no lot created by a final plat for which collateral requirements were waived pursuant to this Subsection shall be transferred to any party other than a YVHA Affiliate until all public improvements are complete and accepted by the City or collateral is provided in accordance with the CDC. Any collateral requirement waived pursuant to this interpretation may be applied by the City to applications for Certificates of Occupancy or Temporary Certificates of Occupancy. No Certificate of Occupancy shall be issued by the City unless all required improvements are accepted or approved by the City or secured in accordance with the provisions of the CDC. This interpretation shall not be deemed to permit the recording of final plats or building permits for subdivisions that do not meet Fire Department requirements for a hard driving surface and hydrants providing adequate fire flows. The City may apply YVHA’s share of STR Tax revenues to cure any noncompliance with this Subsection.

2) CDC § 602.L, Open Space, Parks, and Amenity Space, § 605.G, Parks and Open Space, and § 606, TND Parks and Open Space Standards, shall be waived as to land area and location requirements of those Sections for Preliminary Plats and Final Plats for Brown Ranch. Other standards, including maximum grade standards, shall apply.

3) 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 in Brown Ranch shall be reviewed and approved pursuant to Administrative Review.

4) CDC § 413, Phasing, shall be waived to the extent necessary for phasing plans for approved Brown Ranch development to be amended by the Director.

5) CDC § 602, Subdivision Standards, and City Engineering Standards. The City may withhold development or building approvals in accordance with the provisions of the City's applicable City regulations if the YVHA share of Offsite Improvements is not fully funded. The City may also withhold development or building approvals if the City is unable to fund its share of and proceed with construction of Offsite Improvements if the City Council determines during the development review process that a) existing infrastructure is inadequate to absorb the impacts of additional Brown Ranch development and b) pursuant to Section 16 the City Council decision to deny or delay development approvals is consistent with the City's treatment of any other development that is similarly situated with respect to traffic impacts.

### **C. Variances**

The City shall explore the amendment of CDC § 719.D(3) to add, in addition to Unnecessary Hardship, Practical Difficulty, and Acceptable Alternative, a criterion for approval relating to the development of affordable or attainable housing.

### **D. Building Permits**

The parties acknowledge that the application of the City's building use tax is subject to exemptions created by the City and the State of Colorado. The State exemption is created by C.R.S. 39-26-704(1.5) and 29-4-227 and applies to projects for occupancy by persons of low income. The parties agree that for purposes of determining the applicability of the City's building use tax, units or projects for occupancy by households at or below 80% of AMI shall be exempt from the building use tax. Units or projects for occupancy by households above 80% AMI shall be subject to the building use tax.

## **11. DEDICATIONS OF LAND**

### **A. Public Safety Facility.**

YVHA shall dedicate to the City and to the SSAFPD a 1.2-2.0 acre site for a public safety facility with the size and layout determined as provided in Paragraph 7.D.2 and generally in the location shown on Exhibit "B". YVHA shall dedicate the site in the initial plat of the first phase of development. In the event YVHA elects to modify the development plan and the initial plat of the first phase of development is not the neighborhood closest to US Highway 40, YVHA shall nevertheless record whatever plat is necessary to create the public safety building parcel with vehicular access and utilities and shall construct utilities and paved access to the lot line prior to dedication.

### **B. Parks, Trails, and Open Space**

YVHA will dedicate the parks, trails, and open space identified in Section 2.C to the City, and the City will accept the same for maintenance.

1) Regional Park. The City has identified a 187.84 acre parcel suitable for development of a Regional Park adjacent to and to the northeast of Brown Ranch. The City shall be responsible for acquisition of the parcel. YVHA shall provide utilities and paved street access to the boundary of the Brown Ranch and the identified park parcel, at a location determined by YVHA north of Slate Creek, if the City acquires the parcel. YVHA shall construct and obtain preliminary acceptance for the requisite utilities and paved street access within one (1) year of receiving written notice from the City of the City’s budgetary approval of the first phase of construction of the Regional Park, which notice shall not be given by the City prior to January 1, 2029.

2) Community Parks. YVHA shall dedicate the Community Park sites to the City simultaneously with the platting of any adjacent property.

3) Other Parks, Open Space, and Trails. YVHA shall dedicate the neighborhood parks, mini-parks, greenways, and trails to the City upon completion of construction of each park, greenway or trail, and shall dedicate open space upon platting of any parcel of adjacent land. The existence of a road or alley between a platted parcel and the open space parcel shall not affect adjacency.

### **C. Schools**

YVHA intends to partner with the Steamboat Springs School District for the development of a new school. Size, location, and timing of dedication of the site shall be determined by agreement of YVHA and the Steamboat Springs School District.

### **D. Avigation Easement.**

All approved final plats for any portion of the Property shall include a plat note imposing an avigation easement in a form attached hereto as Exhibit “H”.

## **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:

- A.** Developing Health Equity, Resiliency, and Sustainability Design Guidelines (the “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.
- B.** 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.
- C.** Optimizing and planning for electric vehicle and bicycle transportation.

- D.** Preserving and restoring the section of the Slate Creek riparian corridor that passes through Brown Ranch.

YVHA shall be responsible for adopting the Guidelines and implementing the policies set forth in this Section. YVHA shall provide a report and draft of the Guidelines prior to their adoption, including an assessment of YVHA's plans to implement the other policies set forth in this Section. Thereafter, YVHA shall provide an annual status report to the City Council regarding the Guidelines and implementation of other sustainability policies described in this Section.

### **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 initial term of vesting shall be twenty (20) years commencing upon the date of approval of the Framework Regulating Plan. The initial twenty (20) year vesting term shall be extended by an additional ten (10) year term if YVHA completes the construction of Phase 1 prior to the expiration of the initial vesting term. Completion of construction of Phase 1 shall mean that all of the following have occurred: i) all public infrastructure has received preliminary acceptance; ii) all land area has been platted; and iii) YVHA has constructed and received certificates of occupancy for all one thousand one hundred twenty-four (1,124) affordable and attainable dwelling units.

**C. Site-Specific Development Plans.** YVHA and the City agree that the Framework 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 as to the minimum densities and uses approved by the Framework Regulating Plan and with the exactions and real property dedications described herein 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 Framework Regulating Plan ("Framework 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:

- 1) City building, fire, plumbing, engineering, electrical, and mechanical codes and other similar technical codes and standards of the City;
- 2) City architectural, landscaping, and other development standards that are not inconsistent with the uses and densities permitted by the approved Framework Regulating Plan;

- 3) City regulations regarding the subdivision of land to the extent the same do not conflict with the uses and densities permitted by the approved Framework Regulating Plan or the provisions of this Annexation Agreement relating to YVHA contributions to offsite infrastructure;
- 4) Traditional Neighborhood Development standards to the extent the same do not conflict with the uses and densities permitted by the approved Framework Regulating Plan;
- 5) Applicable federal regulations;
- 6) 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 YVHA hereunder have been completed, satisfied, terminated, or financially secured to the satisfaction of the City (the “Term”), but not less than the period of vesting set forth in Section 13.B. 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; or (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 Framework Regulating Plan. 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**

- 1) Final approval of the Annexation Ordinance shall not be deemed to have occurred if on or before the sixtieth (60th) 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.
- 2) 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.
- 3) 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.

4) 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 13.B, 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 shortage.

## **17. MISCELLANEOUS**

**A. Effective Date.** This Agreement is contingent upon the City approval of an Ordinance annexing the Brown Ranch in accordance with the Municipal Annexation Act and the Community Development Code and shall become effective as provided for in Paragraph 15.

**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, Regulating 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. The parties acknowledge that the Brown Ranch is uniquely suited to the development of affordable and attainable housing and that in the event of a material breach relating to the character of the proposed development of Brown Ranch that monetary remedies would not be adequate and that the City shall be entitled to seek equitable relief, including specific performance.

**G. Recordation/Binding Effect.** This Annexation Agreement shall be recorded and all agreements and covenants as set forth herein shall be binding upon YVHA and its successors and assigns, with the exceptions noted below, 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. The City's obligation to allocate Short-Term Rental tax revenues to YVHA pursuant to Subsection 9.A shall not run with the land or benefit YVHA's successors or assigns. YVHA's obligation to prepare and update the Housing Demand Study pursuant to Subsection 8.B shall not run with the land or be assignable by YVHA.

**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 I, inclusive, which are attached hereto, are incorporated herein by reference.

**J. 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

**K. 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.

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

**M. 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.

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

**O. 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.

**P. Assignment.** The rights and obligations of YVHA under this Agreement may not be assigned to a party other than a YVHA affiliate without prior written approval of the City, which may be granted or withheld by the City Council acting in its sole and exclusive discretion. No assignment shall relieve YVHA of its obligations under this agreement unless without prior written approval of the City, which may be granted or withheld by the City Council acting in its sole discretion. 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.

**Q. 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.

**R. Colorado Constitution, Article X, Section 20.** Except as to the voter approval contemplated by Section 9, 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.

**S. Warranty of Title.** YVHA represents that at the time of executing this Annexation Agreement that YVHA is lawfully seized of an indefeasible estate in fee simple to the Brown Ranch and has good right and full power to encumber the Brown Ranch property as provided herein and that the Brown Ranch is free and clear from all encumbrances except as expressly set forth herein.

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

[Signature pages follow]

**CITY OF STEAMBOAT SPRINGS**

\_\_\_\_\_  
Gary Suiter, City Manager

**ATTEST:**

\_\_\_\_\_  
Julie Franklin, City Clerk, CMC

**YAMPA VALLEY HOUSING AUTHORITY**

\_\_\_\_\_  
Jason Peasley, Executive Director

STATE OF COLORADO            )  
  ) ss.  
County of Routt                    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by Gary Suiter as City Manager of the City of Steamboat Springs.

Witness my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires \_\_\_\_\_

STATE OF COLORADO            )  
  ) ss.  
County of Routt                    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023 by Jason Peasley as Executive Director of of the Yampa Valley Housing Authority.

Witness my hand and official seal

\_\_\_\_\_  
Notary Public  
My commission expires \_\_\_\_\_

