

**IMPROVEMENTS AGREEMENT
(LUCY LANE ROADWAY EXTENSION)**

THIS AGREEMENT is entered into among the Town of Grand Lake, a Colorado municipal corporation (the "Town"), Genette Simpkins Revocable Living Trust, (the "Developer") and Evergreen Excavation Co, (the "Contractor") effective the ___ day of _____, 2024, individually referred to as a Party, or collectively as the Parties.

WHEREAS, the Developer is the owner of the real property described on **Exhibit A**, attached, (hereinafter referred to as "the Property"); and

WHEREAS, the Town and the Developer entered into an agreement on July 19, 2023, attached hereto as **Exhibit B** and incorporated herein, to annex the Property into the Town (the "Annexation Agreement") which, *inter alia*, set forth and reaffirmed public improvements required for the Property and which Party is responsible for such public improvements; and

WHEREAS, the Annexation Agreement also restated and reaffirmed terms of a previous agreement (the "Matthews Agreement") between the Town and the Developer requiring the Town to construct a roadway across the Property to a Class C roadway more specifically described on **Exhibit C-1**, (the "Town Improvements") attached hereto and incorporated herein, the cost of which will be the sole responsibility of the Town; and

WHEREAS the Annexation agreement also restated and reaffirmed terms of the Matthews Agreement that require the Developer to install certain utilities on the Property more specifically set for in **Exhibit C-2**, (the "Developer Improvements") attached hereto and incorporated herein, the cost of which will be the sole responsibility of the Developer; and

WHEREAS, the Town solicited bids to complete the improvements listed in Exhibits C-1 and C-2, (collectively the "Project") and the Contractor submitted an acceptable bid for the Project; and

WHEREAS, the Developer intends to develop the Property, the effect of which will be to directly impact and generate the need for on-site and off-site improvements. The Developer acknowledges that the exactions set forth herein are reasonably attributable to the special impacts which will be generated by the proposed uses of the Property, and that the terms and conditions set forth in this Agreement are necessary, reasonable and appropriate; and

WHEREAS, the Town and Contractor, and, to the extent it desires to do so, the Developer has reviewed and approved the May 29, 2024 Construction Plans for the Property (the "Construction Drawings") attached hereto as **Exhibit D** and incorporated herein; and

WHEREAS, the Parties desire to provide for the construction of the Project described in the Construction Drawings that are required to serve the Property (the "Improvements") as set forth herein; and

WHEREAS, the purpose of this Agreement is to set forth the rights and obligations of each of the Parties in connection with the construction of the Improvements.

NOW, THEREFORE, in consideration of the rights, obligations and compensation set forth below, the Parties hereto agree as follows:

1. Contractor's Obligations

a. Construction of Improvements

Contractor agrees to make, construct and install the Town Improvements and the Developer Improvements as set forth in the Construction Drawings (the "Improvements"). Such Improvements shall be made, constructed and installed in full accordance with the Construction Drawings, including requirements set forth in Section 1(l) of this Agreement regarding rock excavation, and all applicable laws and regulations. Prior to commencement of work on the Property, the Contractor shall obtain all necessary permits and approvals to complete the Improvements. In addition, Contractor shall fully comply with all terms and conditions of any such permits and approvals.

b. Completion of Improvements

On or before October 31, 2024, Contractor shall complete installation of deep utilities including water and sewer mains. On or before June 1, 2025, Contractor shall finish the traveled portions of the roadway to within six (6) inches of final grade. Contractor shall complete all Improvements no later than October 15, 2025. Notwithstanding any Town Code requiring construction of the improvement to halt on October 15 of any year, the Parties agree Contractor shall be able to continue construction of the Improvements so long as no Party has an objection to such continued construction based on safety, weather, or compliance with engineering requirements. The time for completion of the Improvements may be extended by mutual agreement of the Parties, particularly when the need for such extension is caused by persons or matters over which the Contractor has no control.

c. Payment Bond

Prior to commencement of work, Contractor shall furnish the Town a payment bond in a form satisfactory to the Town Attorney to ensure payment of all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work performed under this Agreement.

d. Performance Guarantee

The Contractor shall furnish the Town an Irrevocable Letter of Credit, or other security deemed acceptable by the Town Attorney (the "Performance Guarantee"), in an amount not less than one hundred fifteen percent (115%) of the total estimated cost of the Improvements, as certified to the Town by the Developer's Engineer and as accepted by the Town's Engineer and as set forth in Exhibits C-1 and C-2.

The Performance Guaranty shall be subject to the following terms and conditions: In the event that prior to the Town's Initial Acceptance of the Improvements the Performance

Guarantee should expire or the entity issuing the Performance Guarantee becomes non-qualifying, or the estimated cost of construction of the Improvements is reasonably determined by the Town to be greater than the amount of the security provided, then the Town shall furnish the Contractor with written notice of such condition, and within fifteen (15) days of receipt of such notice the Contractor shall provide the Town with a substituted qualifying Performance Guarantee, or augment the deficient security to achieve one hundred fifteen percent (115%) of the cost of Improvements completion. If such Performance Guarantee is not timely furnished, then construction activities and further payments may be suspended by the Town pending compliance herewith.

e. Completion of Improvements by Town

In the event the Contractor fails to complete the Improvements in compliance with this Agreement, the Town may, but shall not be obligated to, proceed with restoring or completing some or all of the remaining portions of the Improvements to a condition satisfactory, in the sole discretion of the Town Board, to the health, safety and welfare of the Town. The Town shall be entitled to draw on the Performance Guarantee in order to accomplish such restoration and/or completion. The Town must give the Contractor at least Thirty (30) days prior written notice of its intent to draw on the Performance Guarantee in order to restore or complete all or any portion of the Project. If the Town completes some or all of the Improvements, then the Town Board shall have full discretion to determine the rules and regulations governing use of the Improvements and any fees to be charged for or associated with such use.

f. Warranty

For a period of two (2) years from the date of Initial Acceptance, Contractor warrants that all Improvements hereunder will be free from defects, including but not limited to defects in materials, workmanship, design, construction and installation, and that the Improvements otherwise fully comply with all applicable standards and specifications. To the extent any substantial portion of the Improvements are repaired or replaced during such two-year period, the warranty period as to the repaired or replaced Improvements shall be extended to a date two years after the date the repair or replacement were inspected and accepted by the Town.

g. Warranty Guarantee

A Warranty Guarantee shall be equal to fifteen percent (15%) of the total cost of the Improvements, as certified to the Town. The Warranty Guarantee shall be in the form of an Irrevocable Letter of Credit or other security acceptable to the Town Attorney conforming to the requirements applicable to the Performance Guarantee set forth at Section 1(d) hereof. The Warranty Guarantee shall provide security for the costs which may be incurred in repairing and/or replacing Improvements during a warranty period of two years following Initial Acceptance by the Town.

In the event that any substantial repair or replacement is required to any of the Improvements during the warranty period and such repair or replacement is not timely made upon notice of defect or in any event before the expiration of the warranty period, the Town may elect, but shall not be obligated, to:

(1) call the Warranty Guarantee and secure repair or replacement of the nonconforming improvements, or

(2) Take such other action as may be authorized in law or equity.

h. Change Orders

At any time by written change order, the Town may make changes in the Construction Drawings or scheduling of the Agreement within the general scope. All such work shall be executed under the time constraints of the Agreement, unless an extension of time has been agreed upon by the Parties at the time of ordering such change. Any change order required by Contractor must be approved in writing by Town for Town Improvements and Developer for Developer Improvements prior to commencement of work on change order. Failure on the part of the Contractor to receive such approval prior to commencement of change order work shall not obligate the Town or Developer for any cost or amount due to Contractor associated with unapproved change order work.

i. Engineering Services

The Contractor shall at its sole expense procure all engineering and landscaping services necessary and appropriate in conjunction with the construction of the Improvements, which shall fully conform to the Town's applicable ordinances, standards and specifications. Professional services shall be performed by engineers, surveyors, architects or other professionals duly licensed by the State of Colorado as may be appropriate.

j. Licensing of subcontractors.

The Contractor shall ensure that all contractors and/or subcontractors employed in connection with construction or installation of the Improvements shall be licensed, to the extent such licensing is required, before any work on the Improvements is commenced.

k. Street Access

Contractor shall, at its own expense, be responsible for keeping on-site streets, off-site streets used as construction routes, and rights-of-way clean of mud, rocks, and debris at all times during said construction. All work shall conform to the requirements for erosion control as described in statutes, ordinances, or regulations. Should the Contractor fail to meet said requirements, the Town may take corrective action and invoice the Contractor at the Town's prevailing rate.

l. Rock Excavation

The Parties recognize the geological conditions of the Property are somewhat unknown and construction of the Improvements may necessitate additional and more costly methods of excavation under certain circumstances herein referred to as Rock Excavation. Rock Excavation shall mean any rock that cannot be removed with an 80,000 pound excavator after multiple good faith attempts as reasonably approved by the Town or Developer, necessitating such rock to be hammered, blasted or sawed in an attempt to construct the Improvements as designed including

but not limited to keeping the width of the trench for deep utilities as close to four (4) feet wide as possible. In the event Contractor believes Rock Excavation is necessary on any portion of the project, the Contractor shall provide the Town and Developer notice of such change and obtain approval from Town for Rock Excavation related to Town Improvements or Developer for Rock Excavation related to Developer Improvements. The Town and Developer shall have the right, but not the obligation to inspect the proposed Rock Excavation and related attempts made prior to issuing approval of implementation of this provision. Such approval shall not be unreasonably withheld.

2. Inspection, testing and Initial Acceptance of Improvements and Release of Performance Guarantee

Any and all costs of the required inspection or testing of Improvements, including but not limited to those set forth for Sewer Pipe as Exhibit E and Water Pipe as Exhibit F, attached hereto and incorporated herein, shall be borne solely by the Contractor. The extent of the Contractor's compliance with this Agreement shall be determined solely by the Town for Town Improvements and Developer for Developer Improvements or Town and Developer for Improvements paid for by both Town and Developer and each Party's duly authorized agents and employees.

a. Testing

The Contractor, at its sole expense, shall employ a professionally qualified, independent testing company acceptable to the Town to perform all testing of materials or construction that may reasonably be required by the Town to ensure compliance with applicable standards and specifications. Contractor shall furnish the Town with certified copies of test results and agrees to release and authorize full access by the Town and its designated representatives to all work-up materials, procedures and documents used in preparing the test results as requested by the Town. Notwithstanding the foregoing, the Town or Developer may require additional compaction and soils tests for the Town Improvements or Developer Improvements at the cost of the Party requiring such additional soil or compaction testing.

b. Inspection

At all times during construction of the Improvements, and until final acceptance thereof by the Town, the Town or Developer shall have the right, but not the duty, to inspect materials and workmanship in order to ascertain conformance with the Construction Drawings and all applicable standards and specifications. Contractor and Developer shall reasonably cooperate and assist the Town and/or Developer to gain appropriate access to the areas designated for inspection. It shall also be the duty of the Contractor to notify the Town and Developer upon discovery of any nonconformance with the said plans, standards and specifications. Inspection and acceptance of work by Town personnel shall not relieve the Contractor of any responsibility.

c. Initial acceptance of Improvements

The Contractor shall submit a Request For Initial Acceptance, including Certification of Completion, "as built" drawings of the Improvements and certified cost estimates of Improvements, to the Town upon completion of the Improvements. Said Certification shall be

submitted upon written oath or affirmation of the Contractor that the Improvements have been fully paid for and Contractor has fully paid all persons or entities having furnished labor or materials for the design, construction and installation of such Improvements. The Town, however, shall not be deemed to have accepted any payment responsibility or liability in conjunction with the ascertainment of such payment. The Town shall inspect such Improvements within ten (10) working days of the Town's receipt of the Contractor's request for Initial Acceptance, unless unable to do so due to inclement weather or other natural conditions or conditions beyond the Town's control. Upon a finding of satisfactory completion of the Improvements in compliance herewith and all applicable ordinances and standards, the Town shall issue a Certificate of Initial Acceptance to the Contractor, for the completed Improvements. Following the issuance of the Certificate of Initial Acceptance, the Town shall, upon request by the Contractor, release the Performance Guarantee, provided a Warranty Guarantee meeting the requirements of Section 1(g) has been executed and delivered to the Town, and provided no mechanics lien statements have been filed with respect to the project.

d. Release of Performance Guarantee

Upon the Town issuing a written certificate of Initial Acceptance, the Town shall release the Performance Guarantee after or simultaneously with the Contractor providing a Warranty Guarantee

e. Final Acceptance of Improvements and Release of Warranty Guarantee

1) No earlier than sixty (60) days or later than thirty (30) days prior to the expiration of the warranty period, the Contractor shall submit a written request for Final Acceptance of Improvements, and within ten (10) business days of such request the Town shall conduct a final inspection of the Improvements, unless precluded from doing so by weather or natural conditions. If the Improvements subject to the inspection request fully conform to this Agreement and all applicable standards and specifications, and/or all repairs, if any are needed, have been made to bring same into such conformance, then the Town shall issue a Certificate of Completion and certify Final Acceptance of the Improvements to the Contractor. After Final Acceptance the Contractor may request, and the Town shall release the Warranty Guarantee, and Contractor shall have no further obligations or liabilities with respect to such Improvements.

2) If Contractor fails to have Improvements finally accepted as provided in this Section, the Contractor shall be in default of this Agreement and the Town may exercise its rights to secure performance as provided by Section 1(e) hereof. In the event that the Contractor has not requested Final Acceptance forty-five (45) days prior to the scheduled completion dates applicable, as may have been extended as herein provided, the Town shall have the right, but not the obligation, to at any time thereafter conduct a final inspection of the Improvements. If pursuant to Final Inspection requested by the Contractor or initiated by the Town, any such Improvements are found to not conform to this Agreement, or applicable standards and specifications, the Town shall have the rights set forth at Section 1(g), and elsewhere herein.

3) Nothing herein shall be construed or deemed as requiring the Town to finally accept and release from warranty any Improvements that are defective or damaged.

3. Payment

a. By Town for Town Improvements.

The Town agrees pay Contractor the estimated \$300,095.28 to design, construct, and install the Town Improvements and to comply with the other provisions of this Agreement. The Parties acknowledge and agree this amount is based on a good faith estimate, however, such amount may vary due to the amount of excavated materials, methods required to excavate such material, the amount of linear feet for utility lines dictated by geological factors, or other factors beyond the control of the Parties. In the event such amount deviates from the estimate above, the Contractor shall promptly notify the Town and the Town shall review any proposed change and give its reasonable approval for the same. The Town to agrees to make timely and full payments for the improvements set forth in **Exhibit C-1**, attached hereto and incorporated herein by reference (the “Town Improvements”). The Town shall deposit fifty (50%) percent of the total estimated cost of the Town Improvements into an escrow account (the “Town Escrow Account”) that may be drawn from after verification and approval by the Town Engineer of monthly bills submitted to the Town by the Contractor for inspection and approval. Contractor shall provide any supporting documentation requested by the Town Engineer. Once the Town Escrow Account is depleted to ten (10%) percent or less of the total estimated amount owed to the Contractor from the Town, the Town shall replenish the Town Escrow Account, so the total amount paid and available is equal to ninety-five (95%) percent of the total estimated cost of the Town Improvements. The remaining 5% shall be held by the Town and paid upon completion and acceptance of the Town Improvements.

b. By Developer for Developer Improvements.

The Developer agrees pay Contractor the estimated \$396,772.99 to design, construct, and install the Developer Improvements and to comply with the other provisions of this Agreement. The Parties acknowledge and agree this amount is based on a good faith estimate, however, such amount may vary due to the amount of excavated materials, methods required to excavate such material, the amount of linear feet for utility lines dictated by geological factors, or other factors beyond the control of the Parties. In the event such amount deviates from the estimate above, the Contractor shall promptly notify the Developer and the Developer shall review any proposed change and give its reasonable approval for the same. Developer agrees to make timely and full payments for the improvements set forth in **Exhibit C-2**, attached hereto and incorporated herein by reference (the “Developer Improvements”). The Developer shall deposit fifty (50%) percent of the total estimated cost of the Developer Improvements into an escrow account (the “Developer Escrow Account”) that may be drawn from after verification and approval by the Developer of monthly bills submitted to the Developer by the Contractor for review and approval. Contractor shall provide any supporting documentation requested by the Developer. Once the Developer Escrow Account is depleted to ten (10%) percent or less of the total

estimated amount owed to the Contractor from the Developer, the Developer shall replenish the Developer Escrow Account so the total amount paid and available is equal to ninety-five (95%) percent of the total estimated cost of the Developer Improvements. The remaining 5% shall be held by the Developer and paid upon completion and acceptance of the Developer Improvements.

4. Liability Limitations

a. Indemnification

The Contractor agrees to indemnify and hold harmless the Town and Developer, and their officers, agents and employees, from and against all liability, claims, demands, and expenses, including court costs and attorney fees, on account of any injury, loss, or damage, which arises out of or is in any manner connected with the work to be performed under this Agreement, if such injury, loss, or damage is caused in whole or in part by, the negligent act or omission, error, professional error, mistake, accident or other fault of the Contractor, any Subcontractor, or any officer, employee, or agent of the Contractor, or subcontractor. The obligations of this Section shall not apply to damages for which the Town or Developer shall become liable by final judgment to pay a third party as a result of the negligent act or omission, error, professional error, mistake, accident, or other fault of the Town or Developer, respectively.

b. Insurance

(1) The Contractor agrees to procure and maintain in force during the term of this Agreement, at its own cost, the following coverages: Commercial General or Business Liability Insurance with Minimum combined single limits of One Million One Hundred Ninety Five Thousand Dollars (\$1,195,000) for any one occurrence, with respect to each of the Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the services. In the event that the Contractor's insurance does not cover non-owned automobiles, the requirements of this paragraph shall be met by each employee of the Contractor who utilizes an automobile in providing services to the Town, the Contractor or the Developer under this Agreement.

(2) Contractor shall insure that all contractors and subcontractors providing services provide Workers' Compensation as required by the Labor Code of the State of Colorado and Employers' Liability Insurance.

(3) Contractor shall at a minimum procure and maintain insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to the Town. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor pursuant to retroactive dates, and extended reporting periods shall be procured to maintain such continuous coverage.

(4) A Certificate of Insurance shall be completed by the Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be subject to review and approval by the Town prior to commencement of any services under this Agreement. The Certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not

be canceled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Town.

(5) Failure on the part of the Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material Breach of Agreement and, if said breach is not cured within ten (10) days of written notice by Town to Contractor or Developer, Town may immediately terminate this Agreement, or at its discretion, Town may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith and all monies so paid by Town shall be repaid by the Contractor or Developer to Town upon demand, or Town may offset the cost of the premiums against any monies due to Contractor or Developer from Town, or the Town may cease to issue building permits or certificates of occupancy, or to provide utility services until the defect has been remedied.

(6) The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto. Developer and Contractor agree to execute any and all documents necessary to allow the Town access to any and all insurance policies and endorsements pertaining to this particular job.

(7) The parties hereto understand and agree that the Town, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to the Town, its officers, agents or employees.

c. Nonliability

Developer and Contractor acknowledge that the Town's review and approval of plans for the development of the Property is done in furtherance of the general public health, safety and welfare, and that no specific relationship with, or duty of care to the Developer, Contractor or third parties is created or assumed by such review approval, nor is any immunity waived, as is more specifically set forth at Section 24-10-101, et seq. C.R.S., Colorado Governmental Immunity Act.

No one, individually or otherwise, other than the Parties, shall acquire, as a result of this Agreement, any rights, claims or obligations from or against the Town, its agents, employees or officers. Actions by the Town against Developer or Contractor to enforce any provision of this Agreement shall be at the sole discretion of the Town Board. No third parties shall have any right to require any action by the Town pursuant to this Agreement; and this Agreement shall not create a liability on the part of or be a cause of action against the Town for any personal or property damage that may result to any third parties from the failure of Developer or Contractor to perform or construct the Improvements herein specified.

5. Termination

a. By Contractor

In the event the Town or the Developer fail to pay undisputed amounts invoiced by the Contractor as provided in Section 3, if such failure to pay is not remedied by the Town or the Developer within 20 days of written notice, Contractor may terminate this Agreement as to the non-paying party. Such termination of the Agreement as to the non-paying party shall not relieve the obligation of the Contractor to complete the improvements related to the other party.

b. By Town

In the event the Contractor is adjudged bankrupt, or if it makes a general assignment for the benefit of creditors, or if a receiver is appointed as a result of Contractor's insolvency, or if Contractor should persistently or repeatedly refuse or fail, except for cases in which extension of time is provided, to supply enough properly-skilled workers or materials, or it fails to make payments to subcontractors or for materials or labor so as to affect the progress of the Improvements, then the Town, upon written notice, without prejudice to any other right or remedy, may terminate this Agreement and take possession of the premises and of all materials, tools, equipment and other facilities installed in connection with the Improvements and, at the Town's option, finish the Improvements or part of them. In such case the Contractor shall not be entitled to receive any further payment until the Improvements are completed and Initially Accepted. If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to Contractor. If such expense shall exceed such unpaid balance, Contractor shall pay the difference to the Town.

6. Enforcement, Breach, and Remedies

a. Breach of Agreement

1) By Contractor: In the event the Contractor fails to timely comply with any of the terms, conditions, covenants and undertakings hereof, and if such noncompliance is not cured and brought into compliance within thirty (30) days of written notice of breach to the Contractor by the Town, unless the Town in writing designates a longer cure period reasonably requested by the Contractor, then the Town may call for payment of the Performance or Warranty Guarantee. The Town may also during the cure period withhold any additional payments. Nothing hereunder shall be construed to limit the Town from pursuing any other remedy at law or in equity which may be appropriate under the statutes and ordinances, and applicable laws and legal standards of the State of Colorado or the United States. Such remedies shall be cumulative. Notice by the Town to the Contractor shall specify the conditions of default.

2) By Town: If at any time the Contractor believes the Town is in breach of this Agreement, the Contractor shall provide the Town with 20 days

written notice. In the event the Town fails to remedy the alleged breach within 20 days or such additional period as may be necessary in light of the nature of the alleged breach, then the Contractor's remedies are limited to specific performance of this Agreement and shall not include any claim for damages or other monetary relief.

3) By Developer: If at any time the Contractor believes the Developer is in breach of this Agreement, the Contractor shall provide the Developer with 20 days written notice. In the event the Developer fails to remedy the alleged breach within 20 days or such additional period as may be necessary in light of the nature of the alleged breach, then the Contractor's remedies are limited to specific performance of this Agreement and shall not include any claim for damages or other monetary relief.

b. Liquidated damages

Contractor represents and agrees it can and will complete the Improvements, including Initial Acceptance, within the prescribed time limit as stated in Section 1(b) and within the time as may be extended. In the event the Contractor fails to complete the work within the allotted time limit, it shall pay as liquidated damages \$500.00 for each calendar day which the Contractor fails to finish the work in excess of the time period allotted. The Parties agree that the liquidated damages, as stated in this Section, are not a penalty and are reasonable, given the expected harm from a delay in completion, the difficulty of proving actual loss, and the inadequacy of any other remedy.

7. Miscellaneous

a. Binding Effect

This Agreement shall be binding on the Parties hereto, their respective successors, and assigns. The Contractor and any such successor and assign shall be jointly and severally liable for performance of this Agreement.

b. Entire Agreement

This Agreement shall constitute the entire agreement between the Parties. No subsequent amendment hereto shall be valid unless made in writing and properly executed by the Parties hereto.

c. Notice

Any notice given under the terms of this Agreement shall be made in writing, and shall be deemed made upon personal service or upon mailing by United States Mail, postage prepaid, to the other, and unless amended by written notice, to the following:

Town Manager
Town of Grand Lake

1026 Park Avenue
PO Box 99
Grand Lake, Colorado 80447

Genette Simpkins Revokable Living Trust
Attn: Thomas D. Stanley as Power of Attorney for the Genette Simpkins Revocable
Living Trust
8038 S. Valleyhead Way
Aurora, CO 80016
Tstanexc@gmail.com
303-898-2970

Evergreen Excavation Co.
Attn: Robert Clifton
41 Juno Trail
Evergreen, CO 80439
excavationco@outlook.com

d. Applicable Law, Jurisdiction, Venue and Severability

This Agreement is to be governed and construed according to the laws of the State of Colorado. Any action or claim filed to enforce this Agreement or relating directly or indirectly to the provisions, performance or enforcement of this Agreement shall be filed in the District Court of Grand County, State of Colorado. In the event that any provision of this Agreement is held to be in violation of the Town's ordinances or the laws of the State of Colorado or the United States and thereby rendered unenforceable, such unenforceable provision shall be ineffective without invalidating the remaining provisions of this Agreement.

e. Non-Waiver

The failure of the Town to take timely action with respect to any breach of any term, covenant or condition hereof shall not be deemed to be a waiver of such performance by Contractor, or a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained.

f. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, and agreeing to be fully bound by the terms of this Agreement the parties have set their hands below on the dates indicated.

TOWN OF GRAND LAKE

GENETTE SIMPKINS REVOCABLE LIVING TRUST

By: _____
Steve Kudron, Mayor

By: _____
Thomas D. Stanley
Power of Attorney for Genette Simpkins
Revocable Living Trust

ATTEST:

Alayna Carrell, Town Clerk

EVERGREEN EXCAVATION CO

By: _____
Robert Clifton

STATE OF COLORADO)
)
COUNTY OF _____)
) ss

Acknowledged before me this _____ day of _____, 20__ by _____,
as _____, of _____ a _____.

Witness my hand and official seal.

My commission expires: _____

(Seal)

Notary Public

