<u>APPROVAL OF THIS DEVELOPMENT AGREEMENT PERTAINING TO VESTED PROPERTY RIGHTS CREATES A VESTED PROPERTY RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO REVISED STATUTES, AS AMENDED.</u>

DEVELOPMENT AGREEMENT PERTAINING TO VESTED PROPERTY RIGHTS

THIS DEVELOPMENT AGREEMENT PERTAINING TO VESTED PROPERTY RIGHTS (this "**Agreement**") is made and entered into by and between the TOWN OF MEAD, COLORADO, a municipal corporation, by its Board of Trustees (the "**Town**"), and FRONT RANGE INVESTMENT HOLDINGS, LLC, a Colorado limited liability company (together with its successors and assigns, "**Master Developer**"). The effective date of this Agreement (the "**Effective Date**") is the effective date of Ordinance No. **____**, Series of 2023 (the "**Enabling Ordinance**").

Recitals

A. Master Developer is the owner of certain real property, as more particularly described in <u>Exhibit A</u> attached hereto and incorporated herein by this reference (the "**Property**").

B. The Property is subject to that certain Annexation Agreement High Point at Mead dated November 13, 2012, and recorded in the real property records of Weld County, Colorado, at Reception No. 392041 (the "**Annexation Agreement**").

C. Master Developer intends to develop the Property as a mixed-use development including, but not limited to, commercial/retail and residential uses (the "**Project**"), all as more fully set forth in that certain Turion South Planned Unit Development (PUD) ("**PUD**") and the Turion South Planned Unit Development Regulatory Procedures ("**Regulatory Procedures**" and together with the PUD, the "**Development Plan**"), which Development Plan has been approved by the Town Board of Trustees as of the Effective Date.

D. Development of the Property has required and will require that Master Developer make substantial, initial investments in infrastructure improvements and public facilities which will serve the needs of the Project and related improvements to serve the Property and the Project, which improvements will include, but are not limited to, road and street improvements, storm drainage facilities, potable water and sanitary sewer lines, and certain other public, quasi-public, and private facilities, which investments can be supported only with assurances that development of the Property can proceed to ultimate completion as provided in this Agreement.

E. C.R.S. §§ 24-68-101, *et seq.* (the "**Vested Property Rights Statute**"), and Article V of the Town's Land Use Code (the "**Code**") provide for the establishment of vested property rights in order to advance the purposes stated therein and in this Agreement, and authorize the Town to enter into development agreements with landowners providing for vesting of property development rights for periods of greater than three years.

F. Master Developer previously submitted to the Town a written request for vested property rights pursuant to the Vested Property Rights Statute and the Code.

G. Development of the Property in accordance with the Development Plan is anticipated to, among other things, provide for orderly and well-planned growth, promote economic development and stability within the Town, ensure reasonable certainty, stability and fairness in the land use planning process, secure the reasonable investment-backed expectations of Master Developer and its investors, foster cooperation between the public and private sectors in the area of land use planning, and otherwise achieve the goals and purposes of the Vested Property Rights Statute and the Code.

H. In exchange for the foregoing benefits and the other benefits to the Town contemplated by this Agreement, the waiver and termination of the benefits set forth in the Annexation Agreement (pursuant to a separate termination agreement recorded in the real property records of Weld County, Colorado, on even date herewith), together with the public benefits served by orderly and well planned development of the Property, Master Developer desires to receive vested property rights in the Development Plan and this Agreement.

I. The parties now desire to enter into this Agreement to set forth their agreements and understanding with respect to the foregoing matters.

Agreement

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

1. Recitals. The Recitals to this Agreement are incorporated herein by this reference as though fully set forth in the body of this Agreement.

2. Vested Property Rights.

(a) Vesting Period. Notwithstanding the earlier occurrence of the Effective Date, the Vested Property Rights (defined in Section 2(b)) will be in effect during the period (the "**Vesting Period**") commencing on the Effective Date and continuing through and including the twenty-fifth (25th) anniversary of the date of final, non-appealable approval of the first final plat within the Property, but in no event shall the Vesting Period extend beyond thirty-five (35) years following the Effective Date.

(b) Vesting of Property Rights. During the Vesting Period, Master Developer will have a vested property right, from time to time, pursuant to the Vested Property Rights Statute and the Code as implemented in this Agreement, to undertake development and complete development and use of the Property and approvals pertaining to the Project according to the constituent elements of this Agreement, the applicable SIA (as defined in Section 5), and the Development Plan (collectively, the "**Vested Property Rights**"). During the Vesting Period, the Town will not initiate, take or maintain any zoning or land use action which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development of the Property according to any constituent elements of the Development Plan, except as set forth in Sections 24-68-105(1)(a) & (b) of the Vested Property Rights Statute, or as permitted pursuant to this Agreement. The Vested Property Rights will not preclude the application of life safety

ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Notwithstanding any provisions of the Code to the contrary, no constituent element of the Development Plan, will lapse or expire during the Vesting Period.

(c) Site Specific Development Plan. For purposes of this Agreement, this Agreement and each other constituent element of the Development Plan, individually and collectively, constitute an approved "site-specific development plan" as defined in the Vested Property Rights Statute. Each constituent element of the Development Plan, and any approved amendment or modification thereto, will constitute a site-specific development plan, and upon approval by the Town will create vested property rights under the Vested Property Rights Statute and the Code, which will be supplemental and in addition to the Vested Property Rights initially established through this Agreement, and will be vested pursuant to the Vested Property Rights Statute for the remaining duration of the Vesting Period. Except as otherwise approved by the Town, each constituent element of the Development Plan approved after the Effective Date will be consistent with the Town's zoning and subdivision codes, development regulations, uniform codes, and street and utility construction and design requirements; provided, however, if there is an express conflict or inconsistency between any constituent element of the Development Plan and such codes, regulations and requirements, to the extent of such conflict or inconsistency, the Development Plan will control and such codes, regulations and requirements will not apply to the Development Plan.

(d) Expiration of Vesting Period. After expiration of the Vesting Period, the Vested Property Rights established by this Agreement with respect to the Vesting Period will terminate and have no further force or effect; provided, however, that such termination will not affect any common-law vested rights obtained before such termination; or any right, whether characterized as vested or otherwise, that may or may not arise from Town permits or approvals for the Property that were granted or approved before, concurrently, in conjunction with or after the approval of this Agreement.

3. Oil and Gas Wells and Production Facilities. The requirements set forth in Section 16-3-50(19) of the Code, as in effect as of the Effective Date ("**Oil and Gas Standards**"), shall apply to the Property, except that following abandonment and reclamation of wells in accordance with applicable state law and regulations, buildings of any kind may be constructed within the setbacks applicable in Section 16-3-50(19)(b) of the Oil and Gas Standards, but in no event within twenty-five (25) feet of any such well. Nothing in this Agreement will be deemed to constitute a waiver of any applicable provisions of the Oil and Gas Conservation Act of the State of Colorado, as set forth in Section 34-60-101, *et seq*., or any regulations promulgated thereunder, including without limitation by the Colorado Oil and Gas Conservation Commission.

4. Phasing. Master Developer may commence and complete the Project in one or more development phases (each a "**Phase**") pursuant to one or more phasing plan(s) (as may be amended from time to time, each a "**Phasing Plan**") to be submitted to the Town for the Town's review and written approval, in accordance with Section 1.3 of the Regulatory Procedures, and setting forth the following details for each Phase: (i) the physical boundaries of such Phase; (ii) the

portion of the Project, including without limitation the public and private improvements, included within such Phase; and (iii) the period for commencement and completion of all work within such Phase (which period may commence and expire based on the timeline for actual development of the Project as opposed to "hard" dates, as may be expressly set forth in the Phasing Plan or otherwise approved in writing by the Town).

5. Form of SIA. The subdivision improvement agreement required pursuant to Section 5.3.A of the Regulatory Procedures shall be substantially in the form and substance attached hereto as Exhibit B attached hereto and incorporated herein by this reference, subject to any revisions or other modifications mutually approved by the parties thereto (the "**SIA**").

6. Condemnation. The Town may support, at its reasonable discretion and subject to the applicable provisions of the Code, Master Developer's acquisition of additional rights-of-way, including through the use, if necessary, of its condemnation authority, to the extent necessary or appropriate in connection with the development of the Project. As a condition to any obligation of the Town to support such measures, Master Developer will (i) have exhausted all other options for acquisition, including condemnation by one or more Title 32, C.R.S. districts organized, or to be organized, to serve the Property or any portion thereof (as applicable, "**District**"); and (ii) enter into a reimbursement agreement with the Town, pursuant to which Master Developer will reimburse the reasonable, actual costs and expenses incurred in connection with the same.

7. Commercial Parcel Incentives. The Town, subject to negotiation on a case-by-case basis and at its discretion, may grant one or more tax credits or other financial incentives applicable to the portions of the Property contemplated for commercial, retail, office, and other non-residential uses ("**Commercial Parcel(s)**") for the purpose of financing and facilitating public and community improvements within such Commercial Parcel(s), including, without limitation, a credit on sales and/or use tax to facilitate establishment of a public improvement fee (PIF) within such Commercial Parcel(s).

8. Covenants. Upon recordation in the real property records of the Weld County Clerk and Recorder (the "**Records**"), which the parties will cause to occur promptly after the Effective Date, the provisions of this Agreement will constitute covenants or servitudes which touch, attach to and run with the Property, and the burdens and benefits of this Agreement will bind and inure to the benefit of the Property and of all estates and interests in the Property and all successors in interest to the parties.

9. Legal Challenges. The Town covenants that it will cooperate with Master Developer in Master Developer's efforts to defend against any challenge or litigation brought by a third party concerning this Agreement; provided, however, that the Town is not obligated to expend any monies for such defense, including without limitation attorneys' fees, costs, or any other professional fees, unless reimbursed by Master Developer. If this Agreement or any portion thereof is challenged by initiative or referendum, including any judicial contest to the outcome thereof, then, to the extent so challenged, the provisions of this Agreement, together with the duties and obligations of each party, may be suspended pending the outcome of the initiative or referendum election and the judicial contest, if any, at Master Developer's election, in its sole discretion; and the Vesting Period will automatically be extended by a period equal to the period of such suspension. If the initiative or referendum fails, then the parties will continue to be bound

by all of the terms of this Agreement. If any legal challenge successfully voids, enjoins, or otherwise invalidates this Agreement, the Town and Master Developer will cooperate to cure the legal defect in a manner that most fully implements the intent and purpose of this Agreement.

10. Default and Cure Period. If either party fails to meet, abide by or maintain the terms and conditions of this Agreement, it will constitute an event of default by such party. In the event of any claimed default by a party, the non-defaulting party will give the defaulting party not less than 30 days' written notice and opportunity to cure (the "**Cure Period**"), which notice will specify the nature of the default. No act, event or omission will be a default hereunder if the defaulting party's failure to perform is caused by force majeure or by any act, omission or default by the other party, or so long as the defaulting party has in good faith commenced and is diligently pursuing efforts to correct the condition specified in such notice. Notwithstanding the Cure Period, Master Developer will have the right to include and prosecute a claim for breach of this Agreement in any claim brought under C.R.C.P. Rule 106 if Master Developer believes that the failure to include and prosecute such claim may jeopardize Master Developer's ability to exercise its remedies under this Agreement at a later date. Except as expressly permitted by this Section 10, any claim for breach of this Agreement brought before the expiration of the applicable Cure Period will not be prosecuted by Master Developer until the expiration of the applicable Cure Period except as set forth in this Agreement.

11. Remedies. If any default under this Agreement is not cured as described in Section 10, the non-defaulting party will have the right to enforce the defaulting party's obligations hereunder by an action for injunction or specific performance, and neither the Town nor the Master Developer will be entitled to or claim any form of damages, including, without limitation, lost profits, economic damages, or incidental, consequential, punitive or exemplary damages, except as expressly permitted by this Agreement. To the fullest extent each party may legally do so, the Town hereby waives any rights it may have under the Vested Property Rights Statute to pay damages in the event of a breach of the Vested Property Rights by the Town (whether by Town action or by initiated or referred measure), and Master Developer hereby waives any rights it may have under the Vested Property Rights Statute to receive an award of such damages. It is the parties' express intent that the legal effect of such mutual waivers will be that, in the event of a breach of the Vested Property Rights by the Town, Master Developer's remedies will be limited to the equitable remedy of specific performance of the Town's obligations with respect to such Vested Property Rights, and the exception set forth in Section 24-68-105(c) of the Vested Property Rights Statute will not be asserted by or legally available to the Town; provided, however, that if the foregoing waiver is held by the courts to be illegal or otherwise unenforceable, then Master Developer may pursue damages pursuant to the Vested Property Rights Statute.

12. Notice. All notices, demands or other communications required or permitted to be given hereunder will be in writing and any and all such items will be deemed to have been duly delivered upon personal delivery; or as of the fifth business day after mailing by United States mail, certified, return receipt requested, postage prepaid, addressed as follows; or as of the immediately following business day after deposit with Federal Express or a similar overnight courier service that provides evidence of receipt, addressed as follows. Any such notice shall be accompanied by email delivery to the applicable email address.

If to the Town:	Town of Mead P.O. Box 626 Mead, CO 80542 Attn: c/o Town Manager E-mail: hmigchelbrink@townofmead.org
With copies to:	Michow Cox & McAskin LLP 6530 S. Yosemite Street, Suite 200 Greenwood Village, CO 80111 Attn: Mead Town Attorney E-mail: marcus@mcm-legal.com
If to Master Developer:	Front Range Investment Holdings, LLC c/o Land Asset Strategies, LLC 12650 W. 64th Avenue, Unit E #274 Arvada, Colorado 80004 Attn: Bob Eck E-mail: bob.eck@landassetstrategies
With copies to:	Otten, Johnson, Robinson, Neff & Ragonetti, P.C. 950 17th Street, Suite 1600 Denver, Colorado 80202 Attn: Cory Rutz E-mail: crutz@ottenjohnson.com

13. Additional Provisions.

(a) Amendment. This Agreement may be amended, terminated or superseded only by mutual consent in writing of each of the Town and Master Developer, but without the consent of any subsequent owner of all or any portion of the Property unless Master Developer has assigned its rights with respect to the right to consent to such amendment pursuant to Section 13(h). Promptly after any amendment to this Agreement becomes effective, the Town will cause it to be recorded at Master Developer's cost in the Records; provided however, the validity or enforceability of such an amendment will not be affected by any delay in or failure to record the amendment as provided herein.

(b) Headings. The headings and captions used herein are for the convenience of the parties only and will have no effect upon the interpretation of this Agreement.

(c) Applicable Law. This Agreement will be interpreted and enforced according to the laws of the State of Colorado.

(d) Severability. If any part, term, or provision of this Agreement is held by the courts to be illegal or otherwise unenforceable, such illegality or un-enforceability will not affect the validity of any other part, term, or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of this Agreement.

(e) Reasonableness. Any provision of this Agreement calling for exercise of discretion of a party, or providing for consent or approval of a party, or any similar action, will be construed as requiring said party to exercise such discretion in a reasonable manner.

(f) Additional Documents. Each of the parties agrees to execute and deliver such additional instrument or instruments as the other party may from time to time reasonably request in order to effectuate the provisions of this Agreement.

(g) Waiver of Breach. The waiver by any Party to this Agreement of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.

(h) Successors; Assignment. This Agreement will be binding upon and will inure to the benefit of the successors in interest and/or the legal representatives of the parties, except as expressly set forth in Section 13(a), and will be deemed a covenant running with the Property or any portion thereof. Master Developer will have the right to assign or transfer all or any portion of its interests, rights, or obligations under this Agreement upon receiving the prior written consent of the Town, provided that to the extent Master Developer assigns any of its obligations under this Agreement, the assignee of such obligations will expressly assume such obligations; further provided, however, that such consent will not be required in connection with (i) an assignment or delegation, in whole or in part, to any entity controlled by, controlling or under common control with Master Developer, including without limitation any District, or (ii) an assignment to a third party developer concurrently with such developer's acquisition of all or substantially all of the Property. In no event will the purchaser of any lot within the Property upon which a dwelling has been constructed be deemed to be a direct or indirect successor to Master Developer hereunder solely on account of such lot purchase.

(i) Entire Agreement. Excepting the Development Plan, to the extent those documents supplement, implement or complement the provisions of this Agreement, this Agreement constitutes the entire understanding among the parties with respect to the subject matter hereof.

(j) Town Findings. The Town hereby finds and determines that execution of this Agreement is in the best interests of the public health, safety and general welfare of the Town, and that the provisions of this Agreement are consistent with the Town's development laws, regulations and policies, all as more fully set forth in the Enabling Ordinance.

(k) Counterparts. This Agreement may be executed in multiple counterparts, each of which will be deemed to be an original and all of which taken together will constitute one and the same agreement.

[signature page follows this page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DEVELOPER:

Front Range Investment Holdings, LLC,
a Colorado limited liability company

By:_______________________________________
Name:_____________________________________
Title:______________________________________

STATE OF ___________________________)
) ss.
COUNTY OF _________________________)

The foregoing instrument was acknowledged before me this ____ day of ____________________, 2023, by _______________________, as ________________________ of Front Range Investment Holdings, LLC, a Colorado limited liability company.

My commission expires: ______________________

Witness my hand and official seal.

____
Notary Public

TOWN:

Town of Mead, Colorado,
a Municipal Corporation

By:_______________________________________
Name:_____________________________________
Title:______________________________________

ATTEST:

____
Mary Strutt, Town Clerk

EXHIBIT A
Legal Description of the Property
[to be inserted from PD prior to execution]

EXHIBIT B
Form of SIA
TOWN OF MEAD, COLORADO
SUBDIVISION IMPROVEMENT AGREEMENT
FOR _______________ FINAL PLAT

This Subdivision Improvement Agreement ("**Agreement**") is made and entered into by and between the TOWN OF MEAD, COLORADO, a municipal corporation, by its Board of Trustees (the "**Town**"), and **_________________________** (together with its successors and assigns, "**Developer**"). The Town and Developer are collectively referred to as "**Parties**," or occasionally in the singular as "**Party**." This Agreement shall be effective as of the date of mutual execution by the Parties ("**Effective Date**").

Recitals

A. Developer is the owner of certain real property, as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the "**Property**").

B. The Property is subject to that certain Development Agreement pertaining to Vested Property Rights dated **____________________**, and recorded in the real property records of Weld County, Colorado, at Reception No. _______________ (the "**Development Agreement**").

C. Developer desires to subdivide and/or develop the Property and has submitted to the Town for approval and execution a final plat designated as **_________________________** ("**Final Plat**"), together with final construction plans for the Improvements (defined below) (the "**Construction Plans**"), copies of which are on file with the Town and made a part hereof by this reference.

D. The Development Agreement contemplates that the Town and Developer will enter into a subdivision improvement agreement in form and substance contemplated by Development Agreement to set forth the terms and conditions upon which Developer will cause the construction and completion of certain on-site and off-site public improvements inclusive of all landscaping improvements ("**Landscape Improvements**") more particularly described in Exhibit B attached hereto and incorporated herein by this reference (the "**Improvements**"). Unless the context requires otherwise, the term Improvements as used herein shall be inclusive of Landscape Improvements.

E. The Town is willing to approve and execute the Final Plat upon the agreement of Developer to the terms and conditions of this Agreement with respect to the Improvements, the Development Plan (as defined in the Development Agreement), and the applicable ordinances, rules, regulations and standards of the Town, including but not limited to the Mead Land Use Code ("**Code**"); the Mead Municipal Code ("**MMC**"), the Town's Design Standards and Construction Specifications for the Design and Construction of Public and Private Improvements, as may be amended, all other governing regulations in effect at the time the Construction Plans are approved by the Town, and all necessary permits issued by the Town and other governmental or quasi-governmental authorities having jurisdiction over the Improvements (collectively, the "**Standards**").

F. This Agreement is required, as a condition of approval of the Final Plat, by Section 5.3.A of the Regulatory Procedures (as defined in the Development Agreement).

G. The Town and Developer mutually acknowledge and agree that the matters hereinafter set forth are reasonable conditions and requirements to be imposed by the Town in consideration of its approval and execution of the Final Plat, and that such matters are necessary to protect, promote, and enhance the public welfare.

Agreement

NOW, THEREFORE, in consideration of these premises, the mutual obligations herein contained, the Town's approval and execution of the Final Plat, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Construction of Improvements. Developer shall have the right to develop the Property in the order, at the rate and at the time as market conditions dictate, subject to the terms and conditions of this Agreement.

(a) Compliance. The Improvements shall be constructed and installed in accordance with the Phasing Plan, as applicable, Construction Plans, and the Standards, subject to the terms and conditions of this Agreement. Unless otherwise specified in the Construction Plans, all materials for Improvements shall be new and both workmanship and materials shall be of good quality. As applicable to the Improvements, a Standard may only be modified or waived by (i) written agreement between Developer and Town, or (ii) Town's approval of any modification or waiver of such Standard as part of Town's approval of the Construction Plans provided such modification or waiver is specifically identified as such on the Construction Plans.

(b) Testing. Developer shall, at its sole cost and expense engage a Colorado licensed professional engineer to provide inspection and testing services during the construction process with respect to the Improvements, upon reasonable, written request from the Town. Copies of all such tests shall be provided to the Town promptly upon request. Developer shall contact the Town promptly upon the material failure of any performance testing, and of any problems that arise that prevent construction or installation of any Improvements in accordance with the approved Construction Plans. If Developer fails to conduct testing and inspection of material and work related to the Improvements within ten (10) business days (or such longer period as may be reasonably necessary so long as Developer is using commercially reasonable efforts to conduct such testing and inspection) of a written request from the Town detailing the test or inspection required or requested in accordance with this Section 1(b), or if the Town reasonably believes that any required tests or inspections were either performed incorrectly or falsified, the Town may conduct or cause to be conducted the same and charge 100% of the cost(s) to Developer, together with a ten percent (10%) administrative fee to cover the Town's costs associated with engaging third-party contractors or consultants to perform said services or testing. No excavation, facility or Improvement, including water and sewer service connections, within any Phase shall be covered following a written request for inspection by the Town, unless

such inspection is subsequently waived in writing or completed as required by this Agreement. Construction shall not proceed beyond required inspections or testing unless approved by the Town, such approval not to be unreasonably withheld, conditioned or delayed. Except to the extent of direct damages caused by the gross negligence or willful misconduct of the Town or its employees or agents in connection therewith, no liability shall attach to Mead by reason of any inspections, observations, testing, or reviews, or by reason of the issuance of any approval or permit for any work subject to this Agreement. Subject to this Section 1(b), Developer shall reimburse the Town for all costs incurred by the Town in the performance of the above services, including associated attorney fees, within thirty (30) days after receipt of the Town's invoice for said services.

(c) Phasing. Developer may commence and complete the Improvements in one or more development phases (each a "**Phase**") pursuant to one or more phasing plan(s) attached hereto as Exhibit D (as may be amended from time to time in accordance with Section 1.3 of the Regulatory Procedures, each a "**Phasing Plan**"), and setting forth the following details for each Phase: (i) the physical boundaries of such Phase; (ii) the Improvements included within such Phase; and (iii) the period for commencement and completion of all Improvements within such Phase (which period may commence and expire based on the timeline for actual development of the Phase as opposed to "hard" dates, as may be expressly set forth in the Phasing Plan or otherwise approved in writing by the Town).

(d) Extensions. Extensions of time up to an additional one (1) year period for completion of Improvements within a Phase may be granted by the Town in writing for good cause shown in accordance with Section 1.3 of the Regulatory Procedures. "Good Cause" shall be determined by the Town in its commercially reasonable discretion; notwithstanding the foregoing, Good Cause shall include: (a) force majeure events; (b) unreasonable delay in the receipt of approval, notice, inspection, testing or other required response from the Town; and (c) any extension agreed upon in writing by Developer and the Town. Any extension of time to complete the Improvements beyond the latest of the applicable deadline in the Phasing Plan or two (2) years from the date of approval of the Final Plat shall require the Developer to submit updated construction cost estimates for completion of the remaining Improvements and to provide additional or replacement Collateral (as defined in Section 8(a)) in an amount equal to one hundred percent (100%) of the cost to construct the Improvements remaining to be completed (which cost estimate shall include a cost contingency of ten percent (10%) of the total estimated costs to construct remaining Improvements).

(e) Additional Permits. The Parties acknowledge and agree that land development activity and the construction of public infrastructure may require additional permits from state and federal agencies, and that it is the responsibility of the Developer to obtain all applicable state and federal permits prior to commencement of the Improvements.

2. Construction Site Maintenance.

(a) Damage to Adjacent Properties. Developer shall take all reasonable steps necessary to prevent its construction activities from damaging adjacent properties owned by third parties and owned by the Town, as applicable. If any such adjacent property is damaged or destroyed by and during the construction of the Improvements to the extent arising directly as a result of the actions of Developer or anyone acting by, through or under Developer, Developer shall, at its cost and subject to the prior written approval of the owner of the applicable property, promptly repair or replace the same to a condition similar or equal to that existing before such damage or injury.

(b) Erosion Control. During construction, Developer shall use proper air quality control and erosion and sedimentation control and maintain existing and completed streets and roads in such a manner that they may be reasonably traveled upon. If the Town determines in its commercially reasonable discretion that dust emanating from the Property related to construction activities is unacceptable, it may order Developer to take abatement measures, and Developer shall comply with such order within fifteen (15) days following written notice of the same. In the event that Developer does not timely comply with such abatement measures, Mead may order construction within the applicable Phase to cease until Developer has complied with such abatement measures.

3. Water Improvements. The Town provides water service by an intergovernmental agreement with the Little Thompson Water District ("**LTWD**"). The Town does not warrant the availability of water service from the LTWD system to the Property for any Phase. A determination of water service availability by LTWD shall be made pursuant to a water system analysis no later than the time that Developer requests water taps from LTWD. Developer shall be responsible to install, at its sole cost and expense, all the water mains, trunk lines, pumping and storage facilities and appurtenances necessary to extend service from the existing LTWD system to the Property in connection with each Phase, and to pay all water connection and plant investment fees as set by LTWD from time to time, with respect to each Phase; provided, however, that to the extent the Property is subject to a separate agreement with LTWD for provision of such improvements, such agreement will control over any conflicting or inconsistent provision of this Agreement. The Town may condition issuance of building permits for any Phase upon proof of purchase of a water tap for each building site within such Phase.

4. Sanitary Sewer Improvements. The Town does not provide sanitary sewer service to the Property. The Town does not warrant the availability of sewer service from the St. Vrain Sanitation District ("**SVSD**") system for any Phase. Unless the Town has agreed to alternative provider of sanitary sewer service, in the Town's sole and absolute discretion (in which case Developer will reimburse the Town for its pro rata share of costs and expenses incurred in connection with any required 208 boundary adjustment), Developer shall be responsible to install, at Developer's sole cost and expense, all the sewer mains, trunk lines, pumping facilities and appurtenances necessary to provide service from the existing SVSD system to the Property in connection with each Phase, including both on-site and off-site improvements, pursuant to SVSD requirements, approved plans, and specifications and to pay all sewer connection and plant investment fees as set by SVSD from time to time, with respect to each Phase; provided, however, that to the extent the Property is subject to a separate agreement with SVSD for provision

of such improvements, such agreement will control over any conflicting or inconsistent provision of this Agreement. The Town may condition issuance of building permits for any Phase upon proof of purchase of a sewer tap for each building site within such Phase.

5. Drainage Improvements.

(a) Provision of Storm Water Drainage. Developer and the Town agree that the development of the Property may require participation in the stormwater drainage system provided by the Town, and that in such event, the Developer will comply with Town requirements regarding design, construction, and installation of drainage improvements and shall construct drainage improvements for the Property in accordance with the master drainage plan for the Property, as approved by the Town ("**Drainage Plan**"). Developer shall install all drainage improvements at its sole cost and expense, including stormwater lines, drainage swales, pumping, detention and stormwater treatment facilities, erosion/sediment control measures, off-site facilities expansion (or remittance of fee in lieu), and groundwater and foundation drainage system(s) as specified in the Drainage Plan for the Property and as set forth in Exhibit B ("**Drainage Improvements**"), in accordance with the applicable Phasing Plan.

(b) Modification of Drainage Improvements. Developer shall provide all subsequent purchasers of the Property, or portions of the Property with copies of the final as-built drawings or portions of the Drainage Plan, as applicable, showing the applicable Drainage Improvements as constructed within the applicable Phase. The Final Plat includes a disclosure stating as follows: "It is the responsibility of the fee title holder of each lot to maintain the stormwater drainage improvements as constructed. Any changes from drainage improvements issued final acceptance by the Town of Mead with respect to grade elevation, storm drainage facility design, or landscaping that will change, modify, impede, or otherwise block the flow of stormwater on or across any private property, that occur as a result of the construction of houses and/or other development of lots shall require Town approval. The Town may withhold issuance of building permits and certificates of occupancy for any lot served by the applicable stormwater drainage improvements until the Town has accepted such changes as acceptable for the safe and efficient disposal of storm drainage water. In the event the fee title holder of any lot fails to correctly maintain or repair any such drainage facilities within such lot within thirty (30) days of written notice thereof, then said corrections/repairs to drainage facilities may be commenced and completed by the Town and all costs and charges billed to and paid by such fee title holder."

6. Completion of Improvements; Model Homes. Developer understands that no building permits within a Phase shall be issued until Conditional Acceptance (defined below) is granted by the Town for all Improvements (excluding Landscaping Improvements) within such Phase; provided, however, that Developer may obtain building permits for a maximum of one (1) model homes, and associated sales and construction facilities, for every thirty (30) platted lots within the Property ("**Model Homes**"), provided that adequate fire protection and all-weather emergency access is available to the Model Homes and approved by Mountain View Fire Protection District and Little Thompson Water District or their respective successors or assigns. Following issuance of a building permit for any such Model Home, combustible building materials will not be allowed on any Model Home lot within the Property until fire hydrants are in service

to serve such lots. Developer may submit for the Town's review and written approval, in accordance with Section 1.3 of the Regulatory Procedures, a request for Model Home building permits showing the site designated for the location of the Model Homes, together with contemplated parking, security, customer control fencing, and sufficient information regarding utility services to the Model Homes, and may obtain a traffic variance, if required. Upon completion of construction of the Model Homes, the Town shall issue Temporary Certificates of Occupancy for the purpose of showing such Model Homes to the general public and prospective purchasers, provided that the Town has issued Conditional Acceptance of the Improvements necessary for pedestrian and vehicular access and utility service to the Model Homes in accordance with the terms and conditions of this Agreement. In addition, the Town will have no obligation to issue a final Certificate of Occupancy for a Model Home until the Town has issued final acceptance of all Improvements within the applicable Phase in which such Model Home is located in accordance with the applicable SIA. Developer warrants and agrees that no Model Home shall be transferred or sold to an individual homeowner until all Improvements within the applicable Phase have been completed and granted Conditional Acceptance by the Town.

7. As-Built Drawings for Improvements. When Developer has completed the Improvements as provided herein for any Phase, Developer shall provide two (2) copies of as-built drawings showing the Improvements in their as-built locations at the time of Developer's request for Conditional Acceptance of the Improvements by the Town ("**Conditional Acceptance**"). As-built drawings shall (a) be prepared under the direction of a Colorado licensed professional engineer based on information provided by the general contractor and surveyor, (ii) be in a form reasonably acceptable to the Town Engineer, and (iii) include, or be delivered with, a written certification from a Colorado licensed professional engineer (except to the extent that elevations or metes and bounds are certified by a Colorado licensed surveyor) indicating that such Improvements were constructed in compliance with the Standards and will clearly designate all approved changes made by the Developer and/or the sub-contractors.

8. Collateral; Partial Releases.

(a) Collateral. In order to secure the performance of the construction and installation of the Improvements and Landscape Improvements herein agreed by Developer, the Developer shall provide the Town with security in the form of a cash deposit, Bond (defined in Section 8(b)), or one or more irrevocable letters of credit in the same form as attached hereto as **Exhibit C-1** or otherwise acceptable to the Town Attorney issued by a Colorado bank, or other financial institution doing business in Colorado acceptable to the Town ("**Letter of Credit**"), in an amount equal to fifty percent (50%) of the total cost of the Improvements as set forth in the engineer's cost estimate set forth in Exhibit B (which estimate includes a ten percent (10%) contingency amount) for each Phase ("**Collateral**"). Collateral shall be required to be submitted for acceptance by the Town prior to commencement of construction of any Improvements within the applicable Phase. Developer shall submit separate Collateral for any Landscape Improvements within the applicable Phase. No building permit(s) or other authorization for the commencement of construction or site preparation, including but not limited to a Grading Permit, shall be issued within a Phase until the Collateral for such Phase is in place and accepted in writing by the Town. Developer shall ensure that the Collateral remains unencumbered and free from claims of others so that any requests of the Town for payment or enforcement may

be honored without unnecessary cost or expense to the Town. Such security shall be maintained, in the amount required by this Agreement, and subject to partial releases as contemplated in this Agreement, through Final Acceptance of the Improvements within such Phase by the Town. If at any time prior to Final Acceptance, the Town determines that the Collateral is not sufficient to cover fifty percent (50%) of the costs of construction of the remaining Improvements within such Phase, Developer shall be required to post additional or supplemental Collateral in an amount deemed sufficient and approved by the Town to cover the required fifty percent (50%) of such costs of construction, including any administrative costs and contingency amount.

(b) Bonds. As used herein, "**Bond**" means a performance bond in the same form as attached hereto as **Exhibit C-2** or otherwise acceptable to the Town Attorney, naming Developer, a District, or a general contractor for either of them (in the sole discretion of Developer or District, as applicable) as "Principal" and issued by a surety or bonding company meeting the following standards: (i) AM Best rating of "A" or higher with a Financial Category rating of "IX" or higher; (ii) US Treasury Listed with a limitation well in excess of the amount of the Bond; (iii) licensed in all fifty states; and (iv) signer for the surety is an attorney-in-fact for the surety company as evidenced by a current power of attorney attached to the Bond. Additionally, any Bond shall name the Town as a dual "Obligee," and will not be subject to reduction pursuant to Section 8(c).

(c) Completed Improvements. Developer may seek and the Town may grant partial releases of Collateral on Improvements (within a Phase if applicable), that, for purposes of this Section 8(c), the Town deems satisfactorily completed or as Developer proceeds with the construction of the Improvements, following Developer's request for partial release that includes copies of bills, invoices and schedules of values for work performed. The Town shall inspect the completed Improvements within thirty (30) days of Developer's request and shall process such partial release in a manner similar to a request for Conditional Acceptance. Within such thirty (30) day period, the Town will either approve the request for partial release or deny the same with detail as to any aspect of the Improvements, or portions thereof, that Mead determines are not acceptable. Notwithstanding the foregoing, the Town shall not be required to make any partial release of the Collateral if doing so would reduce the outstanding amount of the Collateral below an amount equal to fifty percent (50%) of the then current estimate of the costs to be incurred to complete the construction of the remaining Improvements (including the ten percent (10%) contingency amount) within such Phase. No partial release of any portion of the Collateral shall be deemed an acceptance of any Improvements by the Town.

(d) Landscaping. Upon Developer's completion of any Landscape Improvements (or partial completion of such Landscape Improvements in accordance with the Phasing Plan), Developer may request the Town's review and acceptance of such Landscape Improvements. Provided the completed Landscape Improvements comply with the Development Plan, Developer may request release of all or a portion of Collateral relating to the Landscape Improvements and such release shall be considered in the same manner as provided in Section 8(c) above.

(e) Combined Collateral. If at any time the Town, pursuant to one or more subdivision improvement agreements within the land subject to the Development Agreement (each a "**Related SIA**") or one or more Phases pursuant to this Agreement, the Town and Developer may, each in its sole discretion and in any event subject to the written approval of any other developer under the applicable Related SIA, as applicable, agree to (i) combine one or more escrow accounts required for Collateral pursuant to this Agreement and any other such Related SIA, and/or (ii) reduce the amount of Collateral required under this Agreement on the condition that this Agreement and any Related SIA will be cross-collateralized and cross-defaulted, in accordance with the terms and conditions of a separate escrow agreement established by and among the Town, Developer, and any developers under such Related SIAs.

9. Standards for Acceptance.

(a) Conditional Acceptance. Upon completion of the Improvements within a Phase or on individual Improvements within a Phase as contemplated by the Phasing Plan, as applicable, Developer shall request, in writing, inspection and conditional acceptance of the Improvements. The Town will endeavor in good faith to inspect the Improvements within thirty (30) days of such request, and if upon inspection, the Town finds that the Improvements have been completed in accordance with Construction Plans, the Town will issue to the Developer a letter granting Conditional Acceptance of such Improvements, which letter will establish the date of Conditional Acceptance for the same.

(b) Warranty Period. The probation and warranty period for any Improvements will begin on the date of Conditional Acceptance of such Improvements and shall terminate two (2) years therefrom, except that for all Improvements where Conditional Acceptance is granted between the dates of November 1 and April 30 of a given year, the probation and warranty period shall not begin until May 1 of such year and shall terminate two (2) years therefrom ("**Warranty Period**"). Upon Conditional Acceptance, the Town will return the Collateral subject to a retainage or the posting of replacement collateral not to exceed fifteen percent (15%) of the original Collateral amount as specified in Exhibit B ("**Warranty Collateral**"); provided, however, that for any Collateral provided as a Bond, the amount of the Warranty Collateral shall be fifty percent (50%) of the original Collateral amount as specified in Exhibit B or such lesser amount as may be deemed acceptable to the Town Engineer. During the Warranty Period, Developer shall keep and maintain all the Improvements in good order and condition, and the Town may notify Developer of any defective Improvements and Developer shall complete, repair or replace the same within thirty (30) days or, if the defect is of a nature that cannot reasonably be cured within thirty (30) days, notify the Town that it has commenced reasonable efforts to cure such defect within said period and continue diligently thereafter. In the event Developer fails to so complete, repair or replace such defective Improvements within the foregoing period, the Town may draw upon the Warranty Collateral to complete, repair or replace the same.

(c) Final Acceptance. Improvements constructed pursuant to this Agreement are eligible for Final Acceptance in accordance with the Standards no sooner than sixty (60) days prior to the end of the applicable Warranty Period. Developer shall request Final Acceptance by the Town in writing. The Town will endeavor in good faith to inspect the

Improvements within ten (10) days of such request, and will notify Developer in writing within thirty (30) days after the inspection of any deficiencies and repairs required to bring the Improvements into compliance with the Standards. Developer shall correct all deficiencies to Mead's satisfaction within thirty (30) days from the date said deficiency list was issued, in accordance with the Standards or, if the defect is of a nature that cannot reasonably be cured within thirty (30) days, notify the Town that it has commenced reasonable efforts to cure such defect within said period and continue diligently thereafter. When all deficiencies have been corrected and Developer has delivered unconditional lien waivers that all claims and payments to be made in connection with construction of any Improvements to be owned and maintained by the Town have been satisfied, the Town will issue a certificate of Final Acceptance to the Developer. Upon issuance of said certificate of Final Acceptance, all Improvements specified in said certificate shall be deemed approved and accepted by the Town, whereupon such Improvements shall be owned and maintained by the Town, Developer, or other entity as may be specifically identified in Exhibit B, the Development Plan or in a separate written agreement with the Town, as applicable. At such time, the Town will release any remaining Collateral, including without limitation the Warranty Collateral. For any Improvements that will be owned and maintained by a metropolitan district, a homeowners association, property owners association, or any other third party, as may be specifically identified in Exhibit B, the Development Plan or this Agreement ("**Maintenance Entity**"), Developer shall provide written evidence to the Town of the conveyance of ownership of the Improvements by the Maintenance Entity, whether by bill or sale or other written instrument, as a condition of issuance of Final Acceptance by the Town.

10. Utilities. Developer will be responsible for contracting for installation of any or all utilities where required, including, but not limited to water, sewer, natural gas and electricity, with respect to the Property, in accordance with the Standards. Subject to the Standards, the Town retains the right to issue right-of-way use permits to utility companies or to other persons, companies, corporations or organizations prior to the Final Acceptance of any Improvements located within Town-owned public rights-of-way and public or drainage easements depicted on the Final Plat.

11. Oversizing. To the extent that any Improvements are over-sized for the benefit of the Town or other adjacent parcels not within the Property (each a "**Benefitting Party**"), the Town will facilitate the reimbursement of the pro rata share of such over-sized Improvements from the applicable Benefitting Party as a condition of final plat for the Benefitting Party's parcel or any portion thereof, and promptly remit such reimbursed amounts to the Developer.

12. Remedies.

(a) Notice and Cure. If any party defaults under this Agreement, the non-defaulting party will deliver written notice to the defaulting party of such default, and, except as otherwise provided in this Agreement, the defaulting party will have 30 days from and after receipt of such notice to cure such default; provided, however, that if such default is not of a type that can reasonably be cured within such 30-day period and the defaulting party gives written notice to the non-defaulting party within such 30-day period that it is actively and diligently pursuing such cure, the defaulting party will have a

reasonable additional time period given the nature of the default to complete such cure so long as such defaulting party is at all times within such additional time period actively and diligently pursuing such cure.

(b) Remedies. If any default under this Agreement is not cured as described above, the non-defaulting party will have the right to enforce the defaulting party's obligation hereunder by an action at law or in equity, including, without limitation, injunction and/or specific performance, and will be entitled to an award of any damages available at law or in equity; provided, however, that neither party will be entitled to, and each party hereby expressly waives any and all right to, consequential, exemplary and punitive damages.

(c) Additional Town Remedies. The Town's rights and remedies provided in this Agreement shall not be exclusive and are in addition to any other rights or remedies provided by law or in equity. Upon default by Developer of any provision of this Agreement beyond the notice and right to cure period specified in Section 12(a), the Town may pursue any one or more of the following actions with respect to the applicable Phase or Phases in which the default pertains:

(i) Delay processing of any pending land development related application;

(ii) Issue stop work orders;

(iii) Refuse to issue or approve any land development permit, including but not limited to, right-of-way access, street cut, over-lot grading or building permits, or certificates of occupancy;

(iv) Adjust the amount or term of the Warranty Collateral, by an amount proportionate to the amount required to address such default or extend the term of the applicable Warranty Period by a period proportionate to the term of the default;

(v) Complete any remaining Improvements at Developer's expense, in which event the Town may draw from the applicable Collateral or Warranty Collateral to cover reasonable costs incurred by the Town associated with correcting the Developer's default, including the costs of obtaining required permits, labor and materials costs, a ten percent (10%) administrative fee, and legal and engineering expenses, provided, however, that in the event the amount of Collateral or Warranty Collateral is not sufficient for the Town to complete the Improvements as determined by the Town in its reasonable discretion, the Town shall be entitled to reimbursement from Developer upon demand for such cost overruns;

(vi) Issue a citation to the Developer or any contractor or subcontractor for violating requirements of the MMC;

(vii) Initiate legal proceedings in any appropriate court of law; or

(viii) Certify to the Weld County Treasurer any amounts due and owing to the Town under this Agreement that are not timely paid for collection with property taxes.

13. Contractual Obligation. Developer agrees that the provisions and requirements of this Agreement are entered into with full knowledge, free will and without duress. Developer agrees and desires that the agreements contained herein regarding the payment of fees, installation and dedication of the Improvements, and conditions for subdivision and building approvals, including the incorporation of any provision of applicable Standards, are imposed by contract, independent of the continued validity or invalidity of any of the provisions of state law or Standards. The agreements to pay fees, and construct and dedicate Improvements or provide security are reasonable and binding commitments on the part of Developer and reasonably relate to Developer's estimates of the extent and timing of impacts that are expected to occur from the development of the Property as contemplated by the Final Plat, and are in rough proportion to such impacts.

14. Indemnity. Developer will indemnify, defend, and hold harmless the Town, its officials, officers, employees, and agents (the "**Indemnified Parties**") from any and all liability, loss, cost, damage, or expense (in any event "**Damages**") the Indemnified Parties (or any of them) may suffer (including on account of third party suits, actions or claims of every nature and description) to the extent caused by, arising from, or on account of any design, construction, operation, or maintenance of the Improvements by Developer or anyone acting by, through or under Developer, together with all reasonable expenses and attorneys' fees incurred by the Indemnified Parties in defending such suit, action or claim, if any. For clarity, Damages may include, without limitation, those suffered by any or all Indemnified Parties on account of (i) any change in direction, nature, quality, or quantity of historical drainage flow resulting from construction of the Improvements, or (ii) damages to properties adjacent to the site of the Improvements arising from natural conditions (including but not limited to expansive soils, geologic hazard, wildfire hazard or flood hazard) that result from construction of the Improvements. The indemnification provided herein will not extend to any portion of such Damages that arise as a direct result of a negligent act or omission or willful misconduct of an Indemnified Party. The Town will deliver prompt notice to Developer of any claim made against the Town to which any such indemnity by Developer could apply, and Developer will have the duty to defend any lawsuit based on such claim and may settle any such claim provided that Developer must obtain a complete discharge of all liability of the Indemnified Parties through any such settlement. Failure of the Town to give notice of any such claim to Developer within sixty (60) days after the Town first received notice of such claim under the Colorado Governmental Immunity Act or otherwise, or at least thirty (30) days prior to any applicable deadline for filing a response, counterclaim, or related document, will cause the indemnification obligation to be inapplicable to such claim, and such failure will constitute a release of such indemnity with respect to such claim.

15. On-site Matters. For full development of the Property to occur, Developer will need to acquire the off-site rights-of-way, easements, licenses and permits for the construction of Improvements as legally described and depicted in Exhibit E, if any (the "**Off-Site Areas**"), and to convey the same to the Town. All acquisition costs of Off-Site Areas shall be Developer's sole responsibility, subject to the following conditions:

(a) All such conveyances shall be free and clear of liens, taxes and encumbrances, but subject to the statutory exceptions, and shall be by special warranty deed in form and substance acceptable to the Town. The Town, at Developer's expense, shall record all conveyances. Developer shall also furnish, at its own expense, an ALTA title policy for all Off-Site Areas so conveyed to the Town, subject to approval by the Town.

(b) If Developer cannot acquire an Off-Site Area, the Developer may request the Town's assistance in securing the Off-Site Area. Such assistance by the Town shall be in compliance with Colorado law authorizing the Town's use of eminent domain. Developer shall advance to the Town all acquisition costs, including any court costs and attorneys' fees, that the Town may reasonably incur in providing assistance.

(c) The Town and Developer agree that the acquisition of Off-Site Areas are directly related to and generated by development intended to occur within the boundaries of the Property and that no taking thereby will occur requiring any compensation to Developer.

16. Notice. All notices, demands or other communications required or permitted to be given hereunder will be in writing and any and all such items will be deemed to have been duly delivered upon personal delivery; or as of the fifth business day after mailing by United States mail, certified, return receipt requested, postage prepaid, addressed as follows; or as of the immediately following business day after deposit with Federal Express or a similar overnight courier service that provides evidence of receipt, addressed as follows. Any such notice shall be accompanied by email delivery to the applicable email address.

If to the Town:
Town of Mead
P.O. Box 626
Mead, CO 80542
Attn: c/o Town Manager
E-mail: hmigchelbrink@townofmead.org

With copies to:
Michow Cox & McAskin LLP
6530 S. Yosemite Street, Suite 200
Greenwood Village, CO 80111
Attn: Mead Town Attorney
E-mail: marcus@mcm-legal.com

If to Developer:
____
____
____
____

With copies to:
____
____
____
____

17. Miscellaneous.

(a) Section Headings. The section headings in this Agreement are inserted herein only for convenience of reference and in no way shall they define, limit or describe the scope or intent of any provision of this Agreement.

(b) Assignment and Release. This Agreement may not be assigned or delegated by the Developer without the written consent of the Town; provided, however, that such consent will not be required in connection with a delegation, in whole or in part, to (i) any entity controlled by, controlling or under common control with the Developer, (ii) an assignment to a third party developer concurrently with such developer's acquisition of all or substantially all of the Property, or (iii) any of the Districts (as defined in the Development Agreement), so long as such District is authorized to assume such obligations and construct the applicable Improvements pursuant to state law and the applicable District's Service Plan. Any such written assignment and/or delegation shall expressly refer to this Agreement, specify the particular rights, duties, obligations, responsibilities, or benefits so assigned and/or delegated, and shall not be effective unless approved by the Town in accordance with Section 1.3 of the Regulatory Procedures. No assignment shall release the Developer from performance of any duty, obligation, or responsibility unless such release is clearly expressed in such written document of assignment. Prior to approving any release of the Developer, the Town may, at its sole discretion, require the party assuming any duty, obligation, or responsibility of the Developer to provide to the Town written evidence of financial or other ability to meet the particular duty, obligation or responsibility being assumed by the party.

(c) Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, the Parties and their respective legal representatives, successors and assigns. This Agreement shall continue upon subdivision of the Property and bind the subdivision and all purchasers, lessors and subsequent owners of any property within the subdivision, except a bona-fide homebuyer, until all provisions of this Agreement are satisfied.

(d) Recording; Benefit. This Agreement shall be recorded with the Clerk and Recorder of Weld County, Colorado and shall run with the land. Developer shall pay the associated recording fee imposed by Weld County.

(e) Subordination. If any portion of the Property upon which Improvements are constructed is subject to any liens, mortgage, deed of trust or similar encumbrance, the Town may require the holder of such indebtedness or encumbrance to subordinate its interest or encumbrance to this Agreement and all its terms, conditions and restrictions, as a condition of Final Acceptance thereof.

(f) Additional Documents. Each of the parties agrees to execute and deliver such additional instrument or instruments as the other party may from time to time reasonably request in order to effectuate the provisions of this Agreement.

(g) Waiver of Breach. The waiver by any Party to this Agreement of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.

(h) Contractors. Developer shall give notice of the terms of this Agreement in all contracts for construction of the Improvements and provide a copy of this Agreement to the contractors and subcontractors.

(i) Entire Agreement. Except for the Development Agreement, this Agreement represents the entire agreement between the Parties and, supersedes any prior oral or collateral agreements or understandings.

(j) Amendment. This Agreement may be amended only by an instrument in writing signed by the Town and Developer.

(k) No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Town and the Developer (and their respective successors and permitted assigns), and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third person on such Agreement. It is the express intention of the Town and Developer that any person other than the Town or Developer and their respective successors and assigns receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

(l) Governing Law, Venue and Enforcement. This Agreement shall be governed by the laws of the State of Colorado. Venue for any action arising from this Agreement shall lie with any appropriate court within Weld County, Colorado. The Parties agree and acknowledge that this Agreement may be enforced at law or in equity, including an action for damages or specific performance.

(m) Authorization of Parties' Representative. Each Party hereby represents that the individual(s) that have executed this Agreement on its behalf are fully authorized to execute this Agreement on behalf of such Party.

(n) Compliance with Law. Developer, in developing the Property and constructing the Improvements herein described, shall fully comply with the Standards and the applicable laws and regulations of all other governmental agencies and bodies having jurisdiction over the Project in effect at the time of construction.

[signature page follows this page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

DEVELOPER:

____
____

By:______________________________________
Name:____________________________________
Title:_____________________________________

STATE OF ___________________________)
) ss.
COUNTY OF __________________________)

The foregoing instrument was acknowledged before me this ____ day of _____________________, 20___, by _________________________, as ________________________ of ____.

My commission expires: _______________________

Witness my hand and official seal.

____
Notary Public

TOWN:

Town of Mead, Colorado,
a Municipal Corporation

By:______________________________________
Name:____________________________________
Title:_____________________________________

ATTEST:

____
_________________, Town Clerk

EXHIBIT A
PROPERTY LEGAL DESCRIPTION

[to be inserted from Final Plat prior to execution]

EXHIBIT B
DESCRIPTION OF IMPROVEMENTS AND
ENGINEER'S COST ESTIMATE

[to be inserted prior to execution, with ECE to identify any improvements to be owned and maintained by a Maintenance Entity pursuant to Section 9(c), and with separate ECE for each Phase of Improvements]

EXHIBIT C-1
FORM OF LETTER OF CREDIT

IRREVOCABLE LETTER OF CREDIT

Town of Mead
441 Third Street
Mead, CO 80542

Number: ________________
Date: ___________________
Expiration: ___________, 20__

Attn: Town Treasurer

DEAR SIR OR MADAM:

[NAME OF BANK] ("BANK") HEREBY ESTABLISHES IN FAVOR OF THE TOWN OF MEAD, COLORADO ("BENEFICIARY"), FOR THE ACCOUNT OF ______________________________, A __________________ (*INSERT TYPE OF ENTITY*) ("CUSTOMER"), AN IRREVOCABLE LETTER OF CREDIT IN THE AMOUNT OF _____________ DOLLARS ($XXX,XXX) AVAILABLE BY IMMEDIATE PAYMENT UPON PRESENTATION AT BANK'S OFFICE AT [BANK'S ADDRESS] OF BENEFICIARY'S SIGHT DRAFT(S) IN AN AMOUNT NOT EXCEEDING $XXX,XXX, AND EACH SIGHT DRAFT MUST BEAR THE REFERENCE: "DRAWN ON [BANK] IRREVOCABLE LETTER OF CREDIT NO. _____, DATED___________________[ISSUE DATE]."

IN ADDITION, THE BENEFICIARY'S SIGHT DRAFT(S) MUST BE ACCOMPANIED BY A COPY OF THIS IRREVOCABLE LETTER OF CREDIT, CERTIFIED BY THE TOWN MANAGER OR HIS OR HER DESIGNEE TO BE A TRUE AND COMPLETE COPY OF THIS IRREVOCABLE LETTER OF CREDIT. UPON PRESENTATION OF SUCH SIGHT DRAFT AND CERTIFIED COPY OF THIS IRREVOCABLE LETTER OF CREDIT IN COMPLIANCE WITH THE TERMS CONTAINED HEREIN, BANK SHALL HONOR THE ACCOMPANYING SIGHT DRAFT(S) AND SHALL NOT BE REQUIRED TO DETERMINE QUESTIONS OF FACT OR LAW BETWEEN BENEFICIARY AND CUSTOMER.

THIS IRREVOCABLE LETTER OF CREDIT SETS FORTH THE FULL UNDERSTANDING OF THE PARTIES HERETO AND BANK HEREBY PROMISES TO BENEFICIARY THAT ANY DRAFTS DRAWN UNDER OR IN SUBSTANTIAL COMPLIANCE WITH THE TERMS OF THIS IRREVOCABLE LETTER OF CREDIT WILL BE DULY HONORED IF PRESENTED TO [BANK] ON OR BEFORE _____________________ [EXPIRATION DATE] (THE "EXPIRATION DATE"), OR ANY AUTOMATICALLY EXTENDED EXPIRATION DATE.

PARTIAL AND MULTIPLE DRAWINGS ARE PERMITTED UNDER THIS LETTER OF CREDIT.

THIS IRREVOCABLE LETTER OF CREDIT IS NONTRANSFERABLE.

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED WITHOUT AMENDMENT FOR ADDITIONAL PERIODS OF ONE (1) YEAR FROM THE PRESENT OR ANY AUTOMATICALLY EXTENDED

EXPIRATION DATE THEREOF, UNLESS AT LEAST SIXTY (60) DAYS PRIOR TO ANY SUCH DATE, BANK SHALL SEND BENEFICIARY NOTICE BY REGISTERED MAIL OR COURIER OR HAND DELIVERED NOTIFICATION AT THE ABOVE ADDRESS THAT BANK HAS ELECTED NOT TO CONSIDER THIS LETTER OF CREDIT EXTENDED FOR ANY SUCH ADDITIONAL PERIOD.

UPON RECEIPT BY BENEFICIARY OF SUCH NOTICE OF NON-EXTENSION, BENEFICIARY MAY DRAW ON THIS LETTER OF CREDIT FOR AN AMOUNT NOT TO EXCEED THE THEN AVAILABLE AMOUNT UNDER THE LETTER OF CREDIT WITHIN THE THEN-APPLICABLE EXPIRATION DATE, BY PRESENTATION OF BENEFICIARY'S SIGHT DRAFT ACCOMPANIED BY A COPY OF THIS IRREVOCABLE LETTER OF CREDIT, CERTIFIED BY THE TOWN CLERK OR HIS OR HER DESIGNEE TO BE A TRUE AND COMPLETE COPY OF THIS LETTER OF CREDIT. UPON PRESENTATION OF SUCH SIGHT DRAFT AND CERTIFIED COPY OF THIS IRREVOCABLE LETTER OF CREDIT IN COMPLIANCE WITH THE TERMS CONTAINED HEREIN, BANK SHALL HONOR THE ACCOMPANYING SIGHT DRAFT(S) AND SHALL NOT BE REQUIRED TO DETERMINE QUESTIONS OF FACT OR LAW BETWEEN BENEFICIARY AND CUSTOMER.

DEMANDS FOR PAYMENT OR DRAWINGS BY THE BENEFICIARY HEREUNDER MAY BE PRESENTED BY FACSIMILE/TELECOPY ("FAX") TO FAX NUMBER _______________________ UNDER TELEPHONE ADVICE TO _______________________ OR ____________________. SUCH FAX PRESENTATION(S) MUST BE RECEIVED ON OR BEFORE THE EXPIRATION DATE (OR ANY AUTOMATICALLY EXTENDED EXPIRATION DATE) IN COMPLIANCE WITH THE TERMS AND CONDITIONS OF THIS LETTER OF CREDIT.

DEMANDS FOR PAYMENT OR DRAWINGS BY THE BENEFICIARY UNDER THIS LETTER OF CREDIT SHALL ALSO BE DEEMED TIMELY MADE IF PRESENTED BY EXPRESS, CERTIFIED OR REGISTERED MAIL OR COURIER, TO THE BANK AT THE BANK'S ADDRESS SET FORTH ABOVE, OR BY HAND DELIVERY TO BANK AT OUR ADDRESS ABOVE, OR BY FAX AS SET FORTH ABOVE ON OR BEFORE THE EXPIRATION DATE.

THIS IRREVOCABLE LETTER OF CREDIT IS SUBJECT TO THE MOST RECENT EDITION OF THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS PUBLISHED BY THE INTERNATIONAL CHAMBER OF COMMERCE.

THE FORUM FOR ALL DISPUTES REGARDING THIS LETTER OF CREDIT SHALL BE THE DISTRICT COURT FOR THE COUNTY OF WELD, STATE OF COLORADO.

VERY TRULY YOURS,

[NAME OF BANK]

____

TITLE

EXHIBIT C-2
FORM OF BOND

PERFORMANCE BOND TO GUARANTEE PUBLIC IMPROVEMENTS

KNOW ALL MEN BY THESE PRESENTS:

That ________________________ as Principal, and ____________________________, a corporation of the State of _____________, as Surety, are held and firmly bound unto ____________________ as Obligee, in the penal sum of ________________________ and No/100 DOLLARS ($_____________), lawful money of the United States of America ("Penal Sum"), to the payment of which Penal Sum, well and truly be made, the Principal and Surety bind themselves, and each of their heirs, administrators, executors and assigns, jointly and severally, firmly by these presents.

WHEREAS, THE CONDITION OF THIS OF THIS OBLIGATION IS SUCH, that the above bounden Principal has agreed to construct certain improvements in Mead, CO, according to the terms and conditions of that certain ______________________________________ dated the ______ day of ______________, _____, and recorded in the real property records of Weld County, Colorado, at Reception No. _______________ a copy of which is attached (as amended, the "Agreement"), which Agreement is made a part hereof and incorporated herein by reference, except that nothing said therein shall alter, enlarge, expand, or otherwise modify the terms of the bond as set out below.

NOW, THEREFORE, if the Principal shall well and truly construct, or have constructed, the improvements herein described in accordance with the terms and conditions of the Agreement, and shall save the Obligee harmless from any loss, cost or damage by reason of its failure to complete said work, then this obligation shall be null and void; otherwise, to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed by the Principal and Surety and accepted by the Obligee subject to the following express conditions:

1) Notwithstanding the provisions of the Agreement, the Surety may cancel this bond by providing sixty (60) days written notice to the Obligee and the Principal at _______________________________. The Principal must provide alternative collateral in the form of an irrevocable letter of credit, cash, or a replacement surety bond, in form and substance permitted under the Agreement, within 30 days of the cancellation notice. If such alternative collateral is not provided by the Principal within 30 days than the Principal shall be deemed in default under this bond and the Surety shall pay the Obligee the Penal Sum of this bond.

2) Within thirty (30) business days of Surety's receipt of a written demand for payment under this bond, which demand shall include reasonable evidence of Obligee's right to such demand in accordance with the Agreement, Surety shall pay to the Obligee the full amount of such demand.

3) The liability of the Surety under this bond and all continuation certificates issued in connection

herewith shall not be cumulative and shall in no event exceed the Penal Sum or any riders or endorsements issued by the Surety.

4) No right of action shall accrue on this bond to or for the use of any person or corporation other than the Obligee named herein or the heirs, executors, administrators, or successors of the Obligee with respect to the Agreement.

Sealed with our seals and dated this ___ day of _______________, 20__.

(Principal)

By:_______________________________________
Name:_____________________________________
Title:______________________________________

(Surety)

By:_______________________________________
Name:_____________________________________
Title: Attorney-in-Fact

EXHIBIT D
PHASING PLAN

[insert Phasing Plan, which should describe Landscaping Improvements as separate Phases within each Phase]

EXHIBIT E
OFF-SITE AREAS

[insert legal description and depiction of off-site areas, if applicable, or insert n/a]